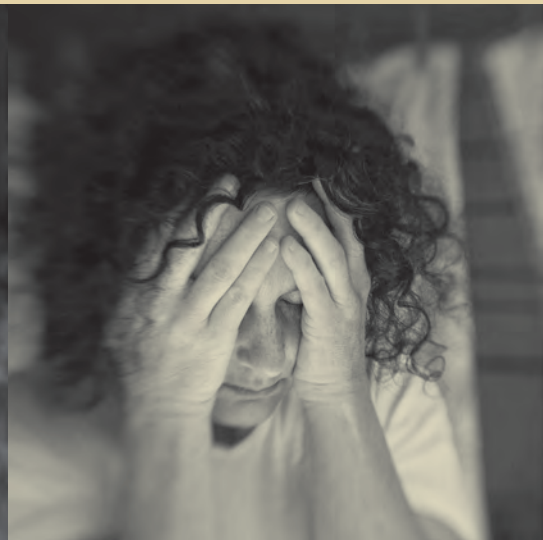


TULANE UNIVERSITY LAW SCHOOL

TULANE
LAWYER

VOL. 27—NO. 2
FALL 2009



TAKING THE LAW
IN THEIR HANDS

THIS ISSUE

A LETTER FROM INTERIM
DEAN STEPHEN GRIFFIN
• CLASSICAL ATHENIAN
ANCESTRY OF AMERICAN
FREEDOM OF SPEECH
• HONOR ROLL OF DONORS

TULANE LAW STUDENTS
ACT IN THE PUBLIC INTEREST



STEPHEN GRIFFIN
INTERIM DEAN

LAUREN VERGONA
EDITOR AND EXECUTIVE ASSISTANT TO THE INTERIM DEAN

ELLEN J. BRIERRE
DIRECTOR OF ALUMNI AFFAIRS

TANA COMAN
ART DIRECTION AND DESIGN

SHARON FREEMAN
DESIGN AND PRODUCTION

CONTRIBUTORS

LINDSAY ELLIS
KATHRYN HOBGOOD
NICK MARINELLO
MARY MOUTON
NEW WAVE STAFF
HOLMES RACKLEFF
RYAN RIVET
FRAN SIMON
TULANE DEVELOPMENT
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CONTRIBUTORS

NICOLE DEPIETRO
MICHAEL HARRINGTON
ANDREW ROMERO

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Stephen M.
Griffin, Interim
Dean of Tulane
Law School

STRENGTHENING THE FOUNDATION

One of the privileges that comes with my new position as Interim Dean is meeting Tulane Law School's alumni and friends across the nation and the world and sharing news of our great accomplishments. It's safe to say that although I have met many alumni over the years (including those I have watched as they marched across the stage to receive their diplomas each May), I've met more of you since taking over from Larry Ponoroff in July than I have since being hired as an associate professor in 1989. It has been a great pleasure meeting alumni in New Orleans and other Louisiana cities, as well as in New York City and Houston. I also have plans to visit additional communities of alumni in the spring to share the latest news and updates from the law school.

The good news is that we are strengthening our foundation and building on the great successes of the past eight years. We received nearly 3,000 applications for places in the class of 2012, an increase of 14.4% over the previous year and almost three times the rate of increase in applications nationally. Our yield also jumped, resulting in an extra-large class of 282 first-year law students. The class boasts a median LSAT score of 162 (representing the 86th percentile nationally) and a 3.6 median undergraduate grade point average. In all, 42% are women, and 20% represent various minority groups. We are very proud to welcome your future fellow alumni.

This year, we also welcome two outstanding new faculty members. Ronald Scalise (L '00) joins us from LSU as

part of an important effort to reenergize our Louisiana civil law curriculum; he is already hard at work, teaching Obligations II and Civil Law Property II. In addition to graduating *summa cum laude* from Tulane law, Ron earned a degree from Cambridge University's Trinity College, a rare accomplishment that enables him to contribute to our strong comparative law faculty. Ron is the latest in a wave of exceptional new faculty to join Tulane in the area of comparative law, including James Gordley from Berkeley's Boalt Hall School of Law and Jörg Fedtke from University College London. Indeed, as a result, Tulane may have the finest comparative law faculty in the world. Also joining the faculty is Shu-Yi Oei, a 2003 Harvard Law School graduate who specializes in tax law. Prior to Tulane law, Shu-Yi was with the Boston office of Bingham McCutchen for nearly six years. She also held a post-graduate research fellowship from 2008–2009 at Harvard Law School. Shu-Yi is teaching Income Taxation this fall and Corporate Tax in the spring.

In this issue, you will find news of our development and fundraising results of the past year, and with that in mind, I want to extend a special note of appreciation to all of our donors and benefactors. Thank you. Part of our good news is that, despite the difficult economic environment of the past 18 months, the law school ended the fiscal year narrowly meeting our goal for contributions to the Tulane Law Fund, our most important source of annual unrestricted support. Admittedly, the current economic climate has added to the constraints created

by Hurricane Katrina. It may seem hard to believe, but we are not yet free and clear of those impacts as they relate to our budget situation. We hope we can count on your support this year. I encourage you to renew your gift at whatever level you are able. If you are not yet giving to the law school, please consider adding us to your list of charitable giving causes.

In my six years of service as Vice Dean of Academic Affairs, one of the most important lessons I learned is the profound way in which alumni support creates positive, tangible consequences for the life of the law school. Over the next year, as the university continues the search for a permanent dean of the law school, one of my goals is to demonstrate how giving to the law school creates results for our students, our faculty, and the entire community.

This issue of the *Lawyer* highlights our clinics, a perfect example of how in accomplishing our mission, we further not only the goals of legal education, but provide needed support to the larger community. Clinical training has become an essential element in the curriculum of the best law schools in the country, and in many ways, our six live-client clinics are among our "jewels in the crown." They provide a unique and irreplaceable legal experience to more than 70 students per year. I hope you will take this opportunity to learn more about them.

My wife Starlynn and daughter Christie join me in wishing you a happy and peaceful holiday season. I look forward to seeing you in your community or here at Weinmann Hall.

COMPLEMENTS & COMPLIMENTS

DEAR MS. VERGONA:

I commend you on the Summer 2009 edition of *Tulane Lawyer*. Excellent issue.

I must however, take exception to the very first sentence of the article in the Briefs section, on page 4! The article states and I quote, "Louisiana's legal system is the only one in the United States based on the system of civil law..."

Puerto Rico is a United States territory and we also have a Civil Code since the days of Spanish rule over our island! Tulane Law School has a long tradition of Puerto Rican alumnae, precisely in part because of the mutual civilian traditions and legal systems.

—Luis E. Dubón III (L '85)

DEAR LUIS,

We regret the unintentional omission. We take great pride in our institutional relationship with Puerto Rico, as well as our successful alumni practicing there. We will keep a vigilant eye on ensuring the omission is not repeated in the future.

DEAR LAUREN:

I would like to commend you on the article printed in the latest issue of the *Tulane Lawyer*, and not just because you have included quotes from me. I believe that the article is very well written and provides the reader with a clear and understandable context regarding health law issues.

—Sanford V. Teplitzky (L '75)

LAUREN:

...you did a great job pulling this [last issue] together. All the very best and thanks again for the great work!

And please forgive us (the UA, Tucson) for pulling Dean Ponoroff to our community. I certainly encouraged the chair of the search committee to hire him.

—Larry Aldrich (L '77)

DEAR LAUREN,

I am writing regarding *Tulane Lawyer* Vol. 27–No.1, Summer 2009.

I graduated in May and recently received my first issue of the magazine. I read through it, cover-to-cover, with great excitement and enthusiasm.

During my read, I noticed two minor errors/inconsistencies of which I thought you might be interested.

The first is on page 17, the first full paragraph of Professor Griffin's article entitled, "The Bush Presidency and Theories of Constitutional Change." The line reads, "The 2001 and 2002 OLC opinions were critical to the creation of an lax interrogation policy in which abuses were all but inevitable." I believe it should read "a" rather than "an" as indicated above.

The second is on pages 3 and 21 regarding Dean Ponoroff: On page 3, a caption of the *Tulane Lawyer*, Fall 2001, dubs Dean Ponoroff "The 21st Dean for the 21st Century." On page 21, however, the article entitled, "A Tribute to Dean Lawrence Ponoroff" begins, "After eight years of service as the 22nd dean of Tulane Law School..."

Please don't misunderstand the email's objective. I offer these observations only so you are aware of them. Again, I enjoyed this issue and appreciate the publication.

Thank you for your hard work in publishing *Tulane Lawyer*.

