

TULANE UNIVERSITY LAW SCHOOL

TULANE
LAWYER

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THIS ISSUE

A TRIBUTE TO DEAN
LAWRENCE PONOROFF
• BUSH PRESIDENCY
AND THEORIES OF
CONSTITUTIONAL CHANGE
• FELLOWS CELEBRATION

HEALTHCARE LAW
GETS EXAMINED



LAWRENCE PONOROFF
DEAN

LAUREN VERGONA
EDITOR AND EXECUTIVE ASSISTANT TO THE DEAN

ELLEN J. BRIERRE
DIRECTOR OF ALUMNI AFFAIRS

TANA COMAN
ART DIRECTION AND DESIGN

SHARON FREEMAN
DESIGN AND PRODUCTION

CONTRIBUTORS

ALICIA DUPLESSIS JASMIN
MELISSA EREKSON
PROF. STEPHEN GRIFFIN
KATHRYN HOBGOOD
NEW WAVE STAFF
NICK MARINELLO
MARY MOUTON
FRAN SIMON
MARY ANN TRAVIS
LIZBETH TURNER
JASNIRA ZUNIGA

PHOTOGRAPHY

SALLY ASHER, above right
MATTHEW BROUSSARD, page 10
PAULA BURCH-CELENTANO/Tulane University Publications,
pages 12, 13, 20 top, inside back cover
MICHAEL DEMOCKER/the Times-Picayune, page 36
JACKSON HILL, pages 2, 18, 19, 23, 24–25, back cover
ALICIA DUPLESSIS JASMIN/Tulane University Publications, page 46
REBECCA LEONARD, page 45
NEWCOMB ART GALLERY/TULANE UNIVERSITY, page 42 left
CHARLES OMMANNEY/Getty Images, contents, page 15
TRACIE MORRIS SCHAEFER/Tulane University Publications, page 5
RICK OLIVIER, above left, pages 20 bottom, 22
LAUREN VERGONA, pages 4, 6, 8, 9, 21, 44

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WE WANT TO HEAR FROM YOU

If you have a comment about an issue of the *Tulane Lawyer* or would like to share an idea for the upcoming issue, please contact editor Lauren Vergona at lvergona@tulane.edu or via USPS to Tulane Law School, 6329 Freret St., Ste. 210F, New Orleans, LA 70118.

The Tulane Lawyer reserves the right to edit letters for clarity and length, and to eliminate inappropriate language or potentially libelous material. Letters should address subjects related to Tulane Law School or found in an issue of Tulane Lawyer magazine.

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An examination of the complexities of healthcare law. Medical illustration by DEBRA HOWELL

CLOSING ARGUMENTS

BY DEAN LAWRENCE PONOROFF



It is with a certain amount of satisfaction and emotion that I write my last dean's letter for the *Lawyer*. As you know, we have witnessed unprecedented success over the past couple of years and are firmly positioned to see the institution continue the remarkable advancement we have enjoyed to date. This is a credit to a talented faculty, a dedicated staff, a wonderful student body, and a supportive and involved base of alumni and friends.

My primary message is simply, but with great sincerity, to say "thank you." Thank you for giving me the privilege of leading this school for eight years, and thank you for your robust support. Being the dean at Tulane Law School has been, unquestionably, the highlight of my professional career. There are so many aspects of this position that have brought great joy and fulfillment. However, I can say without qualification that the best

part of the job has been the relationships and even friendships I've been able to develop over the years with so many of you.

This school is truly blessed with a remarkably talented, accomplished, and diverse alumni base. That is a priceless resource and it has been with pride that I've observed so many of you becoming involved in admissions, placement, and, of course, with your philanthropic support. It has made all the difference.

While the institution is perpetual, none of us are. Therefore, my stepping down simply marks another new beginning for the law school and, with the appointment of Steve Griffin as interim dean, a beginning with every promise of a rich and bright future. Steve's nationally recognized scholarship, his commitment to students and curricular innovation, and his demonstrated leadership and experience for six years as vice dean all make him a perfect fit for Tulane Law School.

I am very proud of what we have accomplished together over the past eight years, and I believe you'll find justification for that pride as you read the pages that follow in this edition of the *Tulane Lawyer*. Looking to the future, both near and long-term, I urge you to stay connected, stay involved, and support Steve fully, as he takes over the reins and, building on the solid foundation that has been laid, moves the institution forward in quality and prominence.

Monica and I wish you and your families all the best, and look forward to staying in touch.

MY PRIMARY MESSAGE IS SIMPLY, BUT WITH GREAT SINCERITY, TO SAY "THANK YOU." WHILE THE INSTITUTION IS PERPETUAL, NONE OF US ARE. THEREFORE, MY STEPPING DOWN SIMPLY MARKS ANOTHER NEW BEGINNING FOR THE LAW SCHOOL.



LIFE IS WHAT HAPPENS
WHEN YOU'RE BUSY
MAKING OTHER PLANS.

LESS THAN SIX MONTHS into his role as dean of Tulane Law School, Lawrence Ponoroff granted the wish of many alumni and resumed the *Tulane Lawyer* in the fall of 2001. The War on Terror had begun just weeks prior and change was inevitable. In the initial pages, Dean Ponoroff addressed alumni, friends, and family of the law school in a letter entitled, *From the Dean: Exciting Times*.

"No sooner had I become acquainted with my new position when the world itself seemed to change, and in fact almost certainly has," he wrote. "While it is far too early to know all of the contours and implications of those changes, if the events of and following Sept. 11 have taught us anything, it is that we as a nation do not exist as an island or reside above the fray."

Despite the unknown, Dean Ponoroff remained positive and looked at the 2001–02 academic year as an "exciting time," suggesting it would serve us all well if we could extract a larger understanding from what occurred that day.

A few pages later, the *Tulane Lawyer* gave readers a different opportunity to get to know the profound man at the helm of change with its feature, *60 Minutes with the Dean*. When asked about his move from practice to academics, Ponoroff said,

EXCITING TIMES

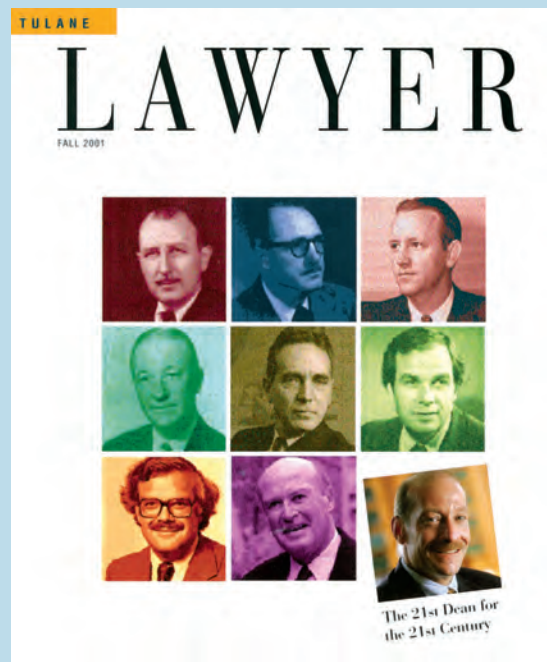
LETTER FROM THE EDITOR

"It was too good of an opportunity to pass up—like seeing a hurricane from the eye." And of the challenges and opportunities he saw facing the law school, the dean responded, "Over time, if you bring enough students and faculty to the institution because you're the premiere maritime law program...or because of your civil law tradition—a rising tide lifts all boats." Had he ever envisioned himself as the dean of a law school? "As John Lennon once said, 'Life is what happens when you're busy making other plans.'"

Four years later, with enough money raised, architects, engineers and blueprints intact, and scaffolding in place, the cards of life dealt America's greatest natural disaster to-date—a "shrew named Katrina." But life is what happens.

Following another brief hiatus, mid-2006 brought a new issue of the *Lawyer* entitled, *Reclamation*. "We are responding to this historic hand that has been dealt us and we will be better for it," Dean Ponoroff wrote in a Q&A article entitled, *When the Going Gets Tough*. "Yes, it's been a tough year. However, we will be back and ready to start a new era as well as a new academic year. It's a daunting and exciting challenge that won't always be smooth sailing, but I am confident."

No different than the fall of 2001 or 2005, and I quote Dean Ponoroff, "the next several years will be a powerful test of our resolve and your loyalty." While uncertainties await us on any given day, I am confident that with Interim Dean Steve Griffin's leadership and the continued strength and dedication of the Tulane



law community—students, faculty, staff, and alumni—we are equal to the task.

I look forward to filling many more pages of the *Tulane Lawyer*, keeping you closely connected to all of our exciting times—past, present and future.

Lauren Vergona
Editor, *Tulane Lawyer*
Executive Assistant to the Dean



THE LOUISIANA CIVIL CODE

200 YEARS AND COUNTING

Louisiana's legal system is the only one in the United States based on the system of civil law adopted by most non-Anglophone countries around the world. Since 1808, the Louisiana Civil Code has been the road map by which Louisianans handle private matters from family affairs to business deals, and in celebration of its 200th anniversary, a four-day international colloquium was held on the Tulane Uptown campus.

Lecturers from the United States and abroad participated in the colloquium as the law school took a close look at the Louisiana Civil Code, which is based largely on the civil codes that emerged from Europe in the 19th century.

Vernon Palmer, Tulane law professor and co-chair of the colloquium's international planning committee, said the celebration wasn't limited to those with a particular interest in law, but appealed to nonlegal professionals who are interested in history.

"What made this conference different was that we celebrated the code's bicentennial by hearing from a number of fine historians and librarians who gave us a contemporary look at the society of that day," says Palmer.

"This wasn't just for lawyers."

The enactment of Louisiana's civil code in 1808—only five years after the Louisiana Purchase—represented the first time that residents who were largely of French and Spanish descent had an opportunity to legislate for themselves, Palmer explains. "They decided to treat themselves to the law they understood best and it has done very well ever since."

The colloquium was presented by the Eason-Weinmann Center of Comparative Law and Tulane Law School, which was the first in the state to offer degree paths in both civil and common law.

"It gives students at Tulane law an interesting option: in their first year, students can choose whether to pursue a common law track or a civil law track, depending on where they plan to practice," says second-year Tulane law

student Brad Vogel, who was able to attend the colloquium's opening speech on divergent legal conceptions of property. "Interestingly, a sizable majority of students select common law, although it seems a noticeable number of students drift toward civil law as their attachment to New Orleans grows over the course of three years."

According to Palmer, more than 80 percent of Tulane Law School students are from outside Louisiana, and the dual program offers them an opportunity that most other law schools cannot.

"The civil law is the most dominant in the world," says Palmer, adding that the code is heavily influenced by both France and Spain's legal systems. "If students can attend our institution and get both legal systems under their belts, it is a fine achievement and it also prepares them for a much wider world."

"THE CIVIL LAW IS THE MOST DOMINANT IN THE WORLD. IF STUDENTS CAN ATTEND OUR INSTITUTION AND GET BOTH LEGAL SYSTEMS UNDER THEIR BELTS, IT IS A FINE ACHIEVEMENT AND IT ALSO PREPARES THEM FOR A MUCH WIDER WORLD." —VERNON PALMER

INTERNATIONAL BUSINESS LAW EXPERT HOLDS NEW CHAIR

Discussing the ways in which laws governing business transactions can improve lives in sub-Saharan Africa, Claire Moore Dickerson addressed an audience of law school colleagues and friends in March as she was honored as the first holder of the new John B. Breaux Chair in Business Law.

With Breaux, a former U.S. senator from Louisiana, on hand at the investiture ceremony for the chair named in his honor, Dickerson discussed her research and the powerful parallels that can be drawn between segments of the African economy operating outside of the law and the U.S. economy's current profound correction.

She predicted that in the United States, "New statutes will continue a move toward centralization, until we get right the protective aspects of our business laws."

Dickerson's expertise in business associations, contracts, comparative law and international business transactions have led her to investigate the effects of business law on the informal sector in sub-Saharan Africa. She has earned international recognition for her teaching and research on commerce and human rights.

Anonymous donors endowed the chair that bears Breaux's name with a \$1.5 million gift in honor of his distinguished career in public service. Breaux served Louisiana for 33 years as a member of the U.S. House of Representatives and the U.S. Senate. He continues to serve as an advocate on behalf of the citizens of his home state.

"GREAT UNIVERSITIES
ARE COMPRISED OF
GREAT PEOPLE. TULANE
LAW SCHOOL IS A
LEADER IN TEACHING
ITS GRADUATES ABOUT
GIVING BACK."

—JOHN B. BREAU

Claire Moore Dickerson is invested as holder of the first John B. Breaux Chair in Business Law at a Tulane Law School ceremony on March 13. The chair is named in honor of the former U.S. senator.



At the ceremony in the Lavin-Bernick Center, Dean Lawrence Ponoroff expressed gratitude to the donors, pointing out that the transformative gift came in the days following Hurricane Katrina, when the university's future seemed uncertain. Tulane received matching funds for the Breaux chair from the State of Louisiana Board of Regents in 2008. The chair will support in perpetuity a nationally renowned scholar in business law.

Tulane President Scott Cowen presented Breaux with a resolution from the Board of Tulane to mark the occasion, saying, "You can always tell the

character of an institution by those that they honor. We are pleased to have your name associated forever with Tulane University. Your distinguished career speaks for itself."

In accepting the resolution, Breaux praised Tulane for its work in the community. "Great universities are comprised of great people. Tulane Law School is a leader in teaching its graduates about giving back."

O'CONNOR SITS IN ON CASES AT LAW SCHOOL

Former U.S. Supreme Court Justice Sandra Day O'Connor sat in on a morning of arguments heard by the United States Court of Appeals for the Fifth Circuit at Tulane Law School. O'Connor joined a panel of judges that included

participation of a former Supreme Court justice in the hearings is not unprecedented, it is uncommon. While the Fifth Circuit has been hearing oral arguments at Tulane annually for nearly a decade, this year's hearings were particularly exciting.

Fifth Circuit Clerk of Court Fritz Fulbruge says participation of a retired Supreme Court jurist in deciding Fifth Circuit cases has been rare in his 15 years as clerk. Before this year's event, he added, the only other former Supreme Court member to do temporary duty at the Fifth Circuit was former Justice Byron White.

Though the Fifth Circuit, which decides appeals from lower federal courts in Texas, Louisiana, and Mississippi, holds most hearings at its 600 Camp St. headquarters in New Orleans, its usual practice is to sit two to three times a year in cities outside New

Orleans and at least once annually at a law school, says Fulbruge.

"It's an opportunity for our students to observe real appellate arguments in real cases before real judges," said Dean Ponoroff. "It's an opportunity to observe what they're learning in class in the actual application and process."

Following the arguments this year, a judicial clerkship panel convened to give students current, fresh perspectives beyond those of the Tulane community. Judge Wiener's law clerk, Tulane law alum Haller Jackson (L '08), initiated the panel to allow students the opportunity to gain perspective from the "people in the middle of it."

Jackson said the clerks were more than happy to entertain questions, discuss the clerkship application process, and explain job responsibilities. "Everyone was extremely generous with their time. We all love our jobs."

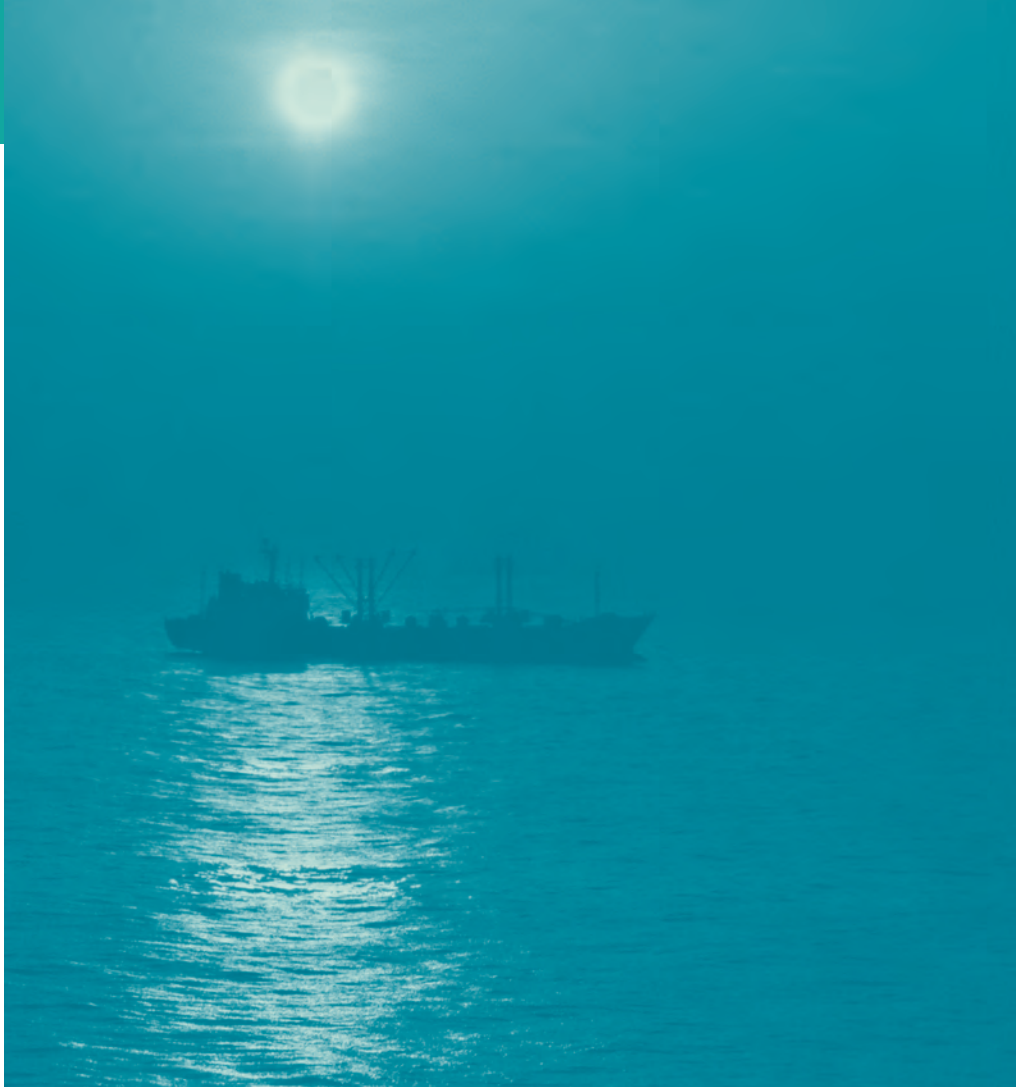
"IT'S AN OPPORTUNITY FOR OUR STUDENTS TO OBSERVE REAL APPELLATE ARGUMENTS IN REAL CASES BEFORE REAL JUDGES."
—DEAN PONOROFF

Judge Carl E. Stewart and Judge Jacques L. Wiener Jr. (L '61).