—Jeff McMullen (L '09)

DEAR JEFF,

Depending on the source of one's information, the dean count indeed fluctuates. Clarence "C.J." Morrow served as the Acting Dean of Tulane Law School from 1951–1952. Under special circumstances, such as an illness or death of a current

DEANS OF TULANE LAW SCHOOL

Henry Adams Bullard 1847–1850

Randall Hunt 1850–1862

(Closed during Civil War: 1862–1865)

Christian Roselius 1865–1872

Carleton Hunt 1872–1883

William Francis Mellen 1883–1888

Henry Carlton Miller 1888–1897

Harry Hinckley Hall 1897–1906

Eugene Davis Saunders 1906–1913

Dudley Odell McGovney 1913–1914

Charles Payne Fenner 1914–1920

Rufus Edward Foster 1920–1927

Rufus Carrollton Harris 1927–1937

Paul William Brosman 1937–1942, 1945–1951

Robert Joseph Farley (Dean pro tem) 1942–1945

Clarence James Morrow (Acting Dean) 1951–1952

William Ray Forrester 1952–1963

Cecil Morgan 1963–1968

Joseph Modeste Sweeney 1968–1978

Paul Verkuil 1978–1985

John R. Kramer 1986–1996

Edward Sherman 1996–2001

Lawrence Ponoroff 2001–2009

dean, an Acting Dean will take the helm. While this role is different from that of an Interim Dean, some publications and archives still choose not to include it.

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.

U.S. SUPREME COURT CITES PROFESSOR'S LAW REVIEW ARTICLE AND *TULANE MARITIME LAW JOURNAL*



Tulane law professor Pamela Metzger's 2006 Vanderbilt Law Review article was quoted by both the majority and dissent opinions in Melendez-Diaz v. Massachusetts in a 5-4 decision released by the United States Supreme Court on June 25, 2009.

In 2004, the Tulane Criminal Law Clinic identified a legal question of constitutional significance: Could the State introduce a forensic affidavit in lieu of live testimony in order to prove an essential element of a crime? Although the clinic lost the case in the Louisiana Supreme Court, Tulane Associate Professor of Law Pamela Metzger remained interested in the subject. As the Supreme Court began to redefine its Confrontation Clause jurisprudence, she began to research the forensic affidavit question across the nation.

Two years later, Metzger published her article, "Cheating the Constitution," in the *Vanderbilt Law Review* (59 Vand. L. Rev. 475 [2006]). The article became the core source for a series of certiorari petitions in the United States Supreme Court. As a result, in 2008 the U.S. Supreme Court accepted certiorari in *Melendez-Diaz v. Massachusetts* for the express purpose of considering whether forensic affidavits are testimonial and thus subject to the Confrontation Clause

guarantees. Metzger consulted on all of the merit's briefs and was the lead amicus in the amicus brief filed by a number of law professors.

In a 5-4 decision authored by Justice Scalia, the Court agreed with Metzger that forensic affidavits are among the core of testimonial statements protected by the Confrontation Clause. In explaining its reasoning, the Court specifically cited her work:

Confrontation is designed to weed out not only the fraudulent analyst, but the incompetent one as well.

"CONFRONTATION IS DESIGNED TO WEED OUT NOT ONLY THE FRAUDULENT ANALYST, BUT THE INCOMPETENT ONE AS WELL." —PAM METZGER

Serious deficiencies have been found in the forensic evidence used in criminal trials. One commentator asserts that '[t]he legal community now concedes, with varying degrees of urgency, that our system produces erroneous convictions based on discredited forensics.' (491)

The dissent also took note of Metzger's article, highlighting an issue that she predicts the Court will have to determine: whether states can lawfully burden the Confrontation Clause by requiring defendants to act affirmatively

in order to bring a forensic witness into court. Explained the dissent:

[e]ven what the Court calls the 'simplest form' of burden-shifting statutes do impose requirements on the defendant, who must make a formal demand, with proper service, well before trial. Some statutes impose more requirements, for instance by requiring defense counsel to subpoena the analyst, to show good cause for demanding the analyst's presence, or even to affirm under oath an intent to cross-examine the analyst. In a future case, the Court may find that some of

these more onerous burden-shifting statutes violate the Confrontation Clause because they 'impos[e] a burden ... on the defendant to bring ... adverse witnesses into court.' (481-485)

Metzger says she plans to continue working on this issue. "I am already consulting with local public defenders about the legality of the Louisiana statute and will be working with the National Association of Criminal Defense Attorneys to raise and brief the burden-shifting question highlighted by the dissent."

The United States Supreme Court cited the *Tulane Maritime Law Journal* in its majority opinion in the significant maritime case of *Atlantic Sounding Co. v. Townsend*, a 5-4 decision handed down on June 25, 2009.

The case, which originated in the United States Court of Appeals for the Eleventh Circuit, raised the complicated question of whether punitive damages are available to seamen in instances where ship owners willfully and wantonly fail to provide maintenance and cure, an ancient remedy of medical care and lodging owed to all seamen.

In the majority opinion, Justice Thomas, joined by Justices Stevens, Breyer, Souter, and Ginsburg, cited a 1996 *Tulane Maritime Law Journal* piece by Paul S. Edelman. The majority agreed with the thrust of Edelman's argument in his piece, *Guevara v. Maritime Overseas Corp.*: Opposing the Decision, (20 Tul. Mar. L. J. 349 [1996]). Essentially, the court concurred with Edelman's characterization of various damages given in historic maritime cases as substantively "punitive" in nature even though the damages were not explicitly referred to as "punitive damages" in the cases.

Using this interpretation of historic maritime cases, Justice Thomas held that punitive damages are available to injured seamen where a vessel owner fails to provide maintenance and cure. Justice Alito wrote the dissenting opinion, joined by the Chief Justice and Justices Kennedy and Scalia.

Brad Vogel, editor in chief of the *Tulane Maritime Law Journal*, contacted Mr. Edelman to congratulate him on the good news.

"He answered the phone at his office, and he seemed delighted," Vogel said. "I imagine it's hard not to be when you've not only been vindicated by the



THE COURT CONCURRED WITH EDELMAN'S CHARACTERIZATION OF VARIOUS DAMAGES GIVEN IN HISTORIC MARITIME CASES AS SUBSTANTIVELY "PUNITIVE" IN NATURE EVEN THOUGH THE DAMAGES WERE NOT EXPLICITLY REFERRED TO AS "PUNITIVE DAMAGES" IN THE CASES.

Supreme Court, but cited as well."

He submitted the work cited by the high court to the *Tulane Maritime Law Journal* as part of a point-counterpoint installment in the Journal after the Fifth Circuit's 1995 en banc decision in *Guevara v. Maritime Overseas Corp.* held punitive damages were not available in maintenance and cure actions. Edelman is presently of counsel at Kreindler & Kreindler LLP, a New York law firm where he made partner in 1953 after graduating from Harvard Law School.

The *Atlantic Sounding* decision is significant in that it resolved a tangled circuit split over the availability of punitive damages in maintenance and cure actions. Punitive damages typically are not available in most facets of maritime

law, and the ruling generates a number of questions about what other aspects of maritime law might be reshaped in the wake of *Atlantic Sounding*.

Vogel noted that the Winter 2009 edition of the Journal will contain an article by Professor Rod Sullivan, who argued *Atlantic Sounding Co. v. Townsend* before the Supreme Court on behalf of the prevailing side. Professor Sullivan's piece will assess the state of punitive damages in maritime law in the wake of the decision.

"We're extraordinarily excited about being cited by the Supreme Court over the summer," Vogel said. "The Journal staff is honored to be a part of the scholarly process of clarifying and shaping maritime law."



DISTINGUISHED AUSTRALIAN JUDGE TAKES CENTER STAGE AT TETLEY LECTURE

“THE COMMON LAW
IS NOT A BROODING
OMNIPRESENCE IN
THE SKY BUT THE
ARTICULATE VOICE
OF SOME SOVEREIGN
THAT CAN BE
IDENTIFIED.”

—OLIVER WENDELL
HOLMES



Justice James Allsop, president of the New South Wales Court of Appeal, delivered this year’s Tetley Lecture entitled, “Maritime Law—the Nature and Importance of its International Character.” In the two days following the lecture, which took place April 15 in Weinmann Hall, Justice Allsop visited the Tulane Maritime Law Center.

Admiralty Law Institute Professor of Maritime Law Martin Davies, who also serves as director of the Maritime Law Center, found Justice Allsop’s lecture to be a very interesting and scholarly piece on the transnational nature of maritime

law. Professor Davies further stated that several decisions of the United States Supreme Court and, to some extent, the U.S. Constitution itself, treat the general maritime law as if it were “a pre-existing transnational or anational body of law, part of the *lex mercatoria*, not dependent on sovereign authority for its existence but recognized and enforced by individual sovereigns.”

Davies references Oliver Wendell Holmes’s famous statement made in dissent in the admiralty case, *Southern Pacific Co. v. Jensen* (244 U.S. 205, 1917), “The common law is not a brooding omnipresence in the sky but the

articulate voice of some sovereign that can be identified.”

“Justice Allsop’s paper is a comparative and historical analysis of the relationship between international maritime law and its municipal application,” said Davies. “Anyone interested in international law generally, or even legal theory, would have found interest in it.”

Before becoming president of the NSW Court of Appeal, Justice Allsop was a judge of the Federal Court of Australia. He teaches as an adjunct professor at the University of Sydney Law School.

*From left to right:
Professors Martin Davies
and Robert Force; student
coaches Lindsay Sakal
and Cathy LeBlanc; team
members Brian McGarry,
Melissa Marsh, Elizabeth
Varner, Jessica Marrero,
Daisy Gurdian, and
Veronica Lam.*



INTERNATIONAL MOOT COURT TEAM FINISHES AMONG TOP EIGHT IN VIENNA COMPETITION

Tulane Law School is pleased to announce that its international moot court team, the Vienna Vis, advanced to the quarterfinals at the sixteenth Annual Willem C. Vis International Commercial Arbitration Moot competition held in Vienna, Austria, April 3–9, 2009. In the end, the team finished in the top eight of a total 233 teams competing and was the only American team to advance to the quarterfinal level.

The law school extends international accolades to 2008–09 Vienna Vis team members Daisy Gurdian, Jessica Marrero, Melissa Marsh and Elizabeth Varner, and Hong Kong Vis team members Veronica Lam and Brian McGarry, who received

honorable mentions for “Best Claimant’s Brief” and “Best Respondent’s Brief.” Both Gurdian and Marsh received honorable mentions for “Best Oralist” (awarded to only 40 of 500 competitors).

“The end result is amazing no matter how you look at it,” Demelza Baer, past chief justice of the Tulane Moot Court program, said. “Of course, it helps tremendously to have two preeminent scholars in commercial arbitration, among other fields, who are excited to work closely with the team.”

Tulane Law School equally applauds professors Robert Force and Martin Davies for serving as faculty advisors, as well as student coaches Cathy LeBlanc and Lindsay Sakal.

“This unprecedented success reflects well on our school, the Moot Court, and especially the team,” said 2008–09 Student Bar Association President Melissa Swabacker. “The Vis team’s success will surely be a step towards increasing our name recognition once more.”

The goal of the Vis Arbitral Moot is to foster the study of international commercial law and arbitration for resolution of international business disputes through its application to a concrete problem of a client and to train law leaders of tomorrow in methods of alternative dispute resolution.

LAW PROFESSOR WINS PRESIDENT'S AWARD FOR EXCELLENCE

Amazing, inspiring and passionate are words that Tania Tetlow's students use to describe the associate professor of law. Tetlow and Physics Professor John Perdeu received the Tulane University President's Awards for Excellence in Professional and Graduate Teaching at this year's unified

commencement ceremony in May.

Tetlow, who has directed the Tulane Domestic Violence Legal Clinic (DVC) since 2005, has an interdisciplinary perspective. She facilitates a joint legal-medical domestic violence course, conducts training at the Tulane Medical School and coordinates studies with the School of Social Work, the Department

of Sociology, the Payson Center for International Development, and the School of Public Health and Tropical Medicine. In addition, she works to educate the wider community about issues of domestic violence.

"Law students need to learn that good lawyers don't just do their work in the courtroom; they work to try to change broken legal systems with more than litigation," Tetlow says.

Although the Domestic Violence Legal Clinic has worked with dozens of clients with complicated cases against batterers, Tetlow says that so far she has never had a client whose abuser spent a day in jail. "That's a real eye-opener for law students who need to understand the limitations of the legal system," she says.

In her teaching, Tetlow provides students with real-world experience. She brings actors into the classroom to perform mock depositions and cross-examinations of batterers. She invites New Orleans Police Department officers, the district attorney, and domestic violence survivors to speak to her classes. Through the clinic, law students offer free legal aid to clients. Social work students also assist the clinic's clients.

A student of Tetlow's says that the law professor "achieves the rare feat of making the subject matter stay with the students well beyond the final examination."

Both Tetlow and Perdeu each received a medal designed by Professor Emeritus Franklin Adams and a stipend of \$5,000.



"LAW STUDENTS NEED TO LEARN THAT GOOD LAWYERS DON'T JUST DO THEIR WORK IN THE COURTROOM; THEY WORK TO TRY TO CHANGE BROKEN LEGAL SYSTEMS WITH MORE THAN LITIGATION." —TANIA TETLOW

185,715 PRO BONO HOURS COMPLETED IN 20 YEARS

During the 2008–09 academic year, Tulane Law School students logged more than 19,000 pro bono hours. This brings the documented total hours contributed since the Community Service Program officially began 20 years ago to an amazing 185,715. While the majority of contributions occur in local communities, placements are scattered across the United States and as far away as Italy, Thailand, and South Africa. Last year alone, more than 100 different organizations benefited from Tulane law students' generous volunteer work.

As Assistant Dean for Public Interest Programs, Julie Jackson's principal responsibility is administering the law school Pro Bono Program, which she and Program Coordinator Eileen Ryan launched in 1988 when the Tulane Community Service Program became the first mandatory pro bono program in the nation. Prior to putting the program into practice, in the fall of 1987 the Tulane Law School faculty voted unanimously on a student requirement of a minimum 20 hours pro bono work on behalf of indigent clients. Two decades later, law students across the nation have followed Tulane's example as 34 other law schools added a public service/pro bono requirement.

Jackson has continued to oversee the program as it has grown in size and scope to encompass a wide range of public interest legal opportunities in various locales. While the program's development over the past two decades brings

Jackson a personal level of satisfaction, she says the concept of a pro bono requirement, "which would instill in every Tulane law student the duty of the lawyer to serve the community," belongs to her mentor, the late Tulane Law School Dean John Kramer (1986–1996).

"It has been my privilege to be the one charged with the responsibility of taking this inspiring idea and running with it," Jackson states. "Over the past 20 years it has been my role to establish at Tulane the first mandatory pro bono program in the nation and then to guide its growth into a major source of free legal assistance for those in need as well as experiential public interest education for our students."

Following Hurricane Katrina, the faculty voted in 2006 to expand the definition of qualifying pro bono service and to increase the number of service hours each student must contribute. As a result, each graduating student as of the class of 2009 must complete a minimum of 30 hours of pro bono service in order to receive a law diploma. Interestingly enough, 76% of the '09 class exceeded the increased requirement.

Qualifying public interest service includes legal assistance provided to persons of limited means; work performed in the public sector on behalf of most local, state or federal government entities; work on behalf of qualifying public interest nonprofit organizations; and contributions to qualifying student-led organizations serving public interest law-related goals.



ROLE MODEL WALKS THE WALK

FOR SOME STUDENTS such as Holmes E. Rackleff (L '09), 30 hours of pro bono work is like a "walk in the park." Upon graduating this past May, Rackleff had reported an extraordinary 507.5 hours of pro bono service.

Rackleff decided to attend Tulane Law School while gutting houses in the 9th Ward of New Orleans in December of 2005. Upon moving to New Orleans in April of 2006, Rackleff volunteered, coordinated, created and participated in much more than the average graduate student. Her involvement in and around New Orleans ranged from the Tulane chapter of the National Lawyers Guild to the National Student Day Against the Death Penalty, Saturdays at the Common Ground Relief free legal clinic and work with the Entertainment Law Legal Assistance (ELLA).

"Throughout her law school career, Holmes demonstrated the utmost dedication to providing legal services to the poor," said Assistant Dean Julie Jackson. "Through her contributions on so many pro bono fronts, she provided a role model for all."

Since graduating, Rackleff works as a film contracts consultant in New York City. She is developing a grant-funded legal aid program in Brooklyn.

Students do not earn academic credit for their pro bono work. Instead, individual transcripts reflect the total number of certified pro bono hours performed by the individual student.



31 AWARDED EMLF LAW STUDENT SCHOLARSHIP



Aaron Stultz Heishman, a third-year law student from Mathias, W.V., has been awarded a \$2,500 scholarship from the Energy & Mineral Law Foundation (EMLF).

The EMLF Scholarship program is open to all students attending a law school that is a member of the Energy & Mineral Law Foundation. This year there were 39 applicants—double the number from 2008—from the 24 EMLF member law schools. Awards are based on academic achievement and the student's potential to contribute to the field of energy and natural resources law. A scholarship committee comprised of law professors and practitioners reviews the applications and then meets to determine the recipients and the allocation of the scholarship money. The scholarship program is announced in the spring of each year, and the scholarship recipients are announced at the EMLF Annual Institute.

In the 25 years since the Eastern Mineral Law Foundation established the Law Student Scholarship program with a \$2,000 budget, \$327,800 in scholarships have been awarded to students attending EMLF member law schools.

“THE ENVIRONMENT IS NOT JUST AN ISSUE, IT’S A CENTRAL ORGANIZING PRINCIPLE. IF WE CONTINUE TO CATEGORIZE IT AS SOMETHING SEPARATE, OUR QUALITY OF LIFE AND OUR ABILITY TO SURVIVE ON THE PLANET AS A SPECIES IS GOING TO SUFFER.”

—MATT PETERSEN

TALKING GREEN

On April 3–4, 2009, the Tulane Law School Environmental Law Society brought together students, practitioners and environmental leaders from around the country for a two-day summit on environmental law and policy. The summit featured a multidisciplinary range of experts addressing the fate of the environment in light of a new administration, a recovering economy, and a continually changing climate.

Among the many notable panelists, the summit included keynote addresses from award-winning author and activist Bill McKibben and President of Global Green Matt Peterson. Over the two days, the summit addressed topics such as: a review of the Supreme Court's current environmental caseload; affordable ways to be green in New Orleans; social and economic equality in the environmental justice movement; the future of oil; and eminent domain.

The summit, the largest annual environmental conference in the Gulf Coast region, was a huge success. Registration numbers quadrupled from years past and the event attracted regional and national media attention. “Haynesville,” a film documenting north Louisiana's natural gas reserves and its energy future, and featuring footage shot at the summit, will be part of a special program at the United Nations Climate Change Conference in Copenhagen this December. F. Gerald Maples and Stephen M. Wiles sponsor the summit.