Seeing O'Connor, who retired from the Supreme Court in 2005, was "a special treat" for many Tulanians, said Dean Lawrence Ponoroff. Though the

Dean Lawrence Ponoroff poses for a picture with former U.S. Supreme Court Justice Sandra Day O'Connor, Judge Jacques Wiener, and Judge Carl Stewart before leading them downstairs to take the bench.





“WE RECOMMENDED A
FOCAL POINT FOR ENVI-
RONMENTAL POLICY IN
THE WHITE HOUSE. THAT
IS WHAT WE SAID IN 1968
...AND IT IS STILL TRUE.”
—RUSSELL M. TRAIN,
CHAIR, PRESIDENT’S
COUNCIL ON ENVIRON-
MENTAL QUALITY,
1970–1973

INSTITUTE PRESENTS REPORT TO OBAMA’S TRANSITION TEAM

It should come as no surprise that the incoming Obama administration will face a number of pressing challenges that will demand an expeditious and surefooted transition. This certainly will be the case in the environmental realm, where such issues as climate change, sea level rise, ecosystem restoration, fresh water allocation, and ocean health await. There is a vehicle, however, for developing policies and coordinating agency actions: the White House Council on Environmental Quality (CEQ). CEQ has been in

existence for nearly 40 years but in recent administrations its role has been reduced as federal environmental priorities shifted. Could CEQ be used to greater advantage?

With support from the Henry M. Jackson Foundation, the Tulane Law School Institute on Water Resources Law and Policy hosted a colloquium at Mt. Vernon, Va., to ask that question. The report, “Facing the Future: Recommendations on the White House Council on Environmental Quality,” was the result.

The report, of which Tulane law

professor Oliver Houck was the senior editor, was the product of an eclectic and bipartisan group of policy leaders, academics, industry representatives, and leading environmentalists—including five former CEQ chairpersons. The purpose of the report, which has been presented and already garnered notice in the environmental press, is to inform the president’s transition team of the historic role and potential functions of CEQ at a time when the need for clear and effective leadership is so urgent.

LECTURE SERIES

BOLLINGER LECTURES
ON FREEDOM OF
THE PRESS

Columbia University President and Professor of Law Lee Bollinger delivered this year's Phelps Lecture entitled, "Uninhibited, Robust, and Wide-Open: The Press and Freedom of the Press in the 20th and 21st Centuries." The lecture, which took place at Weinmann Hall in

of the news gathering business. Further, he noted the effects of globalization on the democratic concept of free speech and freedom of the press throughout the world.

Bollinger, who became the nineteenth president of Columbia University in 2002, is also a member of Columbia Law School's faculty. One of the nation's leading scholars of First Amendment issues, he has taught and written on freedom of speech and press for more than 30 years. His books include *Eternally Vigilant: Free Speech in the Modern Era*; *Images of a Free Press*; and *The Tolerant Society: Freedom of Speech and Extremist Speech in America*.

As the named defendant in the twin 2003 Supreme Court cases that clarified and upheld affirmative action in higher education, Bollinger became a national advocate for diversity and integration. In recognition of his leadership on these issues, he received the National Humanitarian Award from the National Conference

The Phelps Lecture Series was established in 1992 to honor Ashton Phelps Sr. Mr. Phelps was a distinguished Tulane Law School graduate (L '37), who practiced law at Phelps Dunbar, served as Publisher of the Times-Picayune and as Vice Chairman of Tulane's Board of Administrators. The Lecture operates under the direction of the Ashton Phelps Chair of Constitutional Law, established in 1983, by the S.I. Newhouse Foundation and the Times-Picayune. The Phelps Lecture is dedicated to the First Amendment Freedoms of Speech and Press, because of Mr. Phelps's lifelong activities as a newspaper attorney and newspaper publisher. Professor Keith Werhan is the holder of the Chair.



PHELPS LECTURE

"THERE IS PROBABLY NO UNIVERSITY CHIEF IN AMERICA MORE STEEPED IN ISSUES OF FREE SPEECH THAN MR. BOLLINGER." —THE NEW YORK TIMES

October, communicated the challenges facing the business of journalism during the Internet age, which—because of free online content and less advertising revenues—has seen decreasing newspaper circulations. Bollinger also examined the contradiction the Internet creates by expanding access to public information, while damaging the 20th century model

for Community and Justice and the National Equal Justice Award from the NAACP Legal Defense and Education Fund. He is the recipient of the Clark Kerr Award, the highest honor conferred by the faculty of the University of California, Berkeley, for his service to higher education, especially on matters of freedom of speech and diversity.



CONSTITUTIONAL SCHOLAR REVEALS VIEUX CARRE MYSTERY

Judge Michael McConnell, United States Court of Appeals for the Tenth Circuit, delivered this year's McGlinchey Lecture, entitled "Schism and Last Rites In the French Quarter: the Supreme Court's First, and Most Mysterious, Free Exercise Case."

A graduate of Michigan State University and the University of Chicago Law School, Judge McConnell is a renowned and prolific constitutional legal scholar. Upon graduation from law school, he served as law clerk to Chief Judge J. Skelly Wright of the U.S. Court of Appeals

for the D.C. Circuit and to Associate Justice William J. Brennan Jr., of the U.S. Supreme Court. Judge McConnell later served as Assistant General Counsel of the Office of Management and Budget, and as assistant to the Solicitor General of the United States. After this public service, he joined the faculty at the University of Chicago Law School, where he held the William B. Graham Chair, and later moved to the faculty of the S.J. Quinney College of Law at the University of Utah. Judge McConnell has argued 11 cases in the Supreme Court and has been a Circuit Court Judge since December 2002. He continues to teach at the Harvard, Stanford, and University of Utah Law Schools.



The McGlinchey Lecture was established in 1996 by the law firm of McGlinchey Stafford, to honor its founder, the late Dermot S. McGlinchey, a distinguished Tulane Law School graduate (L '57). Mr. McGlinchey was a dedicated supporter of the law school and his many charitable contributions included service as the chairman of the school's building fund. He devoted much of his life to promoting equal

access to the courts, and he revitalized the Louisiana Bar Foundation. Because he was an expert in insurance law and civil litigation, the McGlinchey Lecture is broadly dedicated to the fields of litigation practice, judicial adjudication, and justice under law.

McGLINCHEY LECTURE

"OUR McGLINCHEY LECTURERS COMPRISE A DISTINGUISHED LIST OF JUDGES FROM THE FEDERAL COURTS OF APPEALS, LEGAL SCHOLARS, AND LEGAL PRACTITIONERS. JUDGE MICHAEL McCONNELL EMBODIES ALL THREE OF THESE EXPERIENCES."

—Professor Keith Werhan, author of *Freedom of Speech* (Praeger Press, 2004) and *Principles of Administrative Law* (Thomson/ West 2007)

DEUTSCH LECTURE

LAMMERS DISCUSSES FOREIGN AFFAIRS

The law school was honored this winter to feature Johan Gerrit Lammers, former Legal Adviser of the Netherlands Ministry of Affairs, as this year's Deutsch lecturer. Lammers addressed "The (Changing) Role of the Legal Adviser of a Ministry of Foreign Affairs" at the January event.

Lammers holds master of laws (Meester in de Rechten) and Doctor of Law degrees from the University of Leyden and an LLM degree from Columbia University. He began his professional career as a lecturer in public international law at Leyden, was appointed professor of

public international law and relations at the University of Amsterdam and eventually, after a stint as Deputy Legal Adviser, was reappointed at the University of Amsterdam, Faculty of Law, as professor of international environmental law, a position he held from 1990 to 2006. In 1999, he received the 1999 Elizabeth Haub Prize for "exceptional achievements in the field of international environmental law."

As Legal Adviser, Lammers represented the Dutch Government in cases before the International Court of Justice and the Permanent Court of Arbitration. He has served on several World Bank and other

consultancy missions to Swaziland, Mozambique, Thailand, Laos, Cambodia and Zimbabwe, and as rapporteur of the Brundtland Commission's Experts Group on Environmental Law.

The Deutsch Lecture is given annually as a tribute to Eberhard Deutsch. The Eberhard P. Deutsch Chair of Public International Law was established in 1980 through the generosity of the late Col. Eberhard P. Deutsch and his family. Col. Deutsch was a distinguished Tulane Law School alumnus (L '25) with a national reputation in international and military law. The current holder of the Chair is Professor Günther Handl.

JONES INTERNSHIP WELCOMES TWO FROM TULANE LAW

The Scott S. Cowen Institute for Public Education Initiatives at Tulane named four Tulane graduate students to its spring internship program. Two honorees were third-year law students Justin Van Alstyne and David Durand.

The program, supported by a gift from the Eugenie and Joseph Jones Family Foundation, pairs the students with public schools in New Orleans to work on high-level academic and strategic projects for an entire semester. The program was created to provide valuable intellectual and human capital to the work of the K-12 public education community in New Orleans.

Van Alstyne, a former Teach for America corps member who taught English in LaPlace, La., sought to continue playing a positive role in students' lives during his internship with the Samuel Green School Library Project. Van Alstyne worked with teachers to develop a resource library to help raise student achievement and encourage students to develop lifelong reading habits.

*Left: Tulane law student Justin Van Alstyne introduces to students from Samuel J. Green Charter School a book by the late author Robert Edmund Cormier, *I am the Cheese*. Below: David Durand presents his community outreach project to members from the Algiers business and civic community.*

Outreach Program at O. Perry Walker Senior High and John McDonogh No. 32 elementary school. The project aims to create a community outreach and resource center in which the schools serve as centralized facilities in their communities where parents, students, and community members receive needed services on an ongoing basis.

Ian Furman, an upcoming third-year law student pursuing a joint JD and MBA degree, recently completed work with the Children's Bureau of New Orleans as a fall 2008 Jones Scholar. Furman worked with the bureau in an evaluation of its Grief & Trauma Group Intervention Project.

In addition to the honor, the Cowen Institute provides a \$6,000 stipend to each Jones Scholar for his or her work on the assigned project during the course of the semester. A minimum of 20 hours per week is expected of each scholar.

Felicia Brown (L '87) serves as the institute's program manager. "Before we find the student to match with a school, we solicit program proposals from several organizations," says Brown. "We talk with the school community and they express what their needs are for that school. We then help them shape and identify projects that address pressing and challenging needs where they might be able to use a graduate student as a resource."

Brown says that students interested in applying to the program do not necessarily need a background in education.

"Part of our goal," she says, "is to provide our resources broadly so that a number of schools can take advantage of our program and the diverse skill set of our graduate students."

"PART OF OUR GOAL IS TO PROVIDE OUR RESOURCES BROADLY SO THAT A NUMBER OF SCHOOLS CAN TAKE ADVANTAGE OF OUR PROGRAM AND THE DIVERSE SKILL SET OF OUR GRADUATE STUDENTS."

—FELICIA BROWN



Dedicated to enhancing public education, Durand was eager to work with the Algiers community to enhance community school relations. His internship involved working with the Parents Energizing Parents Community



“THROUGHOUT MY LIFE ...
I HAVE LEARNED THAT
THE PROMOTION OF
DIVERSITY IS NOT LOUD
OR IMPOSING. RATHER,
IT IS PATIENT AND
INVITING.”
—CATHY M. LEBLANC

FIRST WOMEN OF COLOR SCHOLARSHIP AWARDED TO LAW STUDENT

The Corporate Counsel Women of Color (CCWC) awarded Tulane law student Cathy M. Leblanc (L '09) with its first “My Life As a Lawyer Scholarship Award” in the amount of \$10,000 for the 2008–2009 school year. Recipients are chosen based on a brief essay detailing how they plan to use their legal education to foster diversity in the legal profession and in their community.

CCWC Founder and CEO Laurie N. Robinson said the counsel was most

impressed with Leblanc’s credentials, ideas, plans and aspirations as indicated in her essay. “We feel secure in knowing that young women such as [Ms. Leblanc] are already in the pipeline and have an understanding that the need still exists for diversity in the profession,” said Robinson.

A Haitian immigrant at the height of illegal Haitian immigration, Leblanc knows first-hand the many struggles women of color face. Those same battles, however, have made her the poised

person she is today. “In my humble opinion, human monotony is quite bland, even though many people may find security and comfort in its uniformity,” Leblanc wrote. “I, on the other hand, learned from a very early age that it is peoples’ differences from all walks of life that make life worthwhile.”

Aside from her award-winning essay, Leblanc’s involvement in and around Tulane’s Uptown campus was extensive. As director of the Tulane University Legal Assistance Program (TULAP) and chair of Tulane Law School’s Vis Arbitration Moot Court Team, she also served as a student practitioner for Loyola University College of Law’s Immigration Clinic. The Order of the Barristers welcomed Leblanc on May 16 at this year’s law school diploma ceremony.

“Throughout my life thus far, I have learned that the promotion of diversity is not loud or imposing. Rather, it is patient and inviting,” expressed Leblanc. “I firmly intend to maintain this mantra and practice it in both my legal education and future profession.”

LAW STUDENTS NAMED SCHWEITZER FELLOWS

Two Tulane Law School students are among 12 selected 2008–2009 New Orleans Schweitzer Fellows who collectively provided 2,400 hours of direct service addressing the health priorities in New Orleans. Four additional Tulane University graduate students and six students from Louisiana State University and Xavier University joined them.

All 12 of the new fellows worked on community projects through the Schweitzer Fellowship Program, providing nutrition counseling, health education, legal services and tutoring in the New Orleans area.

Third-year law student Kaari Beville-Riley provided a mentoring and job readiness program that included tutoring for middle school and high school students

who actively attend school or are in a GED program. Beville-Riley was named to the Order of the Barristers at graduation this May.

David Canales, a second-year Tulane law student, worked with the New Orleans Pro Bono Project and offered bilingual legal counsel to the immigrant worker community on issues such as wage claims, divorce, foreclosures, and bankruptcy.

Recently established in the city as a response to the escalating health needs of the local community, New Orleans represents the newest of 10 Schweitzer Fellowship Programs across the country.

KERR SCHOLARSHIP PAYS IT FORWARD



Stanley Cohn (L '81) presents check to ACA Scholarship recipient Anthony Cerceo.

Third-year Tulane law student Anthony Cerceo was honored with the 2008–2009 George Kerr American Counsel Association (ACA) Scholarship. New Orleans ACA member Stanley J. Cohn (L '81) presented the award at Weinmann Hall.

Recently named to the Order of the Coif at this year's graduation, Cerceo was a member of the *Tulane Law Review* and served as editor of *Tulane Environmental Law News*. He also was honored with the CALI Excellence Award in Torts and

International Commercial Arbitration. Ironically, however, Cerceo says he never foresaw himself becoming a lawyer.

Working as a consultant after graduating college, Cerceo admits coming to the realization that law could be a profession that would allow him to balance his personal interests and broader purpose. "I came to understand that practicing law would allow me to develop critical thinking and analytical capabilities, while also giving me opportunities to help people navigate the complexities of our legal system," he explains.

Three years later, Cerceo has discovered more than he ever could imagine, saying his choice to attend Tulane Law School and join the New Orleans community post-Katrina has allowed him to gain an appreciation for the myriad issues a city's rebuilding entails.

Nonetheless, these experiences and

opportunities—rich though they may be—typically do not come without a price, Cerceo confesses.

"Though I am more convinced now, two years after I began school, that this has been the right choice for me, I cannot ignore the fact that a legal education is an expensive investment," he says. "[This scholarship] will do much to ameliorate my heavy debt and spur my continued commitment to legal practice in the service of others."

The Kerr Scholarship is awarded annually, on a rotation basis within one of the Judicial Circuits of the United States, to a law student who exhibits outstanding scholastic ability; is committed to the betterment of the legal profession through public service; and has financial need. This year the Kerr Scholarship nominees were designated by the deans of the law schools within the Fifth U.S. Circuit.

"I CAME TO UNDERSTAND THAT PRACTICING LAW WOULD ALLOW ME TO DEVELOP CRITICAL THINKING AND ANALYTICAL CAPABILITIES, WHILE ALSO GIVING ME OPPORTUNITIES TO HELP PEOPLE NAVIGATE THE COMPLEXITIES OF OUR LEGAL SYSTEM."

—ANTHONY CERCEO



Law students (from left) Jimi Palacios, Sarah Runyon-Davis and Greg LaBorde are trained and certified to prepare and file taxes for people with low to moderate incomes who cannot prepare their own.

STUDENTS OFFER TAX RELIEF

Now in its 12th year, the Volunteer Income Tax Assistance (VITA) program set up shop at Weinmann Hall this spring to offer free tax assistance to qualified moderate and low-income individuals who cannot prepare their own returns.

Solely operated and staffed by Tulane law students, the program was being coordinated this year by third-year law



“ELLA HAS PLAYED AN INCREASINGLY IMPORTANT ROLE IN PROVIDING LEGAL ASSISTANCE TO ARTISTS, MUSICIANS AND OTHER PERFORMING ARTISTS, WHO OTHERWISE COULD NOT AFFORD ASSISTANCE.” —JULIE JACKSON

Left: Tulane Law School students involved in the Entertainment Law Legal Assistance project meet to plan strategies for their pro bono clients.

Below, L to R: Gene Meneray of the Arts Council of New Orleans, Todd Souvignier, Technical Director, Tipitina's Foundation, Ashlye Keaton, ELLA supervising attorney, Julie Jackson, Assistant Dean for Public Interest Programs, Tulane Law School, and Dr. Jerry R. Goolsby, Professor of Music Industry Studies and Marketing, Loyola



ENTERTAINMENT LAW PROJECT WINS GOVERNOR'S ARTS AWARD

With musicians working 24 hours a day and other creative artists flocking to the city, Tulane University law students are finding New Orleans a great locale in which to become versed in entertainment law. Second- and third-year law students have the opportunity to help Louisiana's low-income artists and musicians through the Entertainment Law Legal Assistance (ELLA) project, part of the law school's Pro Bono Program.

In recognition of the project's accomplishments, ELLA received the 2008

Governor's Arts Award for Cultural Economy Development.

“ELLA has played an increasingly important role in providing legal assistance to artists, musicians and other performing artists, who otherwise could not afford assistance,” says Julie Jackson, assistant dean for public interest programs at the law school. “It has also benefited the community-at-large by helping keep an important component of New Orleans' cultural economy strong and viable while contributing to the reduction of unfair trade practices.”

Copyright, trademark, and tax issues

are common concerns of ELLA clients. Other legal issues that these clients face include the formation of limited liability corporations, housing concerns, and contract preparation and review. Since ELLA's creation in 2005, Tulane law students have assisted approximately 650 clients with a 90 percent case-resolution rate, says Ashlye Keaton (L '03), supervising attorney to the project.