A NEW ADMINISTRATION,
ECONOMIC RECOVERY,
CLIMATE CHANGE...
WHAT DOES IT ALL MEAN
FOR BEING "GREEN"?

Global Green's Matt Petersen discusses the state of environmentalism, including New Orleans' efforts to rebuild as a "green city," at the Tulane Law School Summit on Environmental Law and Policy held Friday, April 3.



Back row (left to right): Mark Davis, director, Inst. on Water Resources Law and Policy; author & activist Bill McKibben; Lindsay Ellis; Patrick Herson; Matthew Altaras. Front row (left to right): Matthew Miller; Allison Shipp; Claire Yancey; Carrol Hand; Matthew Barison; Brian McGarry; Diana Csank.

In the wake of Hurricane Katrina, many saw the widespread rebuilding effort as an opportunity to reinvent New Orleans as an environmentally sustainable city. Global Green USA, a national environmental organization, mobilized resources to create the "Healthy Homes and Smart Neighborhoods" initiative. Matt Petersen, president, CEO and board member of Global Green, was on the Tulane Uptown campus last spring to address the Tulane Law School Summit on Environmental Law and Policy.

Global Green has several major projects under way in the Crescent City area, including the New Orleans Sustainable Design Competition, the NOLA Green Schools Initiative, and ongoing work with Habitat for Humanity to create more energy-efficient housing throughout the Gulf Coast. Ryan Rivet of Tulane University's *New Wave* talked with Petersen about the city's progress in rebuilding green, as well as the future of environmentalism. Highlights of the interview follow:

Do you think New Orleans is falling short of the goal to reinvent itself as a "green city" following Katrina?

MATT PETERSEN: I think it has taken longer than many had hoped, but I think it also has to do with the economy. A lot of big projects that were going to be green, like the World Trade Center redevelopment, were about to take off

when the economy collapsed. Unfortunately, there is a failure to get federal dollars where they need to be and a failure of the economy just at the time when we need to accelerate things.

The thing I am always struck by when I leave New Orleans is the will of the people who live here. That's why we made a commitment early on to help rebuild—the people who love this community and see its unique role in this society as a cultural leader, as an iconic world city. That is why it is so important to see this city rebuilt as it should be.

Louisiana offers one of the most generous tax incentives for home and business owners who install solar technology, and still there is little activity. What do you think accounts for this?

MP: I think there are three reasons. One is awareness. I don't think people know what incentives are available to them. The second is capital. Even with the tax credit, they need to be able to access some sort of financing to pay for those improvements to their home. Third, we need more leadership from the city.

"Green" has become a sales pitch. Has the idea of environmentally friendly business been co-opted by big business to "greenwash" practices that are pretty unfriendly to the environment? And if so, does that diminish the efforts of legitimately green businesses?

MP: I think some in the corporate community are enlisting greenwashing to help their cause. If you're not an informed consumer, you might believe those claims. As we consumers become more sophisticated, I think we will be better able to discern those claims and the corporations will be less able to do that. I think the other thing that is going to change is our regulatory agencies will start regulating those claims more closely. I also think there are a lot of companies out there doing the right thing, and we don't want to take that away. We need to be able to become more informed—not only as consumers, but as citizens. Our choices are not only about what we buy, it's about which politicians we vote for, about the questions we ask of those elected officials.

Where do you see the environmental movement going?

MP: I think we're going to see it integrated into every aspect of our lives. The environment is not just an issue, it's a central organizing principle. If we continue to categorize it as something separate, our quality of life is going to suffer and, more than that, our ability to survive on the planet as a species is going to suffer. The more we can recognize that it is in our self-interest to leave a reasonably healthy planet behind for future generations, the more the environment is going to be a driver.



NEW ORLEANS *CITYBUSINESS* NAMES ASSOCIATE DEAN ONE OF 50 'WOMEN OF THE YEAR'

Susan Krinsky, associate dean for admission, financial aid and career development at Tulane law, has been named one of this year's *CityBusiness* 'Women of the Year.' The honor recognizes 50 women whose successes in business and contributions to the New Orleans community have set the pace for the region's future. In its 11th year, the 2009 'Women of the Year' event recognizes innovative leaders with energy, ideas, achievements and a commitment to excellence.

Prior to her arrival at Tulane, Dean Krinsky was in private practice in Washington, D.C., concentrating in health law, First Amendment litigation, and banking litigation. In addition to her administrative responsibilities at the law

school, Dean Krinsky has taught courses in health care law and regulation and bioethics. She has served as a mediator in Equal Employment Opportunity Commission cases and as an arbitrator in homeowners' insurance cases. Dean Krinsky is co-author of a volume of cases addressing the intersection of law and medicine. She is a member of the board of directors of the Louisiana Mental Health Advocacy Service and has served on several committees and sub-committees, as well as the board of trustees, of the Law School Admission Council. She is also active on community boards, including Southern Rep Theatre, Hillel of New Orleans, Touro Synagogue, Young Audiences Louisiana, and others.

LAW SCHOOL WELCOMES MUSKIE FELLOW

Tulane Law School is hosting a new international student on campus as part of the U.S. Department of State's Edmund S. Muskie Graduate Fellowship Program.

Tatiana Okisheva from Russia is taking courses in the law school, working on her general LLM degree. In addition to academic coursework, all Muskie fellows perform community service and complete a summer internship in their field of study.

Established by the U.S. Congress in 1992 to encourage economic and democratic growth in Eurasia, the Muskie Fellowship is a program of the Bureau of Educational and Cultural Affairs of the U.S. Department of State. Noted for being highly competitive, it averages more than 3,000 applications per year with a 5 percent rate of acceptance.



Muskie fellow Tatiana Okisheva

BY THE NUMBERS

ADMISSION, ENROLLMENT, & EMPLOYMENT

ADMISSIONS DATA: CLASS OF 2012

Applications received ('08-'09 enrollment)	2988
	(15% increase over the previous year)
Yield (% of admission offers accepted)	31.7%
	(highest yield in the past three years)
First-year class, target	250
First-year class, actual	282
25th/median/75th percentile LSAT scores	160/162/164
25th/median/75th percentile GPAs	3.4/3.6/3.75

2009-2010 STUDENT BODY DATA & DEMOGRAPHICS

JD Enrollment	750
LLM/SJD Enrollment	50
% students of color	20%
% out-of-state residents	84%
Median age of incoming students	24 years
U.S. states represented in student body	46
	(plus the District of Columbia & Puerto Rico)
Countries represented in student body	21

FACULTY

Full-time faculty	40
Part-time and adjunct faculty	50

WHERE OUR STUDENTS ARE FROM

Northeast	21%
Southeast	26%
Southwest	15%
West & Northwest	9%
Midwest	11%
Louisiana	16%
International	2%

*Top five states represented in student body:
Louisiana, Texas, Florida, New York, California*

Almost 300 undergraduate schools are represented in the JD student body.

WHERE STUDENTS GO AFTER GRADUATION CLASSES OF 2006, 2007, AND 2008

Northeast	24%
Southeast	17%
Southwest	10%
West & Northwest	14%
Midwest	4%
Louisiana	30%
International	1%

*Most popular locations for jobs after graduation:
New York, Louisiana, District of Columbia metropolitan area,
Texas, California*

TYPES OF POSITIONS AFTER GRADUATION CLASSES OF 2006, 2007, AND 2008

Private Practice/Law Firms	58%
Judicial Clerkships	13%
Public Sector	10%
Business & Industry	9%
Public Interest	8%
Academia	2%

AVERAGE STARTING SALARY: CLASS OF 2008

Private firms	\$105,000
Government	\$50,000
Overall	\$90,000

PERCENT OF 2008 GRADUATING CLASS EMPLOYED NINE MONTHS AFTER GRADUATION

92% of those seeking employment

REPORTED SALARY RANGES: CLASS OF 2008

33% reported salaries between \$34,000 and \$58,000
33% reported salaries between \$60,000 and \$90,500
33% reported salaries between \$96,000 and \$160,000

THE CLASSICAL ATHENIAN ANCESTRY OF AMERICAN FREEDOM OF SPEECH

BY KEITH WERHAN



Keith Werhan is the Ashton Phelps Chair in Constitutional Law. Since joining the Tulane law faculty in 1989, he has taught in the areas of administrative law and constitutional law. He has written articles on administrative law, federal jurisdiction, and constitutional law, including the speech and religion clauses of the First Amendment.

Adapted from Professor Keith Werhan's "The Classical Athenian Ancestry of American Freedom of Speech," 2008 *Supreme Court Review* 293-347. A revised version of this article will appear in the author's forthcoming book, tentatively titled *The Classical Athenian Democracy and the American Constitution*.

The Athenians of the classical era (508/507 BCE-323/322 BCE) invented democracy (*dēmokratia*), a revolutionary system in which the people of a community (the *dēmos*) held a monopoly on political power (*kratos*), governing themselves and their community as they thought best. Over two thousand years after the demise of the classical Athenian democracy, the American *dēmos* reinvented the idea of democracy. In light of the vast differences in time and circumstance, it should not be surprising that the American idea of democracy differs substantially from the Athenian original.

The principal division separating Athenian and American democracy is the difference in participation by ordinary citizens in their government. In short, Athens adopted a direct democracy in which ordinary citizens, assembled in large groups, made all governance decisions. Athens lacked a government in its modern sense. Each of the principal governing institutions of classical Athens were mass meetings of citizen volunteers who listened to debate and then voted their collective decision.

In pointed contrast to Athens, America constituted a representative democracy that, as James Madison wrote in *Federalist 10*, "delegate[d] . . . the government . . . to a small number of citizens elected by the rest." Unlike the classical Athenians, ordinary American citizens do not have a vote in their governing institutions. The American *dēmos* participate in the political life of the nation primarily by voting for representatives, who in turn govern the nation.

Despite the profound differences between the highly participatory democracy of classical Athens and the relatively restrained representative democracy of the United States, freedom of speech has been a fundamental element of both political communities. The kinship between Athens and America as democracies—different though they may be—has created a sufficiently close connection between the basic principles of free speech as practiced in Athens and as protected in America that it fairly may be

said that American free-speech jurisprudence is a descendant of the classical Athenian democracy.

FREEDOM OF SPEECH, ANCIENT & MODERN

The classical Athenians adopted two free-speech concepts that were central to their democracy. The first was *isēgoria*, which described the equal opportunity of all Athenian (male) citizens to speak in the principal political institution of the democracy, the Assembly (*ekklēsia*). The second was *parrhēsia*, which described the practice of Athenians to speak openly and frankly once they had the floor. Although the Athenians carefully tailored *isēgoria* and *parrhēsia* to fit their democratic practices, these classical Athenian principles resonate powerfully in contemporary American free-speech jurisprudence.

ISĒGORIA

As practiced in the classical Athenian democracy, the principle of *isēgoria* offered every full citizen in good standing an equal opportunity to make proposals and to speak before the *ekklēsia*. The herald (*ho keryx*) of the Assembly invoked *isēgoria* by commencing every debate with the simple yet evocative call, "Who wishes to speak?" *Isēgoria* reflected the broader Athenian democratic principle of political equality (*isonomia*), and more specifically, it complemented the equal rights of all full citizens to attend sessions of the Assembly, and to vote on

the matters presented for decision. Though it may seem hard to believe, the procedural rules of the *ekklēsia* did not limit the number of speakers or restrict the length of speeches. One classicist has estimated that there were between 200 and 300 speakers (*rhētēres*) at any given session of the *ekklēsia*.¹ The opportunity that *isēgoria* afforded Athenian citizens to speak on matters of public concern was a defining practice of the classical democracy. It ensured that common citizens attending the Assembly could speak as well as listen, and thus become full partners in the formation of public policy.

An American concept of *isēgoria* likewise resides within the core of First Amendment theory and doctrine. The most prominent Athenian element in American free speech theory is the claim that freedom of speech on matters of public concern is essential to the proper functioning of democracy. Intriguingly, the most influential arguments for a democratic understanding of American freedom of speech were advanced by two individuals who shared a deep affinity for classical Athenian democracy and who drew on their understanding of Athenian political theory and practice in making their case—Justice Louis D. Brandeis and Alexander Meiklejohn. Brandeis’s and Meiklejohn’s rethinking of American freedom of speech introduced *isēgoria* into First Amendment jurisprudence.

Justice Brandeis laid the democratic foundation for American free-speech jurisprudence primarily in his concurring opinion in *Whitney v. California* (1927), which First Amendment scholars widely have recognized as among the most important judicial statements on American freedom of speech. Brandeis wrote his account of the democratic function of free speech in America as if the United States was a highly participatory direct democracy resembling



Athens, rather than the considerably more restrained representative democracy that the American founders had constituted. Brandeis’s theory of free speech, like *isēgoria*, was grounded on the democratic premise of popular sovereignty. For Brandeis, as for Athenian democrats, freedom of speech was a form of political participation in which every citizen was equally entitled to share. The ultimate purpose of freedom of speech in Brandeis’s democracy, as in the classical Athenian democracy, was to benefit the community by enhancing the collective decision making of free citizens. Whereas Madison had characterized the primary function of free expression in America’s representative democracy as informing the people of the actions of their government, Brandeis believed that freedom of speech enabled the citizens themselves to deliberate toward the “political truth” that would define them as a people and would chart their collective course as a political community.

Alexander Meiklejohn, like Justice Brandeis, viewed American freedom of speech through a classical Athenian lens, re-imagining America’s representative democracy as an assembly democracy dependent upon direct citizen participa-

tion in the formation of law and policy. Meiklejohn built on Brandeis’s *Whitney* concurrence in his influential *Free Speech and Its Relation to Self-Government* (1948), where he argued, as would any classical Athenian democrat, that “[t]he principle of the freedom of speech springs from the necessities of the program of self-government.”² Meiklejohn modeled his theory of free speech on the town-hall meeting, the American political institution that is most evocative of the classical Athenian Assembly. In Meiklejohn’s town meeting, as in the Athenian *ekklēsia*, citizens “meet as political equals” in order “to discuss and act upon matters of public interest.”³ The equal political status of citizens, Meiklejohn believed, meant that every citizen had an equal right to speak on matters that came before the assembly, in other words, *isēgoria*.

The Brandeis-Meiklejohn account of free speech resonated with Athenian *isēgoria* not only at the level of theory, justifying American freedom of speech as if it served a highly participatory assembly democracy, but also at a doctrinal level, stressing that free speech in America, like *isēgoria* in Athens, embodied a strong equality principle.

The Supreme Court has used Meiklejohn's claimed "equality of status in the field of ideas"⁴ as the guiding principle in developing a considerable range of free-speech doctrine. The primary means by which free-speech doctrine enforces the principle of speech equality is the requirement that courts carefully and skeptically review government restrictions imposed on speakers or speech because officials disapprove, or fear the consequences of, the content of the restricted speech. "[A]bove all else," the Supreme Court declared in *Police Department of City of Chicago v. Mosley* (1972), "the First Amendment means that government has no power to restrict expression because of its message, its ideas, its subject matter, or its content." Although the courts have enforced the speech-equality principle more flexibly than the rhetoric of *Mosley* would allow, the rule that "content-based" restrictions on speech presumptively violate the First Amendment is a cornerstone of contemporary free-speech doctrine. For contemporary Americans, the freedom of speech protected by the First Amendment, in large part, means what *isēgoria* meant in classical Athens, an equal opportunity of individuals to speak out on matters of public concern.

PARRHĒSIA

The second classical Athenian free-speech concept was *parrhēsia* ("the ability to say everything"). *Parrhēsia* described the freedom to speak one's mind with complete openness, to say the whole truth as one understands the truth. The truth-telling prescribed by *parrhēsia* typically had a confrontative, critical bite. *Parrhēsia* connoted strong admonishment or well-intentioned advice, offered with the intent of correcting the listener's conduct. In the political context, *parrhēsia*, at least in principle, freed ordinary Athenians to challenge the policy preferences of *polis* leaders,

as well as the ideas and commitments of their fellow citizens.

The Athenians regarded *parrhēsia* as essential to their democracy because their primary political practice of group decision making, following a series of speeches, depended on authentic political debate among citizens who honestly and forthrightly spoke their minds. The classical Athenians thus nurtured a political culture that not only invited all citizens to address the Assembly (*isēgoria*), but also permitted them to speak forthrightly when doing so (*parrhēsia*). The political parrhesiastic ideal required courage and character not only of Assembly speakers, but also, and just as importantly, of Assembly audiences. *Parrhēsia* required that the *dēmos* open themselves to critical oratory for the good of the community, overcoming their personal displeasure at being chastised or at listening to what they did not wish to hear.

Athenian *parrhēsia*, like Athenian *isēgoria*, has been incorporated into the theory and doctrine of American freedom of speech. The classical Athenian principle that licensed—and obligated—the parrhesiast to speak the truth as he saw it has informed the theoretical claim that justifies strong First Amendment protection of the freedom of speech as essential to a society's collective search for truth. And American free-speech doctrine has absorbed the associated classical Athenian principle that the parrhesiast at times must frankly confront or offend an audience, and that the audience, in the exercise of democratic citizenship, cannot punish the parrhesiast for having had his say.

It has long been claimed that a central function of the First Amendment is to create a hospitable environment for open inquiry, rigorous critique, and the free exchange of ideas—in other words, to grant a constitutional right of *parrhēsia*—in order for society to progress in a never-ending quest for truth. On this

view, the First Amendment signifies what Michel Foucault has called a "parrhesiastic contract," through which the sovereign people acquire the truth they need for self-government, in exchange for a promise not to punish speakers who speak the truth, "no matter what this truth turns out to be."⁵

John Stuart Mill, who wrote the classic statement of the search-for-truth rationale of free speech in his essay *On Liberty* (1859), did not claim that freedom of speech would lead to the discovery of truth in any absolute or objective sense. He argued more subtly, and more in line with Athenian *parrhēsia*, that free speech enabled societies to attain "truth for purposes of action," that is, that societies acquire sufficient confidence in their opinions to legitimate their actions as rational decisions rather than arbitrary assertions of power. According to Mill, societies reached this confidence level only by permitting "[c]omplete liberty of contradicting and disproving . . . [any] opinion" that provided the predicate to collective action.⁶ This was the purpose of Assembly debate that Pericles highlighted in his famous *Funeral Oration*—to criticize proposals and to air fully all points of view before settling on a "wise" course of action.⁷ Free, frank, and open debate did not guarantee a correct decision. It simply was the best that any society could do.