“We are the only program in the country that does this,” says Keaton. “We have been contacted by foundations and even former students who are interested in replicating the program, but it's very difficult to do unless you have all the necessary players including attorneys knowledgeable in entertainment law and adequate funding.”

Each semester, about 25 student volunteers assist in the project. Participating Tulane law students are required to complete a prerequisite course in intellectual property or otherwise demonstrate knowledge of intellectual property law.

The ELLA project is co-sponsored by the Arts Council of New Orleans and the Tipitina Foundation.

student Drew Harpool, first-year law student Nicholas Hite, and second-year law student Gregory LaBorde.

“Last year we prepared over 150 tax returns claiming over \$30,000 in earned income credits for our clients,” said LaBorde. “We also participated in the 2008 Super Tax Day at the Superdome sponsored by the Louisiana Department of Revenue.”

To volunteer for the VITA program, law students are required to take a training course and pass a certification test. According to LaBorde, approximately 40 students typically volunteer during the year. Through coordination with the Student Bar Association and the Pro Bono Program Office, students receive credit toward their pro bono graduation requirement of 30 hours.

THE BUSH PRESIDENCY AND THEORIES OF CONSTITUTIONAL CHANGE

BY STEPHEN M. GRIFFIN



Stephen Griffin joined the Tulane Law School faculty in 1989 after serving as a Bigelow Fellow at the University of Chicago and research instructor in law at New York University. He has published more than 30 articles, book chapters, and reviews on topics ranging from Rawls's theory of justice to the theory of American constitutional interpretation. He served as Vice Dean of Academic Affairs from 2001–04 and again from 2006–09. Griffin has served as interim dean since July 1, as the law school continues its search for someone to replace Dean Lawrence Ponoroff.

The presidency of George W. Bush was widely noted for its expansion of executive power. More than a few commentators found the Bush presidency disorienting in this respect. In a 2007 editorial looking back over the events since the terrorist attacks of September 11, 2001, the *New York Times* began, “There are too many moments these days when we cannot recognize our country.”¹ The *Times* referred to “lawless behavior”² on the part of the administration motivated by panic after the attacks.³ A long litany of examples followed—they included the Abu Ghraib prison scandal, the National Security Agency (NSA) wiretapping controversy, the justification of torture, unnecessary increased law enforcement

power, the Guantanamo detentions, and inhumane interrogations conducted by the Central Intelligence Agency (CIA) in foreign countries.⁴

In the years following 9/11, lawyers and legal scholars had a similar vertiginous sense that their constitutional universe was changing in unfamiliar ways.⁵ Theories of constitutional change are in the business of explaining how this could happen. The Bush presidency is only the most recent demonstration of the important role that informal constitutional change plays in our constitutional system.

For the purposes of this article, I am assuming that the critics of the Bush administration were correct to conclude that a number of policies implemented since 9/11 were departures from the status quo in that they were illegal or unconstitutional and the arguments in their favor were unsound. This allows me to get the discussion of how constitutional change occurred in the Bush presidency off the ground without retracing well-worn controversies on topics such as torture and NSA surveillance.⁶

With this substantial caveat in mind, I will argue that a theory of constitutional change that focuses on how the Constitution is implemented through institutions over time amid the tensions between the “written” and the “unwritten,” the “legal” and the “political,”⁷ offers a better approach to understanding the Bush presidency than the major alternative theories.

I will argue that the Bush administration's changes to the constitutional order can be explained in the following way. After the 9/11 attacks, President Bush cleared the ground for significant informal constitutional change by using his Commander in Chief power to aggressively *define the reality* in which all branches of government would henceforth operate. That reality was a state of war equivalent to World War II, the last total war fought by the U.S. The informal changes were often *secret* in that the public (and other administration officials) did not know they were taking place. They were further enabled by the Office of the Vice President (OVP) *going operational* in the manner of a cabinet department. Lawyers in the White House, OVP, and the Department of Justice used their *positional advantages* to immunize executive officials from legal liability by adopting the theory of “preclusive” Commander in Chief powers. Finally, as a related point, I suggest executive officials were driven primarily by a *fear of accountability* generated by the internal logic of the constitutional system rather than from the more commonly posited desire to aggrandize their own power.

A useful quality of an institutional approach to constitutional change is that it highlights the latent power contained within roles created by the text. History suggested that after a Pearl Harbor-like attack, vast power to shape the nation's response would flow to President Bush as Commander in Chief. Arguably the

single most important constitutional action in the aftermath of the shocking and disorienting events of 9/11 was Bush's assertion that the United States was at war.

A famous remark can help orient us with regard to President Bush's ability to define this new constitutional reality. In an article on the anti-analytical qualities of the Bush presidency, reporter Ron Suskind quoted a "senior adviser to Bush."⁸ The adviser characterized Suskind as being "'in what we call the reality-based community,' which he defined as people who 'believe that solutions emerge from your judicious study of discernible reality.'"⁹ He continued, "'That's not the way the world really works anymore . . . We're an empire now, and when we act, we create our own reality. And while you're studying that reality—judiciously as you will—we'll act again, creating other new realities, which you can study too, and that's how things will sort out. We're history's actors . . . and you, all of you, will be left to just study what we do.'"¹⁰

No doubt some analyses of the "reality-based community" remark focus on the implicit assumption of the Bush adviser that the administration was immune from the real-world consequences of its actions. However, consider this remark in the light of 9/11. First, it suggests that the exercise of power creates its own reality to which others must respond.¹¹ It also points to the first-mover status accorded to the president as Commander in Chief after a surprise attack on the United States. Because the war on terror justified preemptive actions, the administration will always stay one step ahead of "judicious study" through the use of surprise to throw our enemies (and, as it happens, the reality-based community at home) off balance.

Any surprise attack on the United States would likely give the sitting president



Dick Cheney, often described as the most powerful vice president in American history, had strong views about restoring presidential power.

this sort of unique power. The 9/11 attacks gave President Bush an enormous opportunity to shape public deliberation for the conflict to come. The president had the option of encouraging public debate on the nature of the response. Instead, President Bush immediately categorized the attacks as a military operation, akin to an invasion by a foreign state. The President told his advisers "we're at war"¹² just hours after the attacks occurred and made a global war on terror the official policy of the executive branch.¹³

The potent framing effects of Bush's statements pose a serious difficulty for theories of constitutional change based on public deliberation. Bush's definition of reality so thoroughly disabled the public sphere that the press and the public were still having trouble escaping the 9/11 frame as the Iraq War began in early 2003.¹⁴ This suggests that a theory of change that is not dependent on a particular normative path and is more attuned to the disruptive potential of the exercise of textual power is more useful in understanding the presidency after 9/11.

By describing 9/11 as a war, the president short-circuited any meaningful debate over the nature of the attacks and the appropriate response. But his constitutional claim was arguably more significant. While the president

participated in the process that led to the September 2001 Authorization to Use Military Force (AUMF),¹⁵ he reserved the argument that he did not need it to prosecute the war.¹⁶ In two subsequent letters to Congress,¹⁷ the president ignored the AUMF and apparently invoked his traditionally recognized power to respond to sudden attacks¹⁸ by stating that he had ordered military action "pursuant to my constitutional authority to conduct U.S. foreign relations and as Commander in Chief and Chief Executive."¹⁹ This meant that the president was not bound even by the broad terms of the AUMF.²⁰

At the same time he bypassed Congress, the President was treating the war as a precedent-shattering world struggle against evil.²¹ In a major speech to the nation on November 8, 2001, less than two months after 9/11 and amidst the anthrax attack scare, the President described an existential struggle between the United States and terrorist groups worldwide.²² He stated:

Our nation faces a threat to our freedoms, and the stakes could not be higher. . . . We wage a war to save civilization, itself. We did not seek it, but we must fight it—and we will prevail. This is a different war from any our nation has ever faced,

a war on many fronts, against terrorists who operate in more than 60 different countries.²³

Taken cumulatively, these statements described a presidency at the zenith of its constitutional power—a Commander in Chief responding to a surprise attack with the backing of Congress.²⁴ This put the war on terror on a legal and normative plane with World War II and suggested President Bush could exercise the same authority possessed by President

ARGUABLY THE SINGLE MOST IMPORTANT CONSTITUTIONAL ACTION IN THE AFTERMATH OF THE SHOCKING AND DISORIENTING EVENTS OF 9/11 WAS BUSH'S ASSERTION THAT THE UNITED STATES WAS AT WAR.

Roosevelt. Executive branch attorneys lost no time suggesting that because Roosevelt had used military commissions to try Nazi saboteurs as “unlawful combatants,”²⁵ Bush could do the same thing with respect to captured terrorists.²⁶

Bush's definition of reality after 9/11 is thus an excellent example of the creative tension between the text and informal change. Bush and his attorneys used his power as Commander in Chief to leverage informal constitutional change that transformed the rules under which detainees inside the United States were held.

Empowered by these presidential claims of authority, the executive branch set into motion all of the questionable policies that would later come to light: indefinite detentions, military commissions, NSA surveillance, and extreme interrogation techniques.²⁷ Secrecy was

essential to the creation of this new constitutional order.²⁸ The war on terror featured secret decisions,²⁹ secret executive orders,³⁰ and secret programs,³¹ not unusual in wartime. However, these initiatives also had *secret constitutional rationales*,³² something that was crucial to getting them off the ground by shielding them from the normal processes of interagency review.³³ Jack Goldsmith, head of the Office of Legal Counsel (OLC) during 2003–04, provides an example in his account of the special NSA program. He states that [Vice President Dick] Cheney and his counsel David Addington “had abhorred FISA’s [Foreign Intelligence Surveillance Act] intrusion on presidential power ever since its enactment in 1978. After 9/11 they and other top officials in the administration dealt with FISA the way they dealt with other laws they didn’t like: they blew through them in secret based on flimsy legal opinions that they guarded closely so no one could question the legal basis for the operations.”³⁴

Among the Bush administration's most important institutional innovations was the change to the OVP.³⁵ Vice President Cheney has been described as “[t]he most powerful vice president in American history.”³⁶ The positions advocated by Cheney and Addington were often decisive in the administration's councils.³⁷ As noted previously, Cheney had strong views about restoring presidential power prior to becoming vice president.³⁸ He believed that the presidency had sunk into a trough of weakness in the wake of mid-1970s congressional reform efforts (including FISA) and had never recovered.³⁹ Cheney “told Bush, who later repeated the line, that if nothing else they must leave the office stronger than they found it.”⁴⁰

Cheney's institutional role, unique among vice presidents,⁴¹ flowed in part from his unusual political status. He had no ambitions for the presidency⁴² and

could function as a sort of policy overlord,⁴³ his influence flowing both from his position as constitutional officer⁴⁴ and uber-staffer. The practical consequence of Cheney's lack of a political future was that he was accountable only to Bush.⁴⁵ Indeed, Cheney seemed to loathe the standard forms of political accountability. After the 2006 elections in which Republicans lost control of Congress, Cheney referred to the election results as if they were a lone poll of public opinion.⁴⁶

Cheney's role enabled the OVP to go operational in the manner of a cabinet department with line (statutory) authority.⁴⁷ In this respect, what happened in the Bush administration had a noteworthy institutional resemblance to Watergate in the Nixon administration and the Iran-Contra scandal in the Reagan administration. These episodes all involved the White House acting independently of executive branch agencies. Nixon used the “Special Investigative Unit” (the Plumbers) to investigate intelligence leaks outside the FBI and CIA.⁴⁸ The Iran-Contra scandal resulted when the National Security Council under Admiral Poindexter and Lt. Col. Oliver North assumed operational responsibilities for saving American hostages held in Lebanon.⁴⁹ While conducting operations from the White House allows for greater secrecy and flexibility, it can obviously lead to grave constitutional difficulties.

Giving OVP operational responsibility had decisive implications for how the executive branch functioned during the Bush presidency. It meant OVP could intervene with respect to any policy without being subject to normal statutory and interagency checks.⁵⁰ The power OVP wielded intimidated even the highest cabinet officials.⁵¹ Officials probably assumed that the positions advocated by OVP staff had presidential approval, whether or not this was actually the case.

The consequences of OVP going

operational played out in a variety of barely believable ways. OVP began running the legal side of the war against terror.⁵² Cheney bypassed a preexisting interagency review in obtaining an executive order to establish military commissions as the administration's way of handling detainees.⁵³ The OVP was intimately involved with running the NSA's domestic surveillance program.⁵⁴ An internal administration controversy over its legality nearly caused a constitutional crisis when Bush and Cheney decided, temporarily as it turned out, to go forward with the program in the face of the uniform opposition of the Department of Justice.⁵⁵

The 2001 and 2002 OLC opinions were critical to the creation of an lax interrogation policy in which abuses were all but inevitable. After an extensive investigation, the Senate Armed Services Committee recently concluded:

Legal opinions subsequently issued by the Department of Justice's Office of Legal Counsel (OLC) interpreted legal obligations under U.S. anti-torture laws and determined the legality of CIA interrogation techniques. Those OLC opinions distorted the meaning and intent of anti-torture laws, rationalized the abuse of detainees in U.S. custody and influenced Department of Defense determinations as to what interrogation techniques were legal for use during interrogations conducted by U.S. military personnel.⁵⁶

Here we can see clearly the practical import not only of questionable constitutional interpretation, but the key role of positional advantage within the executive branch. With OLC opinions behind them, those pushing for an aggressive approach to interrogations within the Department of Defense now occupied the institutional high ground.⁵⁷

1 "Looking at America," N.Y. Times, Dec. 31, 2007, at A20.
 2 Id.
 3 Id.
 4 Id.
 5 See, e.g., Joseph Margulies, *Guantanamo and the Abuse of Presidential Power* (2006).
 6 Regarding these topics see, e.g., Eric Lichtblau, *Bush's Law: The Remaking of American Justice* (2008); David Luban, *Liberalism, Torture, and the Ticking Bomb*, 91 Va. L. Rev. 1425 (2005); Michael D. Ramsey, *Torturing Executive Power*, 93 Geo. L.J. 1213 (2005); Jeremy Waldron, *Torture and Positive Law: Jurisprudence for the White House*, 105 Colum. L. Rev. 1681 (2005); Neil Kinkopf, *The Statutory Commander in Chief*, 81 Ind. L.J. 1169 (2006); Christopher Kutz, *Torture, Necessity, and Existential Politics*, 95 Cal. L. Rev. 235 (2007); Jordan J. Paust, *Above the Law: Unlawful Executive Authorizations Regarding Detainee Treatment, Secret Renditions, Domestic Spying, and Claims to Unchecked Executive Power*, 2007 Utah L. Rev. 345 (2007); Letter from Scholars of Constitutional Law and Former Government Lawyers to Members of Congress (Jan. 9, 2006), available at www.law.duke.edu/publiclaw/letters.
 7 In this article I draw on the theory I have presented in previous work. See Stephen M. Griffin, *American Constitutionalism: From Theory to Politics* (1996) [hereinafter Griffin, *American Constitutionalism*]; Stephen M. Griffin, *Constitutional Theory Transformed*, 108 Yale L.J. 2115 (1999) [hereinafter Griffin, *Transformed*]; Stephen M. Griffin, *Constituent Power and Constitutional Change in American Constitutionalism*, in *The Paradox of Constitutionalism* 49 (Martin Loughlin & Neil Walker eds., 2007) [hereinafter Griffin, *Constituent Power*].
 8 Ron Suskind, "Without a Doubt," N.Y. Times Magazine, Oct. 17, 2004, at 44, 51.
 9 Id.
 10 Id.
 11 Ron Suskind, *The One Percent Doctrine* 98-99 (2006).
 12 See Nat'l Comm'n on Terrorist Attacks upon the United States, *The 9/11 Commission Report* 326 (2004), available at <http://govinfo.library.unt.edu/911/report>.
 13 See id. at 330-38.
 14 For a careful study of these framing effects, see W. Lance Bennett, Regina G. Lawrence & Steven Livingston, *When the Press Fails: Political Power and the News Media from Iraq to Katrina* (2007).
 15 See S.J. Res. 23 (Sept. 18, 2001); Pub. L. No. 107-40, 115 Stat. 224.
 16 In signing the AUMF, the President stated: "In signing this resolution, I maintain the longstanding position of the executive branch regarding the President's constitutional authority to use force, including the Armed Forces of the United States and regarding the constitutionality of the War Powers Resolution." See "President Signs Authorization for Use of Military Force bill," September 18, 2001, at <http://z22.whitehouse.gov/news/releases/2001/09/20010918-10.html>.
 17 See President's Letter to Congress on American Campaign Against Terrorism (Sept. 24, 2001) available at <http://z22.whitehouse.gov/news/releases/2001/09/20010924-17.html>; President's Letter to Congress on American Response to Terrorism (Oct. 9, 2001) available at <http://z22.whitehouse.gov/news/releases/2001/10/20011009-6.html>.
 18 See, e.g., Louis Henkin, *Foreign Affairs and the U.S. Constitution* 47-48 (2d ed. 1996).
 19 See President's Letter to Congress, Sept. 24, 2001.
 20 On the interpretation of the AUMF, see Curtis A. Bradley & Jack L. Goldsmith, *Congressional Authorization and the War on Terrorism*, 118 Harv. L. Rev. 2047 (2005).