It was no accident that Mill's theory of free speech coincided so closely with the classical Athenian principle of political *parrhēsia*. Like Brandeis and Meiklejohn, Mill was deeply influenced by his understanding of the democratic thought and practice of classical Athens, so much so that Mill's first biographer, Alexander Bain, wrote of his "Greek intoxication."⁸ Indeed, political theorist Nadia Urbinati has credited Mill with introducing classical Athenian democracy to modernity.⁹ Justice Oliver Wendell Holmes, Jr., in his dissenting opinion

in *Abrams v. United States* (1919), built on Mill's search-for-truth justification of free speech and thereby introduced Athenian *parrhēsia* into First Amendment theory. Holmes wrote, "[W]hen men have realized that time has upset many fighting faiths, they have come to believe even more than they believe the very foundations of their own conduct that the ultimate good desired is better reached by free trade in ideas—that the best of truth is the power of the thought to get itself accepted in the competition of the market, and that truth is the only ground upon which their wishes safely may be carried out." Holmes did not claim that "free trade in ideas" inexorably led a society to truth in any objective sense. He simply argued, as had Mill and Pericles, that collective acceptance or rejection of any idea after free debate was the best that any society could do in approximating truth.

At the doctrinal level, American free-speech jurisprudence, like Athenian democratic practice, created a concept of *parrhēsia* to complement its incorporation of *isgoria*, the equal freedom of individuals to speak on matters of public concern. Justice Brandeis invoked Athenian *parrhēsia* when he wrote in his *Whitney* concurrence that the First Amendment protected "the freedom . . . to speak as you think" as essential to democracy. American *parrhēsia* protects "vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials."¹⁰ Like its Athenian ancestor, American *parrhēsia* licenses speakers to express themselves frankly, even if what they say offends, angers, or otherwise disturbs their audience. "[I]t is a prized American privilege to speak one's mind," declared the Court in *Bridges v. California* (1941), "although not always with perfect good taste, on all public institutions."

The Justices delineated the doctrinal rules protecting *parrhēsia* in one of the

oldest lines of free-speech cases, those involving criminal prosecutions of so-called "provocative" speakers, that is, speakers who offend or enrage audience members to such a degree that there exists the threat of violence or disorder. In these cases, the Court has held that it is only when a provocative speaker directs his provocation to inciting disorder or a violent audience reaction that a speaker can be held criminally responsible for the violence or disorder caused or threatened by his speech. The provocative-speech decisions reflect the Justices' internalization of the classical Athenian *parrhesiastic* ideal, which not only honored speakers with the courage to confront their audiences with the truth as they saw it, but also demanded of audiences the courage to remain open to the most unsettling discourse.

Just as the principles of *isēgoria* and *parrhēsia* interacted in the classical Athenian democracy to generate a powerful free-speech practice inviting every full citizen to speak his mind in public debate, the American variations of *isēgoria* and *parrhēsia* combine to create what is perhaps the guiding principle of American free-speech jurisprudence: the equal right of all individuals to speak out fully and frankly on matters of public concern.



The roots of American freedom of speech extend to classical Athens, the fountainhead of democracy. These roots have remained strong, notwithstanding the passage of over two-thousand years and the adoption of two very different approaches to democracy in Athens and in America. To be sure, the differences between the highly participatory direct democracy of classical Athens and America's relatively restrained representative democracy have dictated fundamental differences in free-speech law and practice in the two systems. But the infusion of an Athenian sensibility into

American freedom of speech undeniably has made the United States more democratic, as American citizens generally have been empowered, as were Athenian citizens, not simply to vote, but to participate in politics by speaking their minds freely and fully on matters of public concern.

"[I]T IS A PRIZED AMERICAN
PRIVILEGE TO SPEAK ONE'S
MIND, ALTHOUGH NOT ALWAYS
WITH PERFECT GOOD TASTE,
ON ALL PUBLIC INSTITUTIONS."
U.S. SUPREME COURT
BRIDGES V. CALIFORNIA (1941)

NOTES

- 1 R. K. Sinclair, *Democracy and Participation in Athens* 140-41 (Cambridge, 1988). Yet it also is attested that only a small number of *rhētēres* regularly participated in, and typically dominated, Assembly debate.
- 2 Alexander Meiklejohn, *Free Speech and Its Relation to Self-Government, in Political Freedom: The Constitutional Powers of the People*, 3, 27 (Harper, 1960) (originally published, 1948).
- 3 *Id.* at 24.
- 4 *Police Department of City of Chicago v. Mosley*, 408 U.S. 92, 96 & n. 4 (1972), quoting Meiklejohn, *Free Speech and Its Relation to Self-Government*, *supra* note 2, at 27.
- 5 Michel Foucault, *Fearless Speech* 32-33 (Semiotext[e], 2001) (Joseph Pearson, ed.).
- 6 John Stuart Mill, *On Liberty* (1859), in *On Liberty and Other Writings* 23-24 (Cambridge, 1989) (Stefan Collini, ed.).
- 7 See Thucydides, *The Landmark Thucydides: A Comprehensive Guide to the Peloponnesian War* 2.40.2, at 113 (Free Press, 1996) (Richard Crawley, trans., Robert B. Strassler, ed.).
- 8 Nadia Urbanati, *Mill on Democracy: From the Athenian Polis to Representative Government* 3 (Chicago, 2002), quoting Alexander Bain, *John Stuart Mill: A Criticism, with Personal Recollections* (Longmans Green, 1882).
- 9 Nadia Urbanati, *Mill on Democracy*, *supra* note 8, at 185.
- 10 *New York Times Co. v. Sullivan*, 376 U.S. 254, 270 (1964).

IN MEMORIAM: PROFESSOR BROOKE OVERBY

The faculty, students, and staff of the law school mourn the loss of Professor Brooke Overby who passed away suddenly on August 5, 2009, in Florida. A memorial service in her honor took place on September 10, at Weinmann Hall, where members of the Tulane law community, friends, and relatives paid their respects. Professor Overby was a stellar teacher, a prolific scholar and an active servant to the larger Tulane community. The Tulane Law School family extends its deepest sympathy to Brooke's family.



Professor Brooke Overby grew up in Lake Forest, Illinois, and attended Northwestern University, where she received a B.A. in Classics in 1982. She received her J.D. with highest distinction from the University of Iowa College of Law in 1987, where she was an outstanding student, ranking first in her class every semester. She received the John F. Murray Prize, served as Senior Articles

Editor of the *Iowa Law Review*, and graduated Order of the Coif.

Following law school, Professor Overby served as a clerk for Judge Richard J. Cardamone of the U.S. Court of Appeals for the Second Circuit and as an associate at Mayer, Brown & Platt in Chicago from 1988–1990. She was a member of the Illinois Bar.

Professor Overby was an invaluable member of the faculty from the time she

joined the law school in July 1990. She taught classes in contracts and commercial law with a genuine enthusiasm for the subject. Professor Overby was a gifted teacher who received outstanding teaching evaluations. She gave extraordinary time and energy to her students, and in return, she was beloved by many and deeply respected and admired by all.

Professor Overby achieved tenure in 1996 and was promoted to full professor

Professor Overby was a well-published scholar. A list of her presentations and articles follows:

PRESENTATIONS

Conference, "Teaching Consumer Law," University of Houston Law Center, April 2002 (panelist on "What is Consumer Law?" and organizer/moderator of panel on Consumer Law Scholarship)

"Public Choice Theory" and "New Institutional Economics," Tulane Law School, February 2001 (segments for mini-course on Law & Economics)

"Consumer Protection: The United States and European Union Compared," Tulane Law School, March 1996 (conference for Austrian notaries)

Symposium, "Shaping American Communities: Segregation, Housing, and the Urban Poor," University of Pennsylvania, February 1995 (presenter of main paper on panel addressing Community Reinvestment Act)

Eason-Weinmann Conference, "The Harmonization in Transnational Norms and Processes," Tulane Law School, January 1994 (discussant on application of good faith and fair dealing in international transactions)

ARTICLES

Allocation of Check Kiting Losses Under the UCC, Regulation CC, and the Bankruptcy Code: Reconciling the Standards, *WAKE FOREST L. REV.* (forthcoming 2009)

Mortgage Foreclosure in Post-Katrina New Orleans, 48 *B. C. L. REV.* 851 (2007)

Consumer Protection in China After Accession to the WTO, 33 *SYR. J. INT'L L. & COM.* 47-92 (2006)

Check Fraud in the Courts After the Revisions to UCC Articles 3 and 4, 57 *ALA. L. REV.* 351 (2005)

Our New Commercial Law Federalism, 76 *TEMPLE L. REV.* 2007 (2003)

Contract, in the Age of Sustainable Consumption, 27 *J. CORP. L.* 603 (2002)

An Institutional Analysis of Consumer Law, 34 *VAND. J. TRANS. L.* 1219 (2001)

Will Cyber Law be Uniform? An Introduction to the UNCITRAL Model Law on Electronic Commerce, 7 *TUL. J. INT'L & COMP. L.* 219 (1999)

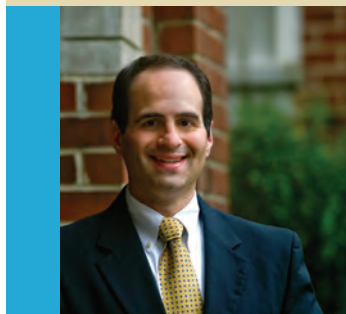
Modeling UCC Drafting, 29 *LOY. L.A. L. REV.* 645 (1996)

The Community Reinvestment Act Reconsidered, 143 *U. PA. L. REV.* 1431 (1995)

Bondage, Domination, and the Art of the Deal: An Assessment of Judicial Strategies in Lender Liability Good Faith Litigation, 61 *FORDHAM L. REV.* 963 (1993)

Arbitrability of Disputes under the Federal Arbitration Act, 71 *IOWA L. REV.* 1137 (1986)

RONALD J. SCALISE JR.