21 President George W. Bush, *The President's State of the Union Address* (Jan. 29, 2002) available at <http://z22.whitehouse.gov/news/releases/2002/01/20020129-11.html> (referring to the "axis of evil").
 22 President George W. Bush, *Address to the Nation, President Discusses War on Terrorism* (Nov. 8, 2001) (transcript available at <http://z22.whitehouse.gov/news/releases/2001/11/20011108-13.html>).
 23 Id.
 24 This was a point made in John Yoo's OLC memo in the immediate aftermath of the 9/11 attacks. See John C. Yoo, "The President's Constitutional Authority to Conduct Military Operations Against Terrorists and Nations Supporting Them," Office in Legal Counsel, in *The Torture Papers*, at 3, 5, 21.
 25 See *Ex parte Quirin*, 317 U.S. 1 (1942).
 26 For the story of this suggestion from former Attorney General William Barr, see Steven Brill, *After: How America Confronted the September 12 Era* 125-26 (2003).
 27 Mayer at 33.
 28 Id. at 268-69.
 29 The meetings held by the President with his top advisers in 2003 to approve "enhanced" interrogation methods are an example. See Joby Warrick, "CIA Tactics Endorsed in Secret Memos," Wash. Post, Oct. 15, 2008, at A1.
 30 See Eric Schmitt & Mark Mazzetti, *Secret Order Lets U.S. Raid Al Qaeda In Many Countries*, N.Y. Times, Nov. 10, 2008, at A1.
 31 On the use of the CIA to conduct a secret war, see Mayer at 39-43.
 32 See David Johnston & Scott Shane, *Memo Sheds New Light on Torture Issue*, N.Y. Times, Apr. 3, 2008, at A15.
 33 Goldsmith at 166-67; Mayer at 268-69.
 34 Goldsmith at 106.
 35 See Gellman at 31-60, 132-33.
 36 Savage at 7.
 37 Mayer at 51-54, 63-64, 265, 308-11, 321-24.
 38 See Savage at 9, 43.
 39 See Gellman at 99-102.
 40 Mayer at 7.
 41 See Gellman at 51.
 42 See Gellman at 16, 49.
 43 See Draper at 89-90.
 44 Gellman at 87.
 45 See id. at 50.
 46 See David Ignatius, "Cheney's Enigmatic Influence," Wash. Post, Jan. 19, 2007, at A19.
 47 This is a central theme of Gellman's book on Cheney. See Gellman at 50-55, 127-28, 131-54.
 48 Stanley I. Kutler, *The Wars of Watergate* 101 (1990).
 49 See Theodore Draper, *A Very Thin Line: The Iran-Contra Affairs* 3-6, 558-79 (1991).
 50 See Gellman at 50-55, 127-28, 131-54.
 51 See id. at 168, 173.
 52 Gellman at 134-39, 350-52, 377-78.
 53 Id. at 162-68.
 54 See Gellman at 139-54, 277-93.
 55 See Gellman at 299-326.
 56 "Inquiry Into The Treatment of Detainees in U.S. Custody," Senate Armed Services Committee at xxvi-xxvii (Dec. 2008).
 57 See id. at xxviii.



Mark Davis published two articles in March 2009: “Not by Accident: Building a Sustainable New Orleans,” in *The American Prospect Magazine*, and “To What End: Resilience, Tradeoffs, and the Lessons of Katrina,” in Volume 31 of the *Universities Council on Water Resources Journal of Contemporary Water Research and Education*.

Onnig Dombalagian presented his paper, “Too Interconnected to Fail?: Rethinking Investment Bank Regulation,” at the 2008 Meeting of the Canadian Law and Economics Association at the University of Toronto on Sept. 27, 2008. He has two articles accepted for publication: “Can Borrowing Shares Vindicate Shareholder Primacy?” in Volume 42 of the *U.C. Davis Law Review* (forthcoming 2009), and “Requiem for the Bulge Bracket?:

Revisiting Investment Bank Regulation,” in Volume 85 of the *Indiana Law Journal* (forthcoming 2010).

James Duggan has published, “Meeting the Needs of Tomorrow’s Library User Today,” in *The Law School Librarian’s Role as an Educator: Leading Librarians on Adapting to New Technologies, Maximizing Research Skills, and Helping Students Transition from Law School to Law Firm* (Thomson/Aspatore, 2008).

Jörg Fedke’s book chapter, “Constitutional Transplants—Returning to the Garden,” has been accepted for publication in Volume 61 of *Current Legal Problems* (Oxford University Press, forthcoming 2009).

Robert Force was a panelist at the 41st Transportation Law Institute held in New Orleans in December. The topic of his panel was “Unraveling a Regulatory Patchwork—Preemption and Maritime

Jurisdiction After Rowe & Kirby.” He also was honored for his contributions to maritime law in Panama as the recipient of the Medal of Merit in November.

Joel Friedman’s biography of Judge Wisdom, entitled *Champion of Civil Rights: Judge John Minor Wisdom*, has been released. In September, Friedman conducted a three-day mediation skills training program for U.S. district, magistrate, and bankruptcy judges in Redondo Beach, Calif. The following month, he presented “Handling Employment Discrimination Cases” at an orientation program for newly appointed U.S. magistrate judges in Washington, D.C. Friedman also gave a half-day presentation on employment discrimination law to the federal bar of Puerto Rico, sponsored by the U.S. District Court for the District of Puerto Rico in December, and he spoke at the AALS meeting in January at the Legal History Section meeting on a panel entitled “Backbone

HEADLINERS

TULANE LAW SCHOOL IN THE NEWS

DAILY BUSINESS REVIEW

“A cruise line passenger ticket is a contract between the cruise line and the passenger. Sometimes, the cruise line has to alter the itinerary considering the safety of the passengers and the vessel, and that would not be a breach. But if the company knew it had a vessel that was defective and could not deliver on the itinerary, that would be a breach of contract.”

—Professor **Robert Force** speaks out on the class action lawsuit filed by passengers of the Miami-based Carnival Cruise Lines as a result of equipment failure during a millennium celebration voyage. The settlement had a unique result—more than \$5 million worth of free trips. November 2008



TIMES-PICAYUNE

“Even if Cannizzaro files, he won’t have to sell the office furniture. The Chapter 9 section of the federal code is reserved for government agencies and does not involve liquidation, such as selling off assets. It’s a rehabilitation process...where you keep all your assets but you create a plan to pay back your creditors. You can actually reduce what you owe.”

—Professor **Paul Barron** comments on the \$15 million federal court judgment that Orleans Parish District Attorney Leon Cannizzaro inherited with the office. January 2009



WWL TV

“I think, generally, nobody wants to have an area which is known for not meeting health protection standards, because it’s harder then to attract businesses, to attract people.”

—**Adam Babich**, director of the Tulane Environmental Law

of the Federal Judiciary: The Study and Biography of Federal Appellate Judges.”

James Gordley has several new encyclopedia titles forthcoming in *The New Oxford Companion to Law* including “Common Law of Europe,” “Friedrich Karl von Savigny,” “Roman Law,” and “Thomas Aquinas” (Oxford University Press).



David Katner has published “Foreword: The Legacy of Gault” in Volume 44 of the *Criminal Law Bulletin* (May–June 2008). He also has published “Chapter 5: Rethinking Juvenile Justice in the Wake of Katrina,” in *Children, Law and Disasters: What We Learned From Katrina and the Hurricanes of 2005* (ABA, December 2008).

Glynn Lunney has published two articles: “Copyright’s Price Discrimination Panacea” in Volume 21 of the *Harvard Journal of Law & Technology*, and “On the Continuing Misuse of Events

Studies: The Example of Bessen and Meurer” in Volume 16 of the *Journal of Intellectual Property Law*.

Supreme Court Justice Antonin Scalia cited an article written by **Pamela Metzger** in the court’s ruling that forensic evidence in the form of an affidavit cannot be substituted for testimony from a live witness in criminal cases. In a 5–4 decision handed down June 25, Scalia, writing for the majority, quoted from Metzger’s 2006 article “Cheating the Constitution,” that appeared in the *Vanderbilt Law Review*.

Brooke Overby’s article, “Allocation of Check Kiting Losses under the UCC, Regulation CC, and the Bankruptcy Code: Reconciling the Standards,” was published in the *Wake Forest Law Review* (March 2009).

Clinic, on Jefferson Parish falling outside the safe air-quality limits promptly following the toughened pollutant ozone standards raised by the Environmental Protection Agency. March 2009

THE AMERICAN PROSPECT

“If we can’t figure out how to make New Orleans sustainable and resilient, it will be hard to imagine good things for other vulnerable places like Miami, Houston, and the New Jersey Shore. If we can’t rebalance human development with the stewardship of water, wetlands, and other natural resources in New Orleans, it won’t portend well for the Everglades, Chesapeake Bay, Great Lakes, and water-strapped cities like Las Vegas and Atlanta.”

—Professor **Mark Davis** explains how New Orleans is the proving ground for the American ideal of progress, equity, and reinvention. The future of the country and many of its communities, he says, depends on the questions raised in New Orleans, and the answers and actions that come as a result. March 2009



THE NEW YORK TIMES

“There’s no specific language in baseball’s collective bargaining agreement that requires players to cooperate with the commissioner’s office. However, the commissioner does have broad power under the best interests of the game and he can make the argument that, by not cooperating, Rodriguez is going against the best interests of the game and should face discipline.”

—Sports law professor **Gabe Feldman** provides legal commentary on the authority of Major League Baseball to investigate performance-enhancing drug use by Alex Rodriguez of the New York Yankees. In February 2009, Rodriguez admitted to using banned substances from 2001 to 2003, citing “an enormous amount of pressure to perform.” February 2009

Vernon Palmer's book, *Mixed Jurisdictions Compared: Private Law in Louisiana and Scotland* (co-authored by Elspeth Christie Reid), has been accepted for publication (Edinburgh University Press, forthcoming November 2009).



In August, **Stacy Seicshnaydre** delivered a presentation on Fair Housing Law, History, and Litigation to a group of property managers and rental advocates at a U.S. HUD-sponsored conference in New Orleans. In October, she delivered two additional panel presentations: "Housing Law Issues Affecting Louisiana Consumers" at a Louisiana State Bar Association-sponsored conference (2008 Louisiana Justice Community Conference)

held in Baton Rouge; and, "Lessons Learned from River Garden" to developers of the 'Big Four' demolished public housing sites undergoing redevelopment in New Orleans.

Edward Sherman has published "U.S. Supreme Court Rejects Bush Administration's Position on Guantanamo Detainees: The Watershed of the Boumediene Line of Cases" in the *International Journal of Military Law*.

In November, **Tania Tetlow** participated in an Oxford Union-style debate about the 'End of American Ascendancy,' opposite a Deputy U.S. Secretary of State as part of a British-American Project conference in Los Angeles. Also in November, she gave an endowed lecture for the Newcomb Institute on women in politics. She spoke at an international workshop on public interest and legal education sponsored by John Hopkins' School of International Studies in Nanjing, China, on Dec. 9, 2008.

Keith Werhan's article, "Rethinking Freedom of the Press After 9/11," which was published in Volume 82 of the *Tulane Law Review*, was reprinted in *The First*



Amendment Law Handbook, 2008–2009 (Thomson Reuters West, 2008), and his essay "Separation of Powers" will appear in the *Encyclopedia of Legal History* (Oxford University Press, forthcoming 2009). His most recent article, entitled "The Classical Athenian Ancestry of American Freedom of Speech," will be published in the 2008 edition of *The Supreme Court Review*. This past fall, Werhan delivered a lecture entitled, "The Classical Athenian Ancestry of American Freedom of Speech," at the Northwestern University Political Theory Colloquium, and presented a workshop on that topic at the DePaul Law School Faculty Workshop Series. This summer, he will present "The Confidential Source Privilege for Journalists" at the SEALS Annual Meeting.



A TRIBUTE TO DEAN LAWRENCE PONOROFF

"THE FEATURE OF LARRY PONOROFF'S DEANSHIP THAT SETS IT APART FROM THOSE OF HIS MODERN PREDECESSORS IS THE 'GRACE UNDER PRESSURE' HE EXHIBITED IN SHEPHERDING THE LAW SCHOOL PAST THE ROCKS AND SHOALS OF THE POST-KATRINA ERA. LARRY'S MAINTAINING OF HIS EQUANIMITY THROUGH THAT PERIOD OF UNIMAGINABLE STRESS, ENSURING THE VERY SURVIVAL OF THESE INSTITUTIONS, STANDS AS TESTIMONY TO THE ESSENCE OF THE MAN."

Judge Jacques L. Wiener Jr. (L '61)



Members of Dean Ponoroff's Advisory Board gathered for the dedication of Suite 210 named in his honor. Present at the June 23 event, L to R: Lee Sher (L '76), Judge Jacques Wiener (L '61), Ken Weiss (L '75), Bob Acomb Jr. (L '53), Julie Livaudais (L '82), Dean Ponoroff, Judge Marty Feldman (L '57), Calvin Fayard Jr. and Robert Redfearn Sr. (L '57).

After eight years of service as the 22nd dean of Tulane Law School, on June 30, Larry Ponoroff stepped down from this role to pursue new opportunities for service to the legal profession. For this special tribute to his leadership over the better part of a decade, including the dark days posed by Hurricane Katrina, the *Tulane Lawyer* spoke with several close alumni leaders, including several members of the

Dean's Advisory Board, to share their perspective on why Dean Ponoroff's leadership was so effective—and so deeply appreciated as well.

The Dean's Advisory Board serves at the invitation of the dean as a sort of think tank to provide perspective, serve

as a sounding board on issues related to management and strategic vision for the law school, and to help provide philanthropic support essential to achieving that vision. In early April, as the board moved to adjourn its final session under Dean Ponoroff's tenure, its members passed a special resolution in recognition of his leadership and accomplishments. Excerpts from that resolution, along with comments by some of those alumni who have worked closely with Dean Ponoroff, are included on the following pages.

"Larry has not only been a close friend...as has Monica...they have truly been the First Family of Tulane Law School, showing courage, leadership, and a passion throughout their years of remarkable stewardship. They honor Tulane by having been here."

JUDGE MARTY FELDMAN (L '57)

“DEAN PONOROFF DID A
GREAT JOB OF REACHING OUT
TO ALUMNI AROUND THE
COUNTRY AND RECONNECTING
US TO THE LAW SCHOOL. HIS
COMMITMENT TO THE LAW
SCHOOL, HIS PASSION FOR
EXCELLENCE AND HIS ENTHU-
SIASM MADE ONE WANT TO
BECOME INVOLVED. I, FOR
ONE, AM GLAD I DID.”

D. Jean Veta (L '81)



*“Energy, focus on the
essentials, good cheer,
encouragement to friends
and alumni, and ostensible
pride in their achievements.”*

IAN FORRESTER (L '69)



THE DEAN'S ADVISORY BOARD OF THE TULANE UNIVERSITY LAW SCHOOL

BE IT RESOLVED that

WHEREAS, Lawrence Ponoroff has served Tulane University and the Tulane Law School with extraordinary ability, energy, dedication, and integrity, first as a visiting faculty member in 1994, then, beginning in 1995, as a member of the faculty and, since July 2001, as the 21st dean of the law school, providing outstanding scholarship, leadership, and dedication during one of the most critical periods in the history of the law school and the university; and

WHEREAS, Dean Ponoroff has worked tirelessly to enhance the reputation of the Tulane Law School nationally and globally by constantly improving the quality of the faculty and the student body through merit scholarships, career planning and placement, faculty retention and hiring, and by further developing and advancing the law school's relationship with its alumni; and

WHEREAS, Dean Ponoroff provided superlative administrative leadership to the Tulane Law School and to the entire university throughout the unprecedented challenges presented in the aftermath of Hurricane Katrina, contributing untold hours of work informed by clarity of vision, confidence, tenacity, humor, and compassion in that time of unparalleled need; and

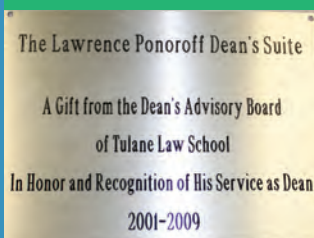
WHEREAS, Dean Ponoroff has, throughout his professional career, demonstrated remarkable academic leadership in the areas of business and commercial law, authoring numerous works including a treatise on federal bankruptcy laws and casebooks on contracts and commercial law; and
...

NOW THEREFORE, by these presents, the members of the Dean's Advisory Board of the Tulane University Law School express their deep and abiding admiration and appreciation to Dean Lawrence Ponoroff for his unsurpassed contributions to and support of the law school, the university, the community, and the legal profession.

*Thus unanimously adopted and presented
at the meeting of the Dean's Advisory Board
of Tulane University Law School
on this third day of April, 2009,
at New Orleans, Louisiana.*

"Larry's responsiveness made alumni and supporters comfortable that their involvement was critical to the success of Tulane and the Law School."

GREG EATON (L '73)



"IN ADDITION TO AN OUTSTANDING INTELLECT, LARRY POSSESSES ENERGY AND INTENSITY THAT ARE UNMATCHED. STUDENTS TAUGHT BY LARRY UNIVERSALLY PRAISED HIM FOR HIS STIMULATING AND MOTIVATING TEACHING METHODS."

Leopold Z. Sher (L '76)



"LARRY'S ENDURING LEGACY IS THE TIRELESS WORK HE DID STRENGTHENING THE RELATIONSHIPS BETWEEN THE LAW SCHOOL AND ITS COMMUNITY OF STUDENTS, FACULTY, STAFF AND ESPECIALLY, ALUMNI. HE STRIVED TO MAKE OUT-OF-TOWN ALUMNI FEEL AS MUCH A PART OF TULANE AS THOSE IN AND AROUND NEW ORLEANS. HIS SUCCESS-ES IN THESE EFFORTS WERE AN IMPOR- TANT ELEMENT IN THE REBUILDING OF TULANE AFTER HURRICANE KATRINA...

THE ENTIRE TULANE LAW SCHOOL COMMUNITY WILL MISS HIS GOOD JUDGMENT AND GOOD HUMOR."

Alec Chang (L '90)

In addition, the board demonstrated its deep gratitude to Dean Ponoroff's service by formally announcing its commitment, entirely from within its ranks, of philanthropic gifts in an amount sufficient to name Suite 210 of John Giffen Weinmann Hall in his honor. Charitable gifts made to the Law School by the board shall be used to support an endowed fund for Tulane Law School.

"What better way to honor the man that led our law school to great levels. He was an asset to all of us who made us proud of where we received our education. His leadership throughout his tenure is beyond description, but on top of other legacies will be how he put our school back together after Hurricane Katrina. His leadership will be remembered through our gift to the School we all love."

RON BOOK (L '78)



Dean Ponoroff with members of the 'First Family,' from left: wife, Monica, and twin daughters, Laura and Devon.

"NOT A MAN OF FEW WORDS BUT STRAIGHTFORWARD AND PASSIONATE REGARDING HIS RELENTLESS PURSUIT OF EXCELLENCE FOR TULANE LAW. EVEN WHILE EXILED TO HOUSTON BY HURRICANE KATRINA HE WORKED TIRELESSLY TO PROTECT HIS STUDENTS AND FACULTY AND REBUILD THE SCHOOL."

Calvin Fayard

"Dean Ponoroff's leadership in consolidating the progress of earlier deans and moving Tulane Law School forward in national prominence, local recognition and financial stability would merit this naming opportunity by itself. His work to help carry not only Tulane Law School but Tulane University through the aftermath of Hurricane Katrina, and to restore academic and fundraising balance at the law school would be equally meritorious. The combination of those efforts truly reflects the ideals for a Dean of Tulane Law School and makes naming the Dean's Suite for him an appropriate way to recognize him and his family for their energy, their sacrifices and their dedication to Tulane Law School. We will not forget Larry's leadership or his friendship."