A.D. Freeman Associate Professor of Civil Law
BA, summa cum laude, 1997; JD, summa cum laude,
2000, Tulane University; LLM, 2003, first class
honors, Cambridge University

Prior to joining the Tulane law faculty in 2009, Professor Ronald Scalise had served on the faculty of the Louisiana State University Law Center since 2004. Since 2007, he held the McGlinchey Stafford Associate Professorship there. After his graduation

from Tulane Law School, where he was articles editor of the *Tulane Law Review*, Professor Scalise clerked on the U.S. Court of Appeals for the Fifth Circuit and pursued his LLM at Trinity College, Cambridge University, on a Gates Fellowship. He then worked as an associate attorney in the corporate and business section of the New Orleans law firm of Stone Pigman Walther Wittmann, LLC.

A member of the Louisiana State Law Institute and a board member of the American Society of Comparative Law, Professor Scalise has written extensively on civil law topics, particularly in the area of successions and inheritance. He currently is editing a book on European contract law and working on another book on the civil law of property.

Courses Fall 2009: Civil Law Property II, Obligations II / Spring 2010: Roman Law

Other courses Introduction to Civil Law Property, Obligations I, Comparative Law



SHU-YI OEI

Associate Professor of Law
AB, magna cum laude, 1999, Brown University;
MTS, JD, 2003, Harvard University

Professor Shu-Yi Oei joined the Tulane Law School faculty this fall. After graduating from Harvard Law School in 2003, Professor Oei practiced tax law at the Boston law firm of Bingham McCutchen for almost six years. Her practice

involved advising clients in a wide variety of federal, state, and international tax matters and encompassed individual, corporate, partnership, and cross-border taxation. From 2008 to 2009, Professor Oei also held a post-graduate research fellowship at Harvard Law School. Professor Oei's research and teaching interests are in U.S. taxation and tax policy.

In addition to her law degree, Professor Oei holds a Master of Theological Studies from Harvard Divinity School. While in law school, Professor Oei was a primary editor of the *Women's Law Journal*, a member of the Harvard Legal Aid Bureau, and founded the Harvard Hapkido Club.

Courses Fall 2009: Income Taxation / Spring 2010: Tax Policy Seminar, Corporate Tax

Articles *A Structural Critique of Trader Taxation*, 8 FLA. TAX REV. 1013 (2008)

Context Matters: The Recharacterization of Leases in Bankruptcy and Tax Law, 82 AM. BANKR. L.J. 635 (2008)

Rethinking the Jurisdiction of Bankruptcy Courts over Post-Confirmation Federal Tax Liabilities: Towards a New Jurisprudence of 11 U.S.C. § 505, 19 AKRON TAX J. 49 (2004)

in 2002. She was a visiting professor at Notre Dame Law School in spring 2002. In her later career, she developed an interest in China, learning Mandarin and traveling as a Fulbright lecturer to the China University of Political Science and Law in Beijing. She was an enthusiastic, intrepid world traveler, and, in addition to China, visited Africa, Thailand, Vietnam, Mongolia, and Central Asia.

Brooke Overby was an active and energetic member of many law school and university committees and authored a comprehensive report on the law school's clinics in 1999. She recently chaired the law school's successful search to fill the John B. Breaux Chair.

Professor Overby wished more than anything to see her students succeed, but a close second to that was to see the intellectual and scholarly community of the Tulane law faculty prosper. As chair of the school's Intellectual Life Committee, she worked hard to encourage and enrich a culture of scholarship. She mentored many of her colleagues, and her contribution to the intellectual life of the school will not be forgotten.

Accordingly, at the suggestion of her colleagues and students, the law school is establishing in Professor Overby's memory **The Brooke Overby Faculty Research Fund**, to be used to support faculty research and scholarship. The law school invites contributions from Professor Overby's colleagues, students and friends. Donations in Brooke's memory may be sent to Andrew Romero, senior director of development, Tulane University Law School, 6329 Freret Street, Suite 210B, New Orleans, La., 70118, or may be made online at www.law.tulane.edu/giving. Please indicate that your gift is intended for the "Brooke Overby Memorial Fund at Tulane Law School."

For questions or additional information about supporting the Overby Fund, contact Andrew Romero at 504-862-8559 or aromero@tulane.edu.

Adeno Addis has published two articles: "Symposium: International Judges: Identitarian Anxiety and the Nature of Inter-tribunal Dialogue" (9 *Chicago Journal of International Law*, 2009), and "Imagining the International Community: The Constitutive Dimension of Universal Jurisdiction" (31 *Human Rights Quarterly* 129, 2009). His article, "Torture as a Counterterrorism Strategy," is scheduled for publication in the *Chuo Law Review*, 2010. Addis also participated in a conference on "Fighting Impunity and Promoting International Justice," held at The Hague in June, and on a jurisprudence panel held at Yale Law School, where he presented a paper honoring the work of Professor Michael Reisman of the Yale Law School. The paper, entitled "Law as A Process of Communication: Reisman Meets Habermas," will be published as a chapter in a volume celebrating Reisman's work. As part of the Tulane-Chuo exchange program, Addis delivered three lectures at Chuo University in Japan.

Jeanne Carriere presented "The English Constitution in Shakespeare's *Richard II*" on the Law and Literature panel at SEALS in August. She also has co-edited A.N. Yiannopoulos's *Civil Law Property Coursebook: Louisiana Legislation, Jurisprudence and Doctrine*, 9th ed. (Baton Rouge: Claitor's, 2009) (with Dian Tooley-Knolett of Loyola and J.R. Trahan of LSU).

Martin Davies delivered presentations on "Time Charters: Last Voyage and Related Issues," and "Rule B Attachment" at an International Chartering Seminar in Tokyo, Japan (May 2009). Two days later, he delivered a presentation on "Double Insurance and

Contribution" at the Australian Insurance Law Association/Queensland Law Society Insurance Law Intensive in Noosa, Australia. Davies participated in an invitational National Intelligence Council Workshop on Piracy and Counter Piracy in Herndon, Va., in June 2009. He also delivered the Annual Address of the Australian Maritime and Transport Arbitration Commission in the Federal Court of Australia in Brisbane on July 2, 2009. The topic was "More Lawyers But Less Law: Maritime Arbitration in the 21st Century." The address was video-linked to federal courthouses in Sydney, Adelaide, Melbourne and Perth.

Mark Davis authored two new articles: "Effective Coordination and Cooperation Between Ecological Risk Assessments and Natural Resource Damage Assessments: A New Synthesis," to be published in *Society of Environmental Toxicology and Chemistry Integrated Environmental Assessment and Management* (October 2009), and "Preparing for Apportionment: Lessons from the Catawba River," published in the *Sea Grant Law and Policy Journal* (June 2009). Davis was featured briefly in the HBO documentary "The Yes Men Fix the World," which was slated for theatrical release in October. The Yes Men impersonate spokespersons for big companies and government agencies to both satirize them and draw attention to underlying issues.

Claire Dickerson has made several presentations including "OHADA on the Ground: Harmonizing Business Laws in Three Dimensions" at the University of Stellenbosch, in Stellenbosch, South Africa, at a conference organized jointly by the International Association of Legal Science and the World Society of Mixed Jurisdiction Jurists. In June, she spoke on "OHADA and Doing Business in Africa: An Academic Perspective" for the OHADA-Nigeria 2009 International Conference in Lagos, Nigeria. She also

presented on the topic of "Drafting laws for commercial transactions" for the Public Law Center's Legislative Drafting seminar on June 24, 2009. Dickerson has published "Corporate Social Responsibility: Lessons from the South on Law and Business Norms" in *Law and Economics: Toward Social Justice* (Dana Gold ed.: Elsevier book series *Research in Law and Economics*, 2009).

Onnig Dombalagian presented "A Virtuous Cycle?: Legal and Regulatory Responses to the Rise in Shareholder Activism," at the George A. Leet Business Law Symposium "Institutional Investors and Corporate Governance: Heroes or Villains?" The symposium, held in Cleveland, Ohio, last April, was sponsored by the Center for Business Law and Regulation, Case Western Reserve University School of Law. His article, "Requiem for the Bulge Bracket?: Revisiting Investment Bank Regulation," has been accepted for publication in volume 85 of the *Indiana Law Journal* (2010 forthcoming). Dombalagian testified as an independent legal expert at a field hearing of the U.S. Senate Committee on Banking, Housing & Urban Affairs chaired by Sen. David Vitter (R-La.). The topic of the field hearing, held in Baton Rouge, La., on August 17, was "Alleged Stanford Financial Group Fraud: Regulatory and Oversight Concerns and the Need for Reform."