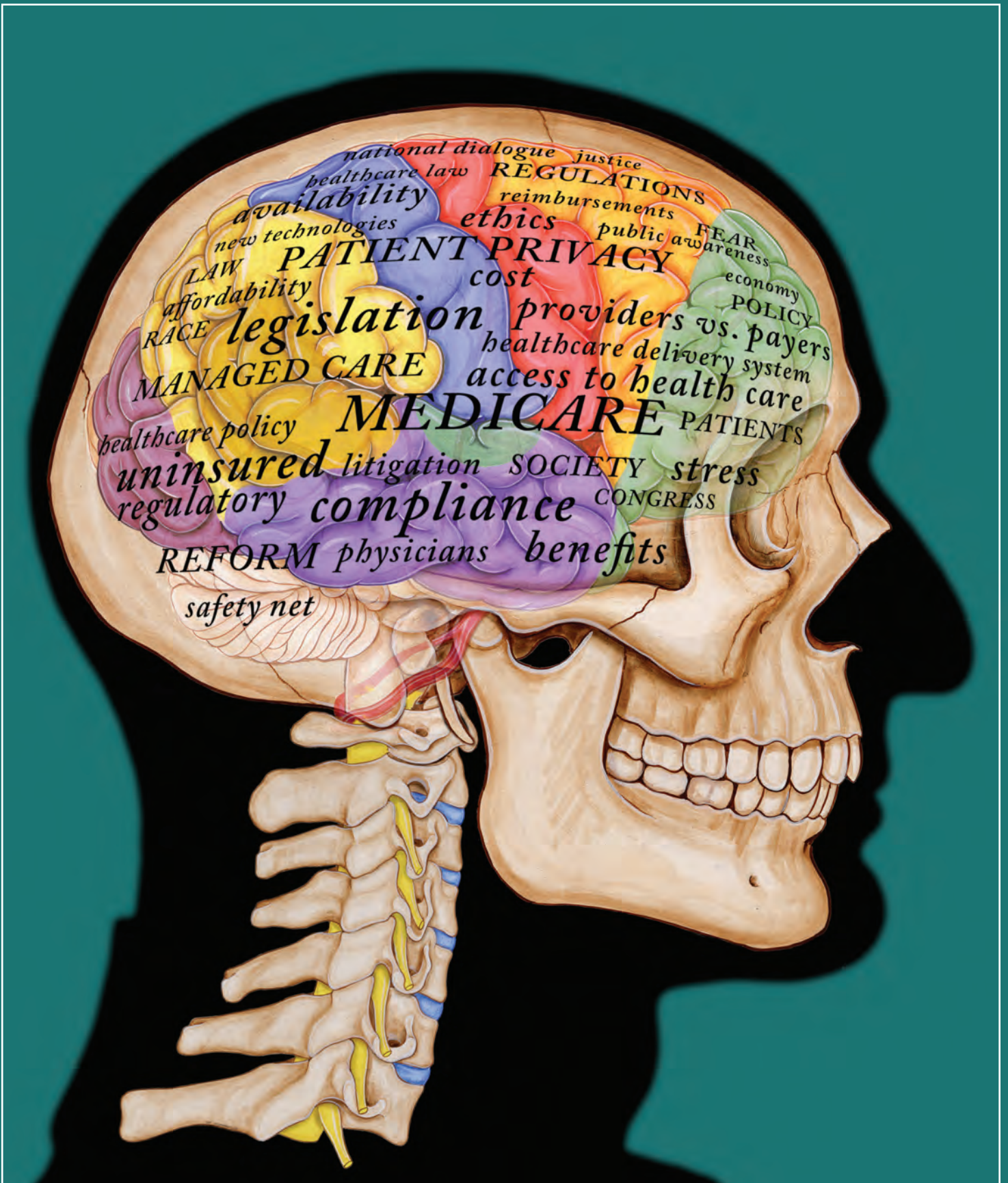
JAMES R. NIESET (L '64)

“GO CONFIDENTLY IN THE DIRECTION OF YOUR DREAMS.
LIVE THE LIFE YOU’VE IMAGINED. AS YOU SIMPLIFY YOUR
LIFE, THE LAWS OF THE UNIVERSE WILL BE SIMPLER.”

—*Henry David Thoreau*







"THE HEALTHCARE INDUSTRY LIVES IN A WORLD OF GRAY." —SANFORD TEPLITZKY

HEALTHCARE LAW GETS EXAMINED

FOREFRONT ISSUES EMERGING FROM THE INCREASINGLY COMPLEX
FIELD OF HEALTHCARE LAW ARE PUT ON THE EXAMINATION TABLE

N

EARLY THIRTY-FIVE YEARS AGO, when he was offered a position practicing health law as a government attorney representing the fledgling federal Medicare program, Sanford (“Sandy”) Teplitzky (L ’75) had one question.

“What’s health law?” the young lawyer asked.

Back then the question would not have seemed so unusual. After all, Tulane Law School had exactly one course on health law (Psychiatry and the Law) and public awareness of the interplay between the worlds of medicine and law scarcely went beyond malpractice and personal injury litigation.

Today, the diverse challenges unfolding within the framework of health law are a more prominent part of the national dialogue—management and privacy of personal health records, appropriate use of new technologies, Medicare fraud, pay for performance, and availability of care within managed care systems.

“It has gone from being a field very few knew anything about, to being one of the most dynamic and challenging areas in which a lawyer can practice,” says Teplitzky, now chair of Ober|Kaler’s health law practice group in Baltimore. The nonprofit American Health Lawyers Association, of which Teplitzky is a former president, currently lists more than 10,000 members.

One such member is Paul Pitts (L ’03), a senior associate in the life sciences and health industry group of Reed Smith, who says the range and intricacy of the concerns confronting healthcare providers continues to surprise him.

“When you specialize in an area of law, you initially think that the number of issues and the law governing those issues is discrete and that one day you’ll appreciate the full range of your specialty,” says Pitts. In retrospect, he refers to this way of thinking as “naïve.” “It is simply not the case, particularly in health care where the regulatory environment is becoming increasingly complex.”

BY LAUREN VERGONA

MEDICAL ILLUSTRATIONS BY DEBRA HOWELL



DAVID VUKADINOVICH HIKING A GLACIER IN PATAGONIA, ARGENTINA

DAVID VUKADINOVICH

DAVID VUKADINOVICH ARRIVED at his career in health-care law by following his interest in bioethics. A philosophy major in college who completed a joint law/masters of public health program at Tulane, Vukadinovich now regularly advises his clients on ethical issues including those concerning informed consent to treatment, healthcare decision-making, and the withholding and withdrawing of treatments.

“I am fortunate to have a practice that incorporates and supports my interest in bioethics,” he says.

Because his advice will often directly affect the lives of individuals, he minds the ethics of his own profession.

“Sometimes,” says Vukadinovich, “the easy way out is to say ‘no’ because of regulatory concerns or some other reason, but that is often not the best response because saying ‘no’ may mean that a service will not be available to a particular community. I always do my best to find solutions that satisfy the law but also accomplish my clients’ goals.”

“I AM INTERESTED IN THE
RELATIONSHIP BETWEEN THE
COST OF HEALTH CARE RELATED
TO REGULATORY COMPLIANCE.”

RULES AND REGS

THIS INCREASING COMPLEXITY of regulation is both a primary source of the rapid growth of the health law field and a source of frustration for many of its practitioners. According to Roselyn Koretzky (L ’80), chair of the health-care department of Milling Benson Woodward L.L.P. in New Orleans, one of the principal generators of this complexity is the interaction between providers and payers.

“For example, as an outgrowth of the financial opportunities for providers levied by Medicare and Medicaid, it ultimately has become necessary for the government to institute and enforce laws and regulations regarding the prevention and termination of fraudulent and abusive practices and referral systems, as well as financial gains and advantages for physicians or their family members from ownership or other financial interests in various healthcare businesses involving their patients.”

After 13 years in healthcare law, David Vukadinovich (L ’97), senior counsel to Catholic Healthcare West in Los Angeles, finds the ongoing proliferation of regulations increasingly disconcerting.

“I heard at a conference once that there are more pages of federal regulation governing hospitals than nuclear power plants,” Vukadinovich recalls. “I don’t know if that is true but it really drives home the point that all aspects of health care, including the simplest transactions, are subject to myriad regulations, many of which are counterintuitive and often inconsistent at the state and federal levels.”

Vukadinovich uses California as an example. The state already had comprehensive laws protecting patient privacy before Congress enacted HIPAA. “Now we have two sets of laws, each with its own requirements and penalties, and the two are often inconsistent,” he says. “That is just one example. It is frustrating to see from the inside out how needlessly complex the industry is and then listen to commentators talk about the cost of health care.”

With that cost increasing and available revenues shrinking, Larry Aldrich (L ’77), president and CEO of University Physicians Healthcare, underlines the necessity for changes in the business model of health care as well as the healthcare delivery system itself. The challenge of healthcare legislation is, he says, “to make sure it is supportive—and not disruptive—of change.”

Teplitzky questions, too, the extent to which the prodigious body of current regulations addresses the more basic concerns of healthcare standards. “Very few people, including those with whom I worked when I was with the federal government, fully understood the rules and regulations that

"THE RISING TIDE OF THE
UNEMPLOYED... IS SO SEVERE
THAT THE SYSTEM ITSELF APPEARS
TO BE APPROACHING OR SURPASS-
ING THE BREAKING POINT."

paperwork
UNEMPLOYMENT
accident
DEEP BREATH
drama CHILD
devoted
OVERWHELMING



HON. GEORGIA BRADY

JUDGE GEORGIA BRADY'S docket presents an unpredictable succession of human dramas. "I have presided over cases involving accidental child fatalities and cases in which the litigants made death threats, including one in which a mother threatened to drown her severely handicapped child if she was not granted medical assistance," Brady says.

Even when she is tired, or angry or feeling overwhelmed, Brady says it is important for her to respect the individuals who come before her. She says she has come to recognize that each litigant has a fundamental need to understand the process and tell his or her story. Even when it is the fifteenth case of the day, and the story is remarkably similar to a hundred she has heard before, Brady habitually reminds herself that each deserves her devoted attention.

"It's easy to see in his or her eyes if I am failing to meet this standard, and then I remember the quote I have heard from a few litigants: 'You could be me. It only takes a misstep or two and you could be me,'" Brady explains. "This inevitably makes me slow down, take a deep breath, and refocus."

apply to the federal healthcare programs," he explains. "I found that regulation was often more about money than about social healthcare policy. For years, the word 'quality' was hardly uttered."

None of these experts in the field of health law questions the need for regulation, but there seems to be consensus on the pressing need for regulations that are simpler and more comprehensible, targeted at clear and necessary purposes. "Everyone always talks about the skyrocketing costs of health care, particularly as those costs are related to malpractice litigation," says Vukadinovich. "I am interested in the relationship between the cost of health care related to regulatory compliance."

While the proliferation of regulation has clearly had the side effect of providing substantial job security to healthcare lawyers, Teplitzky is not worried about a simplified

regulatory system bringing about a decline in the business.

"It remains a growth area of the law," he says. "The specific issues and practice areas may mutate, but the need for lawyers will not abate."

STRESS ON THE SYSTEM

TWO OF THE BIGGEST CHALLENGES facing the Obama administration—the ailing economy and the skyrocketing cost of health care—interact with each other in more complex ways than might appear at first glance. As candidate Obama acknowledged early in the presidential race, covering more people costs more money. In a rapidly downsizing economy,

it is difficult to imagine where the money will be found to fund the president's healthcare plan, which by some estimates could carry a price tag of between \$50 billion and \$65 billion.

At the same time, however, as spiking unemployment drives many more into the ranks of the uninsured, concern over the availability and affordability of healthcare coverage and quality health care to all Americans hits closer to home than ever for a much larger swath of society. Will the pragmatism necessitated by the current financial crisis postpone healthcare reform due to lack of funding, or precipitate change by placing more of the voting public's coverage in peril? Are Americans ready, in the midst of an economic

downturn, to begin to approach the basic questions of how the nation's health care is to be provided and paid for?

Aldrich cites the "amazing destruction of wealth" taking place on a global scale as one of the most striking phenomena he has witnessed in the course of his career. His sense is that the multi-dimensional effect of the economic crisis on the nation's healthcare system is just beginning to become visible to consumers.

Koretzky concurs: "The economic downfall may adversely affect the availability and amounts of funding for medical research, equipment and facilities, as well as services provided by healthcare facilities and requested by patients. Loan crunch-

"WE HAVE FAILED TO HAVE AN HONEST CONVERSATION ABOUT HOW SOCIETY WILL PAY FOR THE SIGNIFICANT AMOUNT OF INVESTMENT REQUIRED TO FUND NEW ADVANCES."



PAUL PITTS OUTSIDE THE EMBARCADERO CENTER
IN DOWNTOWN SAN FRANCISCO

PAUL PITTS

AS IT DID FOR SO MANY, Hurricane Katrina made a lasting impression on Paul Pitts, who says he learned, among other things, that "you can live out of one suitcase for a really long time."

"The year after Katrina was stressful and difficult, but it was also a time when I connected very closely to other people in the community, whether that was through cleanup efforts or just dark humor," says Pitts. "I have so much respect for people who lost everything and managed to pull themselves together and move forward with their lives. Those folks are real heroes and have taught me some great lessons." Through the American Health Lawyers Association, Pitts currently volunteers with the Emergency Preparedness Affinity Group, whose mission is to aid in preparing resources to meet the legal demands of future large-scale disasters.

Pitts says he feels strongly that access to health care should be a basic right. "Ensuring that our neighbors are healthy, productive members of society is good for everyone," he says, adding that he still thinks America has a long way to go before that dream is realized. "It's disheartening to see that we don't provide sufficient public and mental health services. There is so much more to be done—locally, nationally, and globally."

es may also crunch the ability of individuals to finance education in health care, including medical school.”

She says the stress on the system associated with the economic downturn is potentially profound. Or as Pitts puts it, the “safety net” has been torn.

As a judge with the Maryland Office of Administrative Hearings, Georgia Brady (L ’87) has come in contact with some of the people most in danger of falling through that net. She tells of a day in March when she held a series of hearings at a local department of social services regarding medical assistance and food stamps. The waiting area was packed—standing room only. “Their wait to see a caseworker was interminable, lasting three or more hours, even if the only reason for their visit was to drop off paperwork,” says Brady.

“The most pressing, complex issue in our country today?” Brady asks. “Unquestionably, the rising tide of the unemployed which is so severe, even in prosperous Maryland, that the system itself appears to be approaching or surpassing the breaking point.”

It is not only patients left without insurance or income who are suffering in the current climate. In times of economic crisis, hospitals are often the first care providers to be pushed beyond their limits, as they are required to provide emergency services to anyone regardless of ability to pay.

“When people lose their jobs, they lose their health insurance, and often avoid going to the doctor only to wind up in the emergency department,” Vukadinovich explains. “So hospitals become the payer even though the system is not supposed to work like that.”

Nonprofit, faith-based systems such as Vukadinovich’s employer Catholic Healthcare West that already extend themselves to serve those without resources tend to feel the pinch even more, especially given that charitable donations tend to decline as the discretionary income of potential donors dwindles.

At the same time, says Pitts, state Medicaid programs are being asked to cover more people with fewer funds. “The new administration’s stimulus bill has helped plug the hole, but providers are still nervous about possible payment cuts or cuts in benefits.”

Teplitzky summarizes the critical concerns preoccupying those on opposite sides of the reception desk: “For consumers, it is access to, and the affordability of, high-quality healthcare services. For providers, it’s the constant reduction in reimbursement, the constant increase in regulation, and laws that do not encourage

*fear CHALLENGE
CONSUMERS pay
reimbursement R
SOLUTIONS pro
development*



SANFORD TEPLITZKY

SANFORD TEPLITZKY’S APPROACH to life has always been to take one day at a time. Balancing the amount of time and effort it takes to build a successful law practice with the time and effort it takes to raise a family has been one of life’s biggest challenges, but Teplitzky takes it philosophically.

“I have always been motivated by a fear of failure and that has served me well over the years,” he jokes.

As he developed a successful health law practice, Teplitzky also found time to give back to his community. He is most proud of his ten years of service on the Baltimore County Schools Board of Education as well as his efforts to develop the next generation of healthcare lawyers through a course he teaches at the University of Maryland Law School and day-to-day mentoring of young lawyers at his firm.

“IT HAS GONE FROM BEING A FIELD VERY FEW KNEW ANYTHING ABOUT, TO BEING ONE OF THE MOST DYNAMIC AND CHALLENGING AREAS IN WHICH A LAWYER CAN PRACTICE.”

or facilitate the creative development of solutions to the problems faced by healthcare consumers.”

To be successful, efforts to reform health care will need to address the system holistically. “For a number of years, the debate in health care has revolved around insurance coverage,” says Pitts. “We have failed to have an honest conversation about the cost of healthcare services and how society will pay for the significant amount of investment that is required to fund new advances.”

Pitts cites the broad provision of funds to finance the transition to electronic medical record-keeping systems as an immediate benefit of the president’s stimulus bill. Another area where he expects impending developments is the question of what will be done to address the cost of the Medicare program.

“It will be a very interesting year as we watch Congress and the new administration consider health reforms.” And, Pitts explains, a potentially groundbreaking time in the development of health law. “Right now we are on the edge of witnessing tremendous changes in health law as the government and third-party payers move to align payment for services with the quality of the services received, which is an extremely difficult problem to address in our complex health system.”

Teplitzky, for his part, indicates that his three decades in the field have led him to accept the complexity that comes with the territory.

“There are very few black and white answers,” he says. “The healthcare industry lives in a world of gray.”

“PUBLIC HEALTH AND SAFETY AND
SOCIAL JUSTICE CONSIDERATIONS
ARE PART OF THE FABRIC OF MY
APPROACH TO THE WORLD.”

ROSELYN KORETZKY

ROSELYN KORETZKY MAINTAINS the importance of fundamental kindness and mutual respect, values she recognizes can be difficult to hold onto in an increasingly complicated society.

“On a very fundamental basis, much complexity results from our living in very fast-paced times with high demands and

expectations on everyone, personally and professionally, where so much information is so readily available, where competition is not always productive, where the Golden Rule of ‘doing unto others as you would have them do unto you’ is sometimes tarnished if not trampled on or forgotten,” she cautions.

The advances in medical technology Koretzky has witnessed during her career have necessitated “enormous changes” in health law as society wrestles with basic life issues such as an individual’s right to determine how he or she should be treated medically or ethically at the end of life.

In addition, Koretzky points to the explosion of information technology and its implications on patient privacy, along with the development of electronic medical records “that has stimulated careful legal review, consideration, and additional regulation.”

Maintaining ethical standards, she says, keeps her grounded in a fast-changing world. “Public health and safety and social justice considerations are part of the fabric of my approach to the world.”



TECHNOLOGY information
LEGAL REVIEW records
complicated Golden Rule
respect FUNDAMENTALS
JUSTICE patient privacy

HEALTH CARE BY THE NUMBERS

NINE MILLION Americans have lost employer-sponsored insurance since December 2007.

The healthcare field gained **383,200** jobs since January 2008.

Couples retiring this year will spend on average **\$240,000** out of pocket to cover medical expenses.

Only **1.5 PERCENT** of U.S. hospitals have a comprehensive electronic-records system (i.e., present in all clinical units), and an additional **7.6 PERCENT** have only a basic electronic system.

Computerized provider-order entry for medications has been implemented in only **17 PERCENT** of hospitals.

6 in 10 people say their family put off medical care due to cost. Nearly **3 in 10** did not fill a prescription for medicine and slightly more than **2 in 10** cut pills in half or skipped doses.

1 in 4 Americans say their household has had trouble paying medical bills in the past year.

Approximately **45 MILLION** Americans lack health insurance. Most are members of working families that do not have access to employer-sponsored insurance.

Source: Kaiser Family Foundation, www.kff.org



LARRY ALDRICH

WHEN ASKED IF HE can relate what difference he's made in a specific individual's life through his work, Larry Aldrich is soberingly circumspect. "I think leaders touch hundreds of individuals literally daily, hopefully in more positive than negative ways, but we sure do 'make a difference.'"

At the same time, he allows that his greatest job satisfaction comes from "leading change—getting folks to see they can do things differently, and better." This ability to balance between pragmatism and optimism is something he says he's developed in himself over the last decade. "I've learned that I can have both patience and intensity at the same time."

His advice to future lawyers is to learn to think more like business folks, who he defines as being problem-solvers, and less like lawyers, who too often provide the problems but not the solutions. "Business skills are the most critical, and most often missing, piece for professional success."

Aldrich lists one of his primary strengths as "giving a damn," says he has "not a wit" of regret about his chosen career path, and that his favorite way of balancing passion with frustration is "over a glass of Scotch." And, in case anyone has not yet gathered this by now, he adds, "I don't take myself too seriously."

"BUSINESS SKILLS
ARE THE MOST
CRITICAL, AND MOST
OFTEN MISSING,
PIECE FOR PRO-
FESSIONAL SUCCESS."

CLASS NOTES

1952

The Hon. Günter G. Spielmeier resides in Kassel after retiring 17 years ago as a presiding judge at the Federal Social Court at Kassel. Spielmeier has a son in Australia and a daughter in London.

1954

Louisiana Gov. Bobby Jindal appointed **Grove Stafford Jr.**, a retired attorney with Stafford, Stewart and Potter and the former president of the Alexandria Bar Association, to the Louisiana Board of Ethics. Stafford will represent the Fifth Congressional District, as required by statute.

1965

R. King Milling received the 2008 *Times-Picayune* Loving Cup for his activity in coastal restoration, as well as decades of work in a long list of organizations. The Loving Cup has been awarded since 1901 to men and women who have worked unselfishly for the community without expectation of public recognition or material reward. Milling, who retired at the end of 2008 after 24 years as Whitney Bank's president, has been chairman of the New Orleans Center for Creative Arts Institute, the Upper Pontalba Commission, and the Downtown Development District. He is also the treasurer of Dillard University's board of trustees and a trustee of the LSU Health Sciences Center Foundation and the Louisiana Civil Service League. He is a member of the Audubon Park Commission and the boards of the United Way, Isidore Newman School, and Gallier House.

1968

Hans-Werner Wabnitz (LLM) has retired from the Legal Department of the World Bank and lives in southern France.

1971

Donald A. Shindler, a partner in DLA Piper LLP (Chicago), has been elected to the Board of Regents of the American College of Mortgage Attorneys. He also has been designated an "Illinois Super Lawyer" and a "Leading Lawyer in Illinois" for real estate.

1972

Lawrence E. Abbott has been selected as a member of the *Outstanding Lawyers of America* for the fourth consecutive year. He also has been named a 2008 *Louisiana Super Lawyer*.

William L. Guice III, senior partner with Rushing & Guice, P.L.L.C., has been named by *Super Lawyers* magazine as one of the top attorneys in Mississippi for 2008. For the second consecutive year, Guice also appears in *Mid-South Super Lawyers*. Guice primarily practices in the area of commercial and general litigation.

1973



Dan H. Elrod was recognized in *Business Tennessee's* January 2009 issue as being among the 150 *Best Lawyers in Tennessee*. An attorney in the law firm of Miller & Martin, Elrod represents clients in state administrative proceedings. He represents more than 40 Tennessee health care institutions on regulatory issues and regularly advocates the interests of clients before the Tennessee General Assembly.

1975

Sanford V. Teplitzky is the 2008 recipient of the American Health Lawyers Association's prestigious David J. Greenburg Service Award.

1977

Larry Aldrich has been named president and chief executive officer of University Physicians Healthcare. Aldrich had served as interim CEO since the resignation of former CEO Norm Botsford in June. Aldrich now heads all three divisions of UPH, a 350-member physicians group practice affiliated with the University of Arizona College of Medicine, a health plan division and University Physicians Hospital.

James McCulloch has been appointed to a transitional advisory committee formed to identify and recommend candidates with a petroleum industry background for the position of president and CEO of Nuclear Solutions, Inc. The transitional advisory committee also will provide guidance, advice, and planning assistance for the company's coal-to-diesel projects and future projects to produce synthetic diesel from coal and other feedstocks.

1978



Joe B. Norman, a partner of Liskow & Lewis, is one of 81 new fellows inducted into the American College of Trial Lawyers, widely considered to be the premier professional organization composed of preeminent trial lawyers in the U.S. and Canada. Norman, who serves as the head of the firm's energy litigation section, joined the firm in 1978.

1979

Robert B. Acomb III was listed in the 2009 edition of *The Best Lawyers in America* (Maritime Law).

Patricia Fennelly has joined Tucker Ellis & West LLP as an associate in the firm's newly added Denver office. She is a member of the firm's trial department and her diverse litigation practice in state and federal courts during the last 28 years has included product liability and employment defense work, as well as intellectual property and commercial cases. Fennelly served as an Associate Attorney General for the states of Colorado and Missouri,

representing state agencies in administrative law matters.

After 30 years with a large downtown law firm, **Virginia “Ginnie” Munford** and two of her longtime partners have formed a new firm, Corlew Munford & Smith PLLC in Jackson, Miss. The smaller law firm practices general litigation, administrative and environmental law.

1980

Lawrence B. Brownridge has joined Seyfarth Shaw LLP as partner (New York). Brownridge has extensive experience in representing domestic and foreign developers and institutional lenders in the development, leasing and financing of office buildings, hotels, and sports facilities.

Randall M. Ebner has been named Assistant General Counsel of the Exxon-Mobil Law Department, located in Irving, Texas, and has become a member of the Law Department Management Committee.

John M. Woods has joined the New York office of Clyde & Co. following the dissolution of Thacher Proffitt & Wood.

1982

Elizabeth “Lisa” J. Futrell has been re-elected to Jones Walker’s Board of Directors for an additional four-year term. Since 1999, she has been a fellow in the American College of Bankruptcy, and she served as past chair of the Louisiana State Bar Association’s Advisory Commission for Bankruptcy Specialization. Futrell is also the chair of the firm’s Committee on Practice Standards.



Morey Raiskin of Lowndes, Drosdick, Doster, Kantor & Reed, P.A. has been selected for inclusion in *The Best Lawyers in America 2009* (Labor and Employment Law).

KENNETH McCLINTOCK APPOINTED SECRETARY OF STATE OF PUERTO RICO

Puerto Rico Governor-elect Luis Fortuño announced the designation of Kenneth Davison McClintock (L ’80) as the U.S. territory’s Secretary of State, the only Cabinet appointment that requires the advice and consent of both houses of Puerto Rico’s Legislative Assembly.

McClintock, who also will fulfill the role of Lieutenant Governor as Secretary of State, said he is “deeply honored by the designation and the trust that Governor-elect Fortuño places in me. Subject to the consent of the legislative branch in which I have worked since my teenage years, I look forward to continuing to serve the people of Puerto Rico as part of the Fortuño administration.”

McClintock has extensive experience in the Puerto Rican government and has been one of the most visible and vocal spokespersons for the island. He served 16 years in the Puerto Rico Senate and as Senate President for the last four years. He has advocated aggressively in Washington for Puerto Rico to become the 51st state.

The Secretary of State-designate, born in London, England to a Texan father and a Puerto Rican mother, both deceased, is married to Mari Batista, a former Olympic swimmer and current head of the City of San Juan’s Sports and Recreation Department. The couple has two children: Kevin Davison, 13, and Stephanie Marie, 11. The family lives in San Juan.

1984

Andrew Burnside is of counsel in the Labor and Employment and Litigation sections of Coats Rose. Since 1984, he has represented employers in federal and state courts, as well as federal and state administrative agencies in employment law matters.

1985

Marc Firestone has joined the Illinois Equal Justice Foundation (IEJF), the not-for-profit entity responsible for distributing and monitoring the state appropriation for civil legal aid for low-income families and individuals. Firestone, Executive Vice President, Corporate & Legal Affairs, and General Counsel of Kraft Foods, Inc., is eligible to serve two three-year terms.



Sabrina McTopy, a partner in Jackson Walker’s Houston office, was named a “Top Lawyer” in the city by *H Texas* magazine.

McTopy focuses her practice on organizing businesses and representing them in a broad range of transactions, including mergers and acquisitions, public and private offerings of debt and equity securities, securities compliance matters, and private equity investments.



Robert B. Worley Jr. has been elected to Jones Walker’s board of directors. Worley is a partner in the labor & employment practice group (New Orleans). He practices employment law exclusively on behalf of management and has defended hundreds of employment lawsuits in more than 30 states.

LAW ALUM NEW FEDERAL COORDINATOR FOR GULF COAST RECOVERY



The Obama Administration named 1992 Tulane Law School alum Janet L. Woodka the new federal coordinator for Gulf Coast recovery and rebuilding. Homeland Security Secretary Janet Napolitano announced the appointment of Woodka on March 31, 2009. Woodka will report directly to Napolitano and have a direct line of communication to the White House.

Woodka, a former legislative director for Sen. Mary Landrieu, D-La., has been working as the recovery office's director of legislative affairs under the previous coordinator, Donald Powell, who left the job early last year, and Doug O'Dell, a retired Marine Corps Reserve Major General, who stepped down early this year. The appointment drew support from Sen. Landrieu.

"I am confident that Janet Woodka understands the needs of the Gulf Coast and the priorities of the Louisiana delegation," said Landrieu. "She has been a steady hand to both previous Federal Coordinators and has a commitment to the people of Louisiana and a passion for our recovery."

"She will utilize her expertise on disaster recovery issues and work with our partners at the Louisiana Recovery Authority to help our region rebuild."

1986

Stephen J. Galati, shareholder of the law firm of Mattioni, Ltd., was elected to serve as the 2008–2009 chairman of the International Refrigerated Transportation Association (IRTA), part of the Global Cold Chain Alliance which includes the International Association of Refrigerated Warehouses and the World Food Logistics Organization. He also has



been appointed to the Planning and Zoning Boards of Adjustment for South Harrison Township, N.J. Galati's law practice includes representation of growers and importers of refrigerated commodities, marine transportation and trucking companies, marine underwriters, marine terminal operators, refrigerated warehousemen and other related businesses. He recently lectured on the topic "Trucking Litigation: Handling Various Issues Unique to Trucking in Pennsylvania."

Katsushi Yamamori has formed a new office of Yaesu Kokasai Law Offices located in central Tokyo.

1987

Bo Cooper was elected to partner at Paul, Hastings, Janofsky and Walker, LLP (D.C.), effective February 2009.

Steven R. Jacobs, a business transactions partner in the San Antonio office of Jackson Walker, has been named one of San Antonio's "Best Lawyers" in the



August 2008 issue of *Scene in SA Monthly*. Jacobs's practice emphasizes securities transactions, reporting and compliance; mergers and acquisitions; and general corporate work. He represents both private and public companies, including those in the energy, high technology, and healthcare industries.

1989

Thomas M. Flanagan has formed Flanagan Partners, LLP, with his brother, Harold, who teaches insurance law at Tulane.

Pauline Higgins was honored by *Texas Lawyer* as an "Extraordinary Woman in Texas Law." As senior vice president, general counsel, and corporate secretary of the Metropolitan Transit Authority of Harris County, Higgins is now responsible for the Office of the General Counsel, Real Estate Division, Office of Business Services, and the Procurement & Materials Division.

Gregory John Saloom, of Lafayette, and Shari Lynn Yount, of Baton Rouge, were married on Dec. 27, 2008. Following a tour of active duty, the couple will reside in Lafayette.

1990

Karen Engro has been designated chair of the Pennsylvania Board of Law Examiners by the U.S. District Court for the Western District of Pennsylvania, where she is the Alternate Dispute Resolution Coordinator.

David McFadden was appointed a senior policy advisor in the Office of the Secretary at the U.S. Department of Labor.

1991

Scott C.G. Blankenship was featured in the June 2008 edition of *Washington CEO Magazine* as one of the top ten employment/labor lawyers in Washington. Additionally, in September 2008, he settled the largest reported employment discrimination case for a single plaintiff in the history of the Northwest according to *Jury Verdicts Northwest*. Scott continues to practice in Seattle, Wash., where he lives with his wife Julie and their two children, Sophia and Victor.

1992

Gregory Ernst recently was appointed as La. state Rep. Nick Lorusso's temporary replacement. Lorusso has been ordered to active duty by the U.S. Army. Rep. Ernst is a partner in the law firm of Peuler & Ernst, specializing in admiralty and maritime law. He previously served as a staff attorney with the National Law Center on Homelessness and the Louisiana Mental Health Advocacy Service.

Peter Pierce has been appointed chair of the Litigation Department at Richards, Watson & Gershon in Los Angeles, where he has been a shareholder since 2000. He is one of fewer than 250 attorneys certified as a specialist in appellate law by the California State Bar Board of Legal Specialization and was recently appointed to the California State Bar Committee on Appellate Courts. Pierce also has been appointed to the adjunct faculty at the University of Southern California Law School, where he teaches a civil litigation class every spring semester. Finally, he recently had the honor of being on the cover of *Los Angeles Lawyer Magazine* after writing the lead article for that issue.

1993

Faiz Ahmed has been appointed vice president, insurance, of CT TyMetrix, a premier provider of Web-based legal management solutions for corporate law departments and claims organizations. While CT TyMetrix already offers solutions to the insurance and claims market, Ahmed's primary responsibility will be to lead the company's growing efforts in the space. Prior to joining CT TyMetrix, Ahmed was a senior member of Navigant Consulting's insurance and claims practice area.

Brian Chase was married to Douglas Champion in San Francisco on Oct. 25, 2008. Chase recently accepted a new position as Assistant General Counsel with AIDS Healthcare Foundation in Los Angeles. The couple resides in Los Angeles.



Four members of the Tulane law class of '93 met at the Louisiana Justice Community Conference in Baton Rouge on October 10, 2008. Left to right—Hiroko Kusuda, professor, Immigration Law Clinic, Loyola Law School; Rita Pereira, attorney, New Orleans Legal Assistance; Roxanne Newman, attorney, Southeast Louisiana Legal Services; and Robert Lancaster, Director of Clinical Legal Education and the J. Noland and Janice Singletary Professor of Professional Practice, Paul M. Herbert Law Center, Louisiana State University.

Manuel A. Garcia-Linares, managing shareholder with the Miami office of Richman Greer, P.A., has been named a "Top Up and Comer" by the 2009 *South Florida Legal Guide*. He also has been named a "Most Effective Lawyer 2008" by the *Daily Business Review* (Class Action). Garcia-Linares practices primarily in the areas of commercial and class action litigation, as well as corporate and transactional matters. He is the 2009 president-elect of the Cuban American Bar Association (CABA), a trustee of the Coral Gables Chamber of Commerce, and a member of the City of Coral Gables Retirement Board and the City of Coral Gables Parknership Committee.

Darrin L. Glymph was admitted to the partnership of Orrick, Herrington & Sutcliffe LLP, as a member of the firm's public finance group (D.C.). His practice focuses primarily on transactional matters.

Robert Knights has joined Dwyer, Cambra & Suffern in Metairie, La.

Chris Lyman, a construction law attorney with McGuire, Wood & Bissette P.A. since 2004, has obtained his general contractor's license from the North Carolina Licensing



Board for General Contractors. The licensing process involves the submission and approval of a detailed application by the licensing board and passing a lengthy examination covering building industry standards, practices and procedures. Obtaining the license complements Lyman's legal service to his construction clients.



Rosalyn H. Mattingly, special counsel at Haynsworth Sinkler Boyd, P.A., was reelected to the National Bar Association's Board of Governors as an affiliate representative at the organization's

83rd annual convention in Houston. The Greenville, S.C., attorney and former Alabama judge also was elected Deputy Regional Director of Region IV, which comprises all the chapters in South Carolina, North Carolina, Virginia, West Virginia, and Maryland. In addition, Mattingly was elected to serve on the

Healthcare Law Section Executive Board as an advisor. A litigator who concentrates on premises and products liability, personal injury, and general corporate law, she is the founding president of the National Bar Association's Donald James Sampson Chapter, named for one of the first minority lawyers to practice in Greenville.

Sonja Muir and her husband, Jason Krzewski, are happy to announce the birth of their son, Aidan Andrew, on Aug. 11, 2008, at a weight of 9 pounds, 15 ounces. The family lives in Dana Point, Calif.

Kelly C. Simoneaux made partner at Jones Walker (Corporate & Securities, New Orleans).

DeeAnn Sjogren, a mutual funds law attorney with Thompson Coburn LLP, has been named to *The Best Lawyers in America* 2009.



1994

Steve Block has been elected president and chairman of Betts, Patterson & Mines's executive committee (Seattle).

The Louisiana Supreme Court has appointed **Preston J. Castille Jr.** to the Baton Rouge City Court bench. Castille will preside from Jan. 1, 2009 to as late as July 1, 2009 in the vacant seat created by Judge Trudy White's election to the district court. When his term is complete, he will return to the full-time practice of law with Taylor Porter, where he chairs the firm's health care practice group. Castille's law practice engages primarily in business transactions and litigation. He also is an adjunct professor at the Paul M. Hebert Law Center at Louisiana State University and the Southern University Law Center, where he teaches Louisiana Civil Procedure I & II and Pretrial Litigation Practice.

David Glogoff has been promoted to Chief Legal Officer at Vertis Communications Inc.

Patrick S. Menasco has been named to partnership in the law firm of Steptoe & Johnson LLP (Washington), where he is a member of the firm's tax group and litigation department. He represents a diverse range of clients with respect to the investment of employee benefit capital and the administration and operation of both single and multiemployer plans. During the past decade, Menasco has represented numerous clients before the U.S. Department of Labor, the Pension Benefit Guaranty Corp., the U.S. District Courts, and the U.S. Courts of Appeal.

After a decade in Washington, **Stacey Mitchell** was promoted in 2007 to head the Department of Justice's Environmental Crimes Section. Her priority is to hold corporations, individuals, and agencies accountable when they break environmental protection laws. With her justice department team, Mitchell actively is involved with the U.S. Coast Guard in efforts to detect, deter, and prosecute those who illegally discharge pollutants from ships into the oceans, coastal waters, and inland waterways.

1995



Kasturi Bagchi, shareholder at Southfield-based Maddin, Hauser, Wartell, Roth & Heller P.C., recently served as a moderator for the TiECon Mid-west 2008 Conference in

Southfield, Mich. Bagchi, who focuses her practice on lending and finance and real estate, moderated a panel entitled, "Top 20 Emerging Industries."

Darrell Cartwright was recently named one of Birmingham's "Top Attorneys" by *Birmingham Magazine* (tax law). He was the only solo practitioner selected in the group.

Michael duQuesnay, and his wife, Marie, welcomed their daughter, Isabelle, to the world on Dec. 27. Isabelle has two older brothers, Austin, 5, and Byron, 4. duQuesnay practices as a corporate

finance partner at Dewey & LeBoeuf LLP (Los Angeles).



Michelle M. Hart has been elected District Court Judge for the 28th Judicial Circuit of Alabama, after having been appointed to that position by Gov. Bob Riley in 2006. She primarily hears family law cases, which include divorce, custody, and juvenile matters. Additionally, she hears criminal misdemeanor and domestic violence cases. Judge Hart resides in Fairhope, Ala.

1996



Paul Friedman has been promoted to Senior Vice President of Music Business Affairs for Sony Pictures Entertainment. Friedman is responsible for transactions related to music on behalf of

Sony Pictures Entertainment's global operations. In this capacity, he handles the acquisition of music rights for content including theatrical, television, home entertainment, online, mobile and video-game productions, as well as marketing and merchandise. He previously practiced law in Los Angeles, most recently for King, Holmes, Paterno and Berliner, LLP; worked as a financial analyst for Polygram Music Publishing; and was as an attorney in private practice at two other entertainment law firms.

Phillip Pucillo has secured a visitorship for the 2009–2010 academic year at the University of North Carolina School of Law, where he will teach Civil Procedure and Constitutional Law.

1997

Ali Abazari (LLM) has been elected partner in the environmental & legislative practice group of Jackson Walker LLP (Austin). He represents clients in a wide variety of environmental matters, including waste, water and air permitting, compliance counseling, and enforcement defense.

Chad Arfons has been named an "Ohio Rising Star" by *Law and Politics* magazine, *Northern Ohio Live* magazine, and *Cincinnati Magazine*. Arfons practices out of Roetzel & Andress's Cleveland office.



Becca Selvidge Fox is married to Gregor Fox (TU '95) and has two children, Willem, 5, and Scarlett, 2. The family resides in New Orleans.



Scott K.G. Kozak has made partner at Armstrong Teasdale LLP (St. Louis), where he focuses his practice on complex commercial and toxic tort litigation and securities litigation and arbitration. Kozak is a member of the Missouri Bar, Illinois State Bar Association, American Bar Association, Bar Association of Metropolitan St. Louis, and the St. Louis County Bar Association.



Mona Stone, a partner at Locke Lord Bissell & Liddell LLP, has made the list of top "40 under 40" Illinois attorneys to watch, which is compiled by the *Chicago Daily Law Bulletin*.

1998

Deirdre C. Brown has joined McGinnis, Lochridge & Kilgore, LLP as an associate (Houston). She concentrates her practice on consumer and commercial bankruptcy law and construction litigation.

Richard S. Dukes of Turner Padgett's Charleston office has been elected shareholder. His practice focuses on complex business litigation, shareholder litigation, financial fraud and securities litigation and arbitration, and class action defense.

Niles Elber, a member of Caplin & Drysdale, has been named a recipient of the prestigious 2009 Nolan Fellowship awarded by the American Bar Association Section of Taxation to a select group of outstanding young tax lawyers across the nation. He has been an active member of the ABA Tax Section for several years, and presently serves as chair of the Subcommittee on Sentencing Guidelines for the Civil and Criminal Tax Penalties Committee. An attorney with Caplin's tax controversy group, Elber resides in Potomac Falls, Va., with his wife, Sherry and their two children.

Park Jae-moon (LLM), former spokesman for the Korea Communications Commission (KCC), has accepted a one-year assignment at Washington-based law firm Paul Hastings. Jae-moon believes his experience in Washington will provide him with a valuable opportunity to study and experience the regulatory structure of the U.S., where the Federal Communications Commission (FCC) is charged with regulating the use of radio spectrums and telecommunications.

Brian A. Kilmer has opened his own law firm, Okin Adams & Kilmer LLP, which focuses on providing advice to clients on restructuring, bankruptcy, and commercial litigation matters. Collectively, Kilmer and his partners, Matt Okin and Chris Adams, have more than 35 years of experience at some of the largest law firms in the country. Kilmer has spent his career as a partner at Powell Goldstein LLP, a partner and associate at Akin Gump Strauss Hauer & Feld LLP, and as an associate at Sheinfeld, Maley & Kay, P.C. The new firm has offices in Houston and Dallas.

Verne H. Speirs is an Assistant United States Attorney for the Middle District of Alabama in Montgomery. Recently, the U.S. Supreme Court heard oral arguments in the case of *Herring v. United States*. The case is expected to redefine the scope of the Fourth Amendment and the exclusionary rule. In 2005, Speirs tried the case at the lower court level and argued it before the Eleventh Circuit Court of Appeals.

Stephanie Reed Traband has joined Jones Walker as a special counsel in the business & commercial litigation prac-



tice group (Miami). Traband brings to Jones Walker a decade's worth of complicated commercial litigation experience, including bankruptcy, real estate, and intellectual property litigation, as well as significant appellate experience. She also practices international law and is the U.S. representative in AIJA, the International Association of Young Lawyers, in which she is a frequent lecturer on various litigation-related topics.

IN MEMORIAM

Jordan Brown '46
New Orleans, La.
Aug. 29, 2008

The Hon. Marcel Livaudais Jr. '49
New Orleans, La.
Feb. 9, 2009

Lonnie Bewley '59
Lafayette, La.
Feb. 25, 2009

John Roumain Peters Jr. '63
New Orleans, La.
Oct. 6, 2008

The Hon. J. Scott Swaim '70
Bourbonnais, Ill.
Feb. 22, 2009

Grey Flowers Ferris '71
Vicksburg, Miss.
June 13, 2008

Janice Oakes Schafer '85
Lake Forest Park, Wash.
July 8, 2008

Aaron Frank Marcus '87
New Orleans, La.
July 19, 2008

1999

Runako Kumbula Allsopp was recently named Deputy General Counsel to Washington, D.C. Mayor Adrian Fenty. Prior to joining the mayor's executive office, Allsopp worked as a Special Assistant United States Attorney and as an Assistant Attorney General for the District of Columbia, prosecuting government fraud and corruption cases. On a personal note, she recently married Roderic H.P. Allsopp. Tulane law alums **Monica Elliott** ('99), **Jeffrey Lawson** ('99), **Tasha Thomas** ('99) and **Tyrone Thomas** ('01) were in attendance.

Mark A. McAndrew made partner in the corporate department of Dinsmore & Shohl (Cincinnati). His practice includes general business and corporate law, health care, and government contracts. McAndrew works with clients subject to regulation by various federal and state agencies on general corporate and commercial transaction matters, including fraud and abuse matters under the Medicare and Medicaid programs; FDA regulatory and compliance issues; and government contract procurement and bid protest matters.

Carolyn Delizia Swift has taken a few years of leave from her firm, Henderson, Franklin, Starnes & Holt, P.A., to be a fulltime mom to daughter, Margaret Adele Swift, and to await the arrival of a son in May. She and her family reside in Estero, Fla.

2000

Maria Barratta has been elected partner at Kilpatrick Stockton LLP in the firm's intellectual property department.

Thomas Louis Colletta Jr. has made partner in the labor and employment law, railroad law, transportation law, and corporate, commercial lending and real estate law areas of Lemle & Kelleher, L.L.P.

Bryant Gardner has been elected partner of Winston & Strawn LLP (D.C., Maritime Law).

Kimberly Haynes of Kimberly K. Haynes & Associates, LLC (Atlanta) has been honored as a 2008 Outstanding Atlantan—an organization formed to recognize outstanding young leaders. She was honored for her contributions to the betterment of the city.

Lauren McHugh has been selected as General Counsel of the Louisiana Supreme Court in New Orleans.

Andrew Mittler has joined the real estate practice group of McDonough Holland & Allen PC as a senior attorney. His practice focuses on all types of transactions with a particular emphasis on financing and lending, real estate, and the structuring and formation of joint ventures and entities.

Christopher Moore has been elected partner in Cleary Gottlieb Steen & Hamilton (New York). He focuses on complex civil litigation matters, including intellectual property and commercial disputes as well as international litigation and arbitration. He currently is representing

Citigroup in connection with an intellectual property dispute and in connection with litigation related to the destruction of 7 World Trade Center. Moore has taken a leading role in the firm's representation of the Republic of Argentina in many high-profile sovereign debt cases, including advising Argentina in a number of lawsuits brought by holdout creditors relating to the country's recent debt restructuring. In addition, he advised the Argentine Province of Mendoza in its defeat of attempts by a Bermuda-based hedge fund to block the Province's restructuring. He also represented the Republic of Nicaragua on litigation aspects of its external commercial debt cash buyback offer.

Sean A. O'Neal has been elected partner in Cleary Gottlieb Steen & Hamilton (New York). His practice focuses on corporate restructuring, insolvency and bankruptcy, and related litigation matters. He currently is representing Hellman & Friedman in connection with its bid with Bain Capital to acquire certain assets of Neuberger Berman and the Investment Management Division of Lehman Brothers. He also is representing Apex Silver Mines Limited in its restructuring efforts and UBS Securities as plan investor in the Delphi bankruptcy. Recently, he advised Goldman Sachs in connection with its acquisition of Litton Loan Servicing and the related restructuring of Credit-Based Asset Servicing and Securitization (C-BASS), and advised D. E. Shaw, Goldman Sachs and other backstop providers in the Chapter 11 rights offering of Foamex International.

2001

Katharine R. Colletta has made partner in the admiralty and maritime, business litigation, products liability and insurance defense areas of Lemle & Kelleher, L.L.P.

Hans Germann has been promoted partner in Mayer Brown, where he is a litigator and member of the telecommunications subgroup (Chicago).

"To err is human; to forgive, divine." —Alexander Pope

Every effort has been made to proofread the various Class Notes. If, for any reason, you submitted information and it is not included, your name has been omitted or misspelled, or there is an error related to your latest news, please accept our sincere apology.

Please remember this list includes Class Notes received between Aug. 1, 2008 and Jan. 31, 2009. If we received your information after that date, we will publish it in our next issue.

This past November, Judge Carey McRae swore in **Heather McTeer Hudson**, mayor of the City of Greenville, as president of the National Conference of Black Mayors, headquartered in Atlanta, Ga. Mayor Hudson has served as 3rd Vice-President, 2nd Vice-President, and 1st Vice-President. She now will take over the helm as president of the association for a one-year term.



Timothy S. Mehok has joined Lemle & Kelleher, L.L.P. as an associate (New Orleans). Mehok practices in the area of bankruptcy and loan restructuring. He is licensed to practice

in the State of New York and before the United States Supreme Court and the United States District Court for Southern District of New York.

Bryan Minier has been named to the bankruptcy & creditors' rights practice of SmithAmundsen. Minier has extensive experience in the areas of bankruptcy, reorganization, structured finance, creditors' rights, and corporate law. He is admitted to practice in the State of Illinois and the Federal District Court of the Northern District of Illinois.

Meghan C. Moore was named partner in Ver Ploeg & Lumpkin, P.A. (Miami), where she has spent the past five years representing policyholders in insurance coverage and bad faith litigation against their insurance companies.



Daniel Scardino recently was named partner in the intellectual property practice group of Jackson Walker LLP. In his practice, Scardino has assisted in the acquisition, development, production,

publication, and distribution of interactive media and music, literary, film, and television content.

2002

Joseph Alonso was a member of the 2008 Georgia Young Lawyers Division Leadership Academy. Alonso works at Brock, Clay, Calhoun & Rogers, P.C. practicing securities, employee defection, and trade secret litigation.

Oliver S. Bajracharya has been promoted to special counsel of Christie, Parker & Hale LLP, where he joined as an associate in 2002. Currently based in Pasadena, he offers particular patent expertise in the medical device industry and other mechanically related technologies. Bajracharya also is the proud father of a new baby girl.

Aimée D. Chopin has joined Dwyer, Cambre & Suffern in Metairie, La.

David Savidge (LLM) is an associate in the Los Angeles office of Coudert Brothers, practicing maritime law and insurance law.

Rikki Alyse Solowey recently married David Louis Javitch in Miami Beach, Fla.

H. Jerome Sparks is one of 13 attorneys from Charleston-based Hendrickson & Long to join Eckert Seamans, giving the firm a significant expansion in West Virginia and an important Charleston presence. Sparks' practice is centered on toxic tort defense, insurance defense, product liability, and general defense litigation.

2003

Shannon E. Hoff has joined the bankruptcy and creditors' rights group of Poyner Spruill LLP in Charlotte, N.C.

Melissa Montle's first case with the not-for-profit Innocence Project of Florida has freed a Florida man after he served nearly three decades behind bars for a murder he did not commit. Because of the case, Montle's name appeared nationally in newspapers and on news shows. On a personal note, she is married to John McCarroll.

Jennifer Walton-Faifer and husband, Justin Faifer, welcomed their first child, a daughter, on March 14, 2008. Walton-Faifer is currently employed with Ernst & Young, LLP (Chicago), where she practices tax compliance for ERISA employee benefit plans, fringe benefits, and executive compensation.

2004

Keidra Phillips-Burrell has become an associate for Lemle & Kelleher LLP (Shreveport), where she practices litigation, corporate, commercial lending and real estate law, and toxic torts.

2005

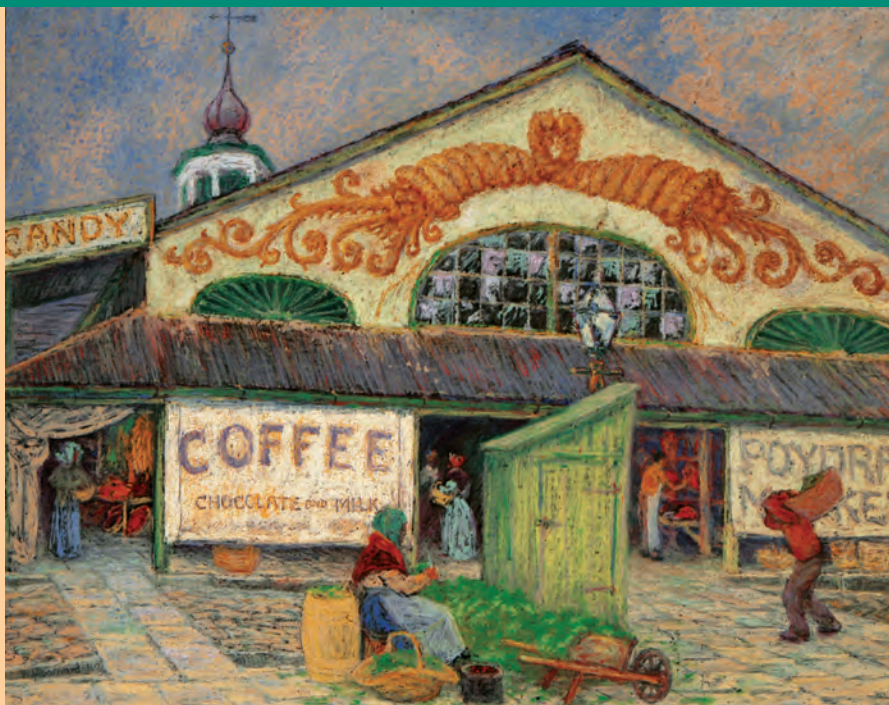
A. Brooke Bennett has been hired as a new legislative director for Rep. Anh "Joseph" Cao. Previously, Bennett had been working as special counsel to Rep. Lincoln Davis, R-Tenn., and before that, since 2005, as Republican counsel to the Committee on Oversight and Government Reform.

Marcus Berg has joined Hennes & Haight as an associate focused on worker's compensation and personal injury.

Katie Hall Giannasi has joined Husch Blackwell Sanders as an associate in the corporate law division (Chattanooga Dome).

Dave Melson is enrolled in the 57th Graduate Course at the U.S. Army Judge Advocate General's Legal Center and School, working on an LLM in international and operational law. Later this year, he will deploy to Djibouti as the Camp Lemonnier staff judge advocate.

Nikkita Lanee Mitchell will fill a new position in the Rockingham County District Attorney's Office. Mitchell, who will work as an assistant district attorney, will be responsible for prosecuting criminal cases in District Court and in Juvenile Court. Mitchell has worked as a prosecutor in New Hanover and Pender counties and most recently at a private practice in Reidsville.



ALUM TO PUBLISH BOOK ON SOUTHERN ARTIST



William Woodward, self-portrait, oil on canvas

After two years in the works, Robert C. Hinckley (L '76) will publish his first book this fall entitled, *William Woodward, an American Impressionist*.

Widely credited as an instrumental player in the founding of the Tulane School of Architecture in 1907, William Woodward was born in Seekonk, Mass., and studied art at the Normal Art School in Boston, the Rhode Island School of Design, and Academie Julien in Paris. In 1884, William accepted a position at Tulane University as professor of art, teaching free-drawing classes. With his brother Ellsworth, he helped organize the art department at the newly developed Newcomb College in 1887.

William Woodward is considered one of the great Southern artists of the past century, and he remains a favorite of Louisiana and Gulf Coast art aficionados. He dedicated a great deal of his work to promoting appreciation for the aging French Quarter by painting every aspect of it, often capturing artistic nuances of houses and commercial buildings just as

the structures seemed about to crumble. Because of his efforts, W. Woodward spurred a restoration movement to save parts of the city's architectural patrimony, including priceless cultural treasures like the Cabildo. Later he was influential in starting the Vieux Carré Commission, dedicated to preserving the "Old Quarter." Among his innovations in art technique, W. Woodward is well known for adopting the use of solid Raffaelli oil crayons, which he felt emphasized the effects of natural light and color and enabled him to record the region's historic architecture.

With the help of the New Orleans Museum of Art, the Ogden Museum of Southern Art, and the Historic New Orleans Collection, Hinckley's publication includes photographs of more than 150 of William Woodward's paintings, as well as articles by Judith Bonner (Senior Curator, Historic New Orleans Collection), Rick Gruber (Director, the Ogden Museum), local artist George Schmidt, Ray Bellande of Gulfport, Miss., and Jessie Poesch (Professor Emeritus, Newcomb College). The book is to be published in September 2009.

After three long years, Katrina evacuee **Julie DesOrmeaux Rosenzweig** has returned to Acadiana to open her own law firm in New Iberia. The DesOrmeaux Law Firm focuses its practice on family law, wills, trusts and estates, and small business consultation. DesOrmeaux (now Rosenzweig) is married to Dr. Seth Rosenzweig. The couple has three children who are just as happy to finally be home.

Frédéric Gilles Sourgens recently was appointed adjunct professor of law at Georgetown University Law Center. He teaches International Commercial Arbitration with his colleague Michael Nolan.



Ashley N. Wicks has joined the firm of Watkins Ludlam Winter & Stennis as an associate in the private client services and business advisory practice group. She focuses her practice on federal, state

and local taxation; corporate finance; business and corporate transactions; and new markets tax credits. Wicks is a Business Law Fellow with the Business Section of the ABA, Vice Chair of the ABA Young Lawyers Division's Tax Committee, Co-chair of the Young Lawyers Committee, and Parliamentarian of the Magnolia Bar Association.

2006

Neal Bakare and Nicole Muendelein were married in Utica, Mich., on May 31, 2008. **Jean Rene Broussard** ('06) served as a groomsman, **Justin Esworthy** ('06) served as a reader, and **Beau Berthelot** ('06) acted as an usher. The Bakares reside in Houston.

Mark Newberg is currently an advisor to Hotlist Media LLC, and has previously served as a post-Katrina advisor to the president of the New Orleans City Council. While in New Orleans, he represented the city on the Office of the Federal Coordinator's intergovernmental task force to resolve issues in the ongoing recovery.

He also has worked with the Clinton Climate Initiative to promote sustainable economic development and carbon emissions reduction. He is a founding member of the Roosevelt Institution's Tulane Chapter, and presented his paper "Courting Disaster: Law and Jurisdiction in Crisis Management" at the Roosevelt Institution's SCEPR conference.

2007

Brett Anthony Buchheit (LLM) of the Denver-based Frankl Law Firm, P.C. is proud to announce the publication of his recent article, "The Economics of Alternative Energy: Decisions Following the IPCC's Report on Climate Change," which was selected as the lead article in the *State Bar of Texas Environmental and Natural Resources Law Review*. He also has published "The Global Water Crisis: Impending Disaster and the Road to Collapse" in Volume 5 of Sydney, Australia's *Macquarie University Journal of International and Comparative Environmental Law*.

2008

Kevin L. Alonso has joined the health-care practice of Bass, Berry & Sims (Nashville office).

Having passed the Georgia bar, **Lisa Giamoni** has joined the Atlanta office of Jones Day.

Breen Sullivan is happily studying at the University of Florence and working for GE Oil & Gas Headquarters as part of their litigation team.

McGlinchey Stafford is pleased to announce that ten of its attorneys from Tulane Law School were named *Best Lawyers in America 2009*:

Stephen P. Beiser '84, Labor and Employment Law
Jaye A. Calhoun '91, Tax Law
Kathleen K. Charvet '83, Maritime Law
Katherine Conklin '83, Employee Benefits Law
Monica A. Frois '90, Medical Malpractice Law
Donna G. Klein '81, Health Care Law (10)
Colvin G. Norwood Jr. '72, Personal Injury Litigation, Product Liability Litigation (10)
Susan M. Tyler '86, Real Estate Law
Constance C. Willems '77, Communications Law
Henri Wolbrette III '74, Personal Injury Litigation, Product Liability Litigation

(10) denotes being listed for at least 10 years.

The law firm of Jones, Walker, Waechter, Poitevent, Carrère & Denègre L.L.P. is pleased to announce that the following partners, graduates of Tulane law, have been named to *New Orleans CityBusiness* '2009 Leadership in Law. Each year, 50 lawyers practicing in the Greater New Orleans Area are profiled in a special issue of the publication. They are: **Jesse "Jay" R. Adams** '90, **J. Kelly Duncan** '79, **Pauline F. Hardin** '74.



Jones Walker also is pleased to announce that the following Tulane law alumni associates have joined the firm's New Orleans office. Pictured above, left to right: **William C. Baldwin** '08, Maritime, **William R. Bishop** '08, Corporate & Securities, **Avione Brown** '08, Litigation, **Erin E. Gilson** '08, Litigation, **Mark A. Mintz** '07, Litigation.

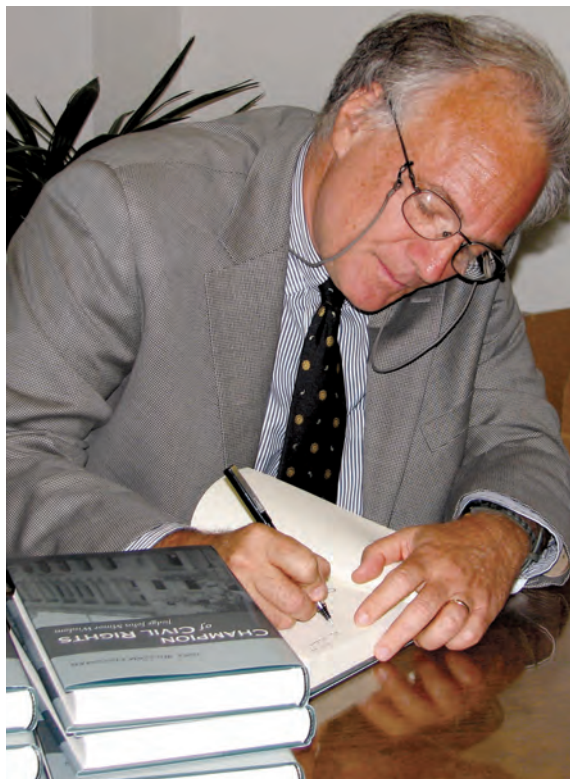
LAW CLASS OF 1950



58TH REUNION

October 3, 2008

Cocktails and Dinner at the Plimsoll Club



CHAMPION OF CIVIL RIGHTS BOOK SIGNING

Tulane law professor **Joel Wm. Friedman** signs a copy of his book, *Champion of Civil Rights: Judge John Minor Wisdom*, at an event to celebrate its release. The full-length biography was published in January 2009 by Louisiana State University Press. The book signing took place March 17 at the law school.

John Minor Wisdom (L '29) was a judge of the United States Court of Appeals for the Fifth Circuit during the 1950s and 60s, when that court became known for a series of decisions crucial in advancing the civil rights of African-Americans. Upon his death, Wisdom left all of his writings, papers, and a variety of other personal effects, to Tulane Law School, which now proudly displays them in the Wisdom Room of John Giffen Weinmann Hall.

LAW SCHOOL TOASTS ITS FELLOWS SOCIETY

Two Audubon Place, home to university President Scott Cowen, was the setting for Tulane Law School's Friends and Fellows of the Law School celebration in November. After a temporary hiatus of three years, our annual donor appreciation event resumed, seemingly without missing a beat. Fellows of the law school are those individuals—parents, alumni, and friends—recognized for annual giving of \$1,500 or greater to the Tulane Law Fund. An enthusiastic crowd overflowed from the reception rooms onto the front porch, as Dean Ponoroff took the opportunity to catch up with friends of the law school and thank donors for their support over the year.

"Our Law Fellows Society is perhaps our most important group of supporters, year in and year out, so we are very pleased to be able to celebrate their commitment to Tulane Law School and show our appreciation through this event," notes Andrew Romero, Senior Director of Development for Tulane Law School. "The Tulane Law Fund is an easy but crucial way for alumni and parents to support our mission and our operations, and our Fellows lead the way. We could not succeed without this group." The Tulane Law Fund was known previously as the Law Annual Fund. It provides significant support for the law school's operational and strategic needs.

Want to join the celebration at next fall's Fellows celebration? For more details or for assistance making a gift, please contact Andrew Romero (504-862-8559 or aromero@tulane.edu).

Dean Ponoroff expresses his appreciation for the support of Friends and Fellows of the Law School.



L to R: Rebecca and Richard Currence (L '64) with Mercy Nieset (N '66)



L to R: Clare Benjamin (N '50) with Celeste and Anne Barrios Gauthier



L to R: Alida "Lele" Hainkel (L '92), Ray Waid (L '07), and Avery Pardee (L '07)



L to R: Ruth Force, Cathy Glaser (L '80), and Judy Barrasso (L '81)



L to R: Rose LeBreton (L '76) with Tony (L '86) and Katherine Gelderman



L to R: Julie Livaudais (L '82) with Mark and Libby Pollard Adams, parents of 2010 JD candidate Pierce Adams

THE WHOLE IS GREATER THAN THE SUM (OF THE DOLLARS)

In a down economy, one truth emerges above all others: the critical importance of cash. What holds true for businesses and families also holds true for educational institutions such as Tulane Law School. In the current economic environment, the needs of students and faculty do not diminish. In fact, in times such as these, our obli-

legal markets begin to contract and “big law” firms begin deferring hires or eliminating positions? The law school responds by covering more ground and working even harder to put Tulane law students in the spotlights of more firms and employers. The CDO convenes special on-campus sessions to help Tulane students develop creative strategies for

the current hiring environment, often involving recent alumni to provide perspective and collegial encouragement (along with some real-world lessons). The CDO also introduces students to alternate career paths. In short,

the CDO rises to the challenge of these times in preparing Tulane JD graduates for success as they embark on new careers, and alumni giving helps provide resources to support these efforts.

Tulane Law School’s ability to invest in a competitive and effective career service is just one part of our commitment to students, and it is made possible in part by

generous alumni donations to the law school. There are countless other examples of how a gift to the Tulane Law Fund is a gift that’s put to work in important ways.

A quick look at scholarship spending at the law school provides another perspective: in the past decade, scholarship spending on the incoming 1L class has risen by more than 66 percent. It is no surprise that greater investment in scholarship support serves to attract highly talented students. Talented students attract talented faculty and also raise the school’s profile. Greater investment in scholarship spending has been made possible through alumni contributions to the Tulane Law Fund.

In this tough financial environment, of course, another important aspect of smartly running one’s business is curbing costs whenever and wherever possible, and the law school is taking steps to be a good financial steward as well. However, in the belt-tightening we have done, the one principle we’ve always followed is to never make cuts in an area that directly affects our students’ personal and educational experience.

IN SHORT, THE CDO RISES TO THE CHALLENGE OF THESE TIMES IN PREPARING TULANE JD GRADUATES FOR SUCCESS AS THEY EMBARK ON NEW CAREERS, AND ALUMNI GIVING HELPS PROVIDE RESOURCES TO SUPPORT THESE EFFORTS.

gations to our students increase, and Tulane Law School rises to the challenge. Our response to the needs of students depends upon having sufficient resources. Alumni support is a key factor in our effort to ensure the success of the law school and our students.

Consider the example of the Career Development Office (CDO) and its services. As noted in a previous issue of the *Tulane Lawyer*, in the past decade our Career Development Office has developed into a model of best practices for helping JD students define and pursue their chosen career paths. The CDO aggressively pursues relationships to connect students with prospective employers; as a result of extensive travel and relationship-building, new firms are continually being added to the roster of those who interview our students.

So what does the CDO do when major





ON THE ROAD FROM GOOD TO GREAT, EVERY GIFT MATTERS

These examples illustrate a simple point: charitable giving by our alumni community makes the difference in our success. Without the philanthropy of alumni and parents, we would be severely challenged in maintaining our track record of academic excellence and our deep commitment to public service—at precisely a time when our students and our community need even more from the law school.

Each time you donate, at any dollar amount, you are making a difference in our programs and in the quality of the student and faculty experience at Tulane. Alumni who support the law school can rest assured that every dollar donated to the law school stays at the law school and is invested back into our most important assets: a talented, diverse student body and a superlative faculty.

Plus, when you give to Tulane, you are making a positive difference in our award-winning public service programs and in the communities served by them.

“I firmly believe Tulane Law School provides one of the best values for donors who seek to leverage their charitable giving for greater impact,” noted Dean Lawrence Ponoroff when asked about the role of charitable giving at the law school. “Our students and our faculty are out there, in this community and nationally, working to ensure access to justice for all. Our career development team is combing the country to advocate for our students, precisely because we know how well prepared Tulane graduates are for the increasingly complex, global nature of law practice in the 21st century. We provide the highest quality education and the best service possible to our students while they are here. For us to continue all of this requires us to ask of our alumni to pitch in as well, by investing in the model that has worked so well at Tulane.”

So, what are you waiting for? If you ever have thought about donating to the

law school, if you ever have felt a desire to give back “when the time is right,” our message is simple: now is that time. We encourage your support at any level, and we make it as easy as possible by enclosing an annual fund gift card in this and each edition of the *Tulane Lawyer*. You also can donate electronically through our website (where you can select monthly and other periodic giving options) at <http://www.law.tulane.edu/giving>. Always remember to check the box next to Tulane Law Fund to designate your investment to the law school, and also remember how grateful we are for your support and commitment to our continued success.

Thank you.

Want to learn more about wise ways to give to Tulane Law School? Contact Andy Romero, Senior Director of Development, by email aromero@tulane.edu or by telephone 504.862.8559.

TAX TOPICS FOR THE PHILANTHROPIC: AN ATTORNEY'S GUIDE

LEAD TRUSTS—GOOD GIFTS IN A BAD ECONOMY

by Lizbeth A. Turner (L '85)

When the stock market and interest rates decline sharply, is there any good news for clients who are trying to find a way to continue their support of charitable organizations? Actually, there is—despite the recent economic crisis, there has never been a better time to establish a charitable lead trust.

A lead trust makes payments to a charity, usually for a term of 10, 15 or 20 years. Payments may be fixed or may vary based on the value of the trust each year. When the trust ends, the principal goes to beneficiaries named by the donor—typically children or grandchildren. This type of trust, known as a nongrantor lead trust, may achieve significant gift and estate tax savings that are even more attractive in an economic downturn.

A lead trust established today can reduce the cost of transferring assets to heirs in two ways. First, the longer the trust's term and the more income it pays to charity during the term, the larger the estate and gift tax deduction will be, making it possible to reduce or even eliminate transfer taxes. The deduction is even larger when the IRS interest rate used to calculate the deduction assumes that the trust assets will grow slowly. That rate was at an all-time low of 2% in February 2009. The table compares the gift and estate tax deduction for a \$1 million lead trust paying \$60,000 to charity for 20 years at the end of

DATE OF GIFT	IRS DISCOUNT RATE	GIFT AND ESTATE TAX* DEDUCTION
June 2009	2.8%	\$909,380
June 2008	3.8%	\$830,050
June 2007	5.6%	\$711,110
June 2006	6.0%	\$688,200
June 2005	4.8%	\$760,580

**Note: the nongrantor lead trust does not result in an income tax deduction.*

each year, using varying IRS rates over the past five years.

Second, a person who owns securities that are artificially depressed and expected to rebound has the potential to transfer more significant wealth to his or her beneficiaries. By setting up the trust now, the assets have plenty of time to grow if the market goes up, which it typically does over time. Any increase in value will pass to heirs free of estate and gift tax when the trust ends.

The IRS made it easier for advisors to draft lead trusts by issuing four revenue procedures with sample trust documents, detailed annotations, and

alternate provisions. See Rev. Proc. 2007-45 (inter vivos charitable lead annuity trusts); Rev. Proc. 2007-46 (testamentary charitable lead annuity trusts); Rev. Proc. 2008-45 (inter vivos charitable lead unitrusts); and Rev. Proc. 2008-46 (testamentary charitable lead unitrusts).

Tulane's Office of Planned Gifts is ready to help you and your clients with philanthropic planning. For more information about lead trusts, please contact Lizbeth Turner at 800-999-0181, 504-314-7377, or lturner@tulane.edu. Visit www.plannedgiving.tulane.edu to use the gift calculator and learn more about

Weinmann Hall was funded in part by a lead trust.





2009 DATES TO REMEMBER

DATE	EVENT TITLE	LOCATION
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HOMECOMING

OCTOBER 9-10	HOMECOMING WEEKEND	
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LAW CLASS OF 1974, 35TH REUNION

LAW CLASS OF 1984, 25TH REUNION

WELCOME HOME WAVE '09! FOOTBALL, FUN, AND SO MUCH MORE! *All Alumni Welcome.*

OCTOBER 28-30	CLE: 58TH ANNUAL TULANE TAX INSTITUTE	Westin Canal Place
NOVEMBER 17	2009-2010 PHELPS LECTURE AND RECEPTION	Tulane Law School, Rm 110
NOVEMBER 20	CLE: 18TH ANNUAL ESTATE PLANNING INSTITUTE	Westin Canal Place
DECEMBER 29-30	CLE BY THE HOUR (GENERAL/MULTI-SUBJECT)	Tulane Law School, Rm 110

WHO TO CONTACT AT TULANE LAW SCHOOL

Please contact Ellen Brierre, Director of Alumni Relations,
for more information regarding this year's
reunions and/or homecoming events:
tel: 504.865.5920
email: ebrierre@tulane.edu

For more information regarding CLE events,
contact the Continuing Legal Education Office:
tel: 504.865.5900 or 800.569.5272
email: mcle@tulane.edu



TULANE UNIVERSITY LAW SCHOOL
JOHN GIFFEN WEINMANN HALL
6329 FRERET STREET
NEW ORLEANS, LA 70118

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“This school is truly blessed
with a remarkably talented,
accomplished, and diverse
alumni base. That is a price-
less resource and ... It has
made all the difference.”

Dean Lawrence Ponoroff

ADDRESS UPDATE / CLASS NOTE

Send class notes to Ellen Brierre, Director of Alumni Relations

E-mail: ebrierre@law.tulane.edu

Fax: 504-862-8578

Mail: Tulane University Law School, 6329 Freret St., New Orleans, LA 70118

Web: <http://tulane.edu/alumni/updateyourinfo.cfm>

Name _____ Class Year _____

Home Address _____

City _____ State _____ Zip _____

Phone _____ Is it new? _____

Employer _____

Employer Address _____

City _____ State _____ Zip _____

Phone _____ Is it new? _____

E-mail _____

Comments _____