James Duggan served as president and presiding officer at the American Association of Law Libraries (AALL) Annual Meeting and Conference in Washington, D.C., July 25-28. The conference, which was attended by approximately 3,000 law librarians, invited guests, speakers and vendors, focused on his chosen theme, "Innovate." He presided over the AALL Executive Board Meeting, opening of exhibits, recognition luncheon, business meeting, opening session and closing banquet. Duggan also moderated a





session and introduced the keynote speaker, Jonathan Zittrain (Harvard Law School), who spoke about the future of the Internet and Law Libraries. On May 19, he represented AALL at the Mayflower II meeting in Washington, D.C. Also in May, Duggan was an invited delegate to the China-U.S. Conference on legal information and law libraries, held in Beijing, and spoke as part of the opening ceremonies. He was the featured speaker at the May 21, 2009, Meeting of the Chicago Association of Law Libraries (CALL). Finally, Duggan was appointed to the American Advisory Board of the Chinese American Forum on Legal Information and Law Libraries (CAFLI), with a service term through June 30, 2012.



Joerg Fedtke co-authored a 40+-page update on German tort law (with Dr. Florian Wagner-von Papp of UCL), due to appear in the *European Tort Law Yearbook 2008* (ed. Koziol/Steiniger). A second contribution to a volume on the legal implications of genetically modified organisms (agricultural products in particular) in Germany will appear soon in a volume published by the European Center for Tort and Insurance Law (ECTIL) in Vienna. He has two new publications:

Engaging with Foreign Law (Hart Publishing, Oxford, together with Sir Basil Markesinis), and *Judicial Recourse to Foreign Law* with Sir Basil (Oxford 2006). (Italian edition: *Giudici e Diritto Straniero* [translation by Anna Taruffo], Società editrice il Mulino, Bologna 2009). Fedtke presented the fifth session of the Civil Law Workshop/Saúl Litvinoff Series at the LSU Paul M. Hebert Law Center on Nov. 9, 2009. His talk was entitled “Time to Move On: Challenging a Tired Division, Common Law Methods in a Civil Law System.” Tulane law professor Ronald J. Scalise, Jr. is an editor of the Saúl Litvinoff Series.

Gabe Feldman’s article, “The Puzzling Persistence of the Single Entity Argument for Sports Leagues: American Needle and the Supreme Court’s Opportunity to Reject a Flawed Defense,” has been accepted for publication by the *Wisconsin Law Review*. The article also was cited by the petitioner’s brief to the Supreme Court in *American Needle v. NFL*. He presented his article, “The Misuse of the Less Restrictive Alternative Inquiry in Rule of Reason Analysis,” at the Southeastern Association of Law Schools (SEALS) Conference in Palm Beach, Fla. It has been accepted for publication in volume 58 of the *American University Law Review*. In November, Feldman testified before the House Subcommittee on Commerce, Trade, and Consumer Protection at a hearing entitled, “The NFL StarCaps Case: Are Sports’ Anti-Doping Programs at a Legal Crossroads?”

Robert Force attended an International Conference on Maritime Pollution Liability and Policy in June, where he delivered a paper entitled, “A Comparison of the Recovery of Compensation for Injury to Natural Resources under the 92 CLC and Fund Conventions with the U.S. Oil Pollution Act of 1990.” Co-sponsored by Dalian Maritime University and the University of Maastricht, the conference was held in Dalian, PRC. Force also delivered three lectures on the proposed Rotterdam Rules (a new Carriage of

Goods by Sea regime). The lectures were held in Beijing, Wuhan, and Shanghai.

Joel Friedman has published *The Law of Employment Discrimination* (7th ed., Foundation Press) and *Friedman & Collins, The Law of Civil Procedure* (2009 Supplement, Thomson/West). His recent presentations include: “Recent Developments in Employment Discrimination Law,” at the 2009 Multi-State Labor and Employment Law Seminar (San Antonio, Texas, May 2009), “The Life of Judge John Minor Wisdom,” at the New Orleans Bar Association’s “Minorities in the Profession” (New Orleans, La., June 2009), “Overview of Employment Discrimination Law,” at the Orientation Program for Newly Appointed U.S. District Judges, (Washington, D.C., June 2009), and “Judicial Biographies” at the 2009 Annual SEALS conference (Palm Beach, Fla., June 2009).

James Gordley chaired the Working Group on Contract Law for a project called “The Common Core of European Private Law,” whose annual meeting was held in Torino, Italy, June 26–27, 2009.

Catherine Hancock delivered a talk on Feb. 13, 2009, at the annual Fourth Amendment Symposium, sponsored by the National Center for Justice and the Rule of Law at the University of Mississippi. The topic for the symposium was “Great Dissents in Fourth Amendment Cases.” Hancock also served as the moderator and organizer of a panel on rape shield law, entitled “Evidence and Rape,” at the 2009 Annual SEALS Meeting in Palm Beach, Fla., on Aug. 3, 2009.

Jancy Hoeffel presented “Teaching Rape Shield Law in Evidence: A Model Trial Approach,” at the August 2009 SEALS conference. She was appointed to Chair of Moderator Committee for SEALS 2010 Conference.



Stephen Griffin spoke on “War Powers and Constitutional Change” at the Murphy Institute’s Center for Ethics and Public Affairs Faculty Seminar workshop, held in October. The Faculty Seminar is a twice-monthly event at which Tulane faculty, the Center’s Faculty Fellows, and distinguished visitors present works in progress.

Oliver Houck has three new publications in 2009: “A Case of Sustainable Development: The River God and the Forest at the End of the World,” *Tulsa Law Review* (spring edition); “How’d We Get Divorced?: The Curious Case of NEPA and Planning,” *Environmental Law Reporter* (July); and “The Messenger,” *The Environmental Forum* (June). His review of the book, *Rules of the Road*, was published in *The Environmental Forum* (August).

Glynn Lunney participated in a meeting of the Copyright Principles Project, a working group focused on copyright



reform, in St. Helena, Calif., and the Kauffman Summer Legal Institute on Law, Innovation, and Growth. He also submitted a paper, entitled “Copyright, Private Copying, and Discrete Public Goods,” to the *Tulane Journal of Technology & Intellectual Property*, as part of its issue on the future of copyright.

Vernon Palmer co-edited with Elspeth Reid the first comparative work on Louisiana and Scots private law entitled, “Mixed Systems Compared: Louisiana and Scots Private Law” (Edinburgh University Press). Palmer edited and published the “Bicentennial Papers of the Louisiana Digest of 1808” in the *Tulane*

European and Civil Law Forum, which appeared in late August. His Wainwright lecture at McGill entitled, “Quebec and Her Sister Mixed Jurisdictions,” has been published in the *McGill Law Review* (summer 2009). Palmer also presented a new research project, “Immaterial Loss and Moral Damages in European Contract Law,” to the Common Core group in Turin this June.



HEADLINERS

TULANE LAW SCHOOL IN THE NEWS

NEWSDAY

“While piracy has been a federal crime in the United States since 1819, it hasn’t been prosecuted here in more than 100 years...”

—**Martin Davies**, director, Tulane Maritime Law Center, comments on piracy law, relative to the Somali pirate trial. The last prosecution Davies could find in the law books was mentioned in a U.S. Supreme Court decision in 1894. *April 2009*

CONGRESSIONAL QUARTERLY

“[A key issue in the case is] how do you disentangle the activity that you are doing on behalf of constituents or to advance your policy interests versus your personal interests?”

—Interim Dean **Stephen Griffin** shares remarks on the long-delayed corruption trial of former Democratic Representative William J. Jefferson. Jefferson was accused of plotting to bribe a Nigerian official as part of an attempt to broker a business deal

in 2005. Prosecutors allege that \$90,000 found foil-wrapped in the freezer of his Washington, D.C. home in 2005 was part of \$100,000 in bribe money passed to him by an FBI informant. Jefferson’s attorneys said that he was acting as a private businessman and did not undertake official acts on behalf of the companies, such as casting a vote or introducing legislation. *June 2009*

BUSINESS REPORT

“The problem with anti-fraud is the state-of-mind rule. ... They’ll have to prove that [the advisers] intended to deceive or spoke with reckless disregard. There are issues with demonstrating state of mind. They’ll also have to examine if there was a relationship of domination and control.”

—Professor **Onnig Dombalagian** on the state Attorney General’s Office investigation into the Louisiana-based Stanford companies. Dombalagian explains that charging advisers with fraud for having knowingly allowed investors to purchase CDs that were only worth the paper on which they were printed or charged with failing to see or acknowledge the fraud occurring in their midst might be difficult to prove, noting the advisers could attempt to claim they were duped as well. *July 2009*



Ronald Scalise Jr. was a visitor at the Max Planck Institute for Comparative and International Private Law in Hamburg, Germany, in June 2009. He presented “Undue Influence and the Law of Wills: A Comparative Analysis” while at the Institute. Scalise also presented his questionnaire on Penalty Clauses, a subject for which he is a book editor, at the 15th annual meeting of the Common Core of European Private Law project in Torino, Italy, in June 2009.

Edward Sherman has been appointed by the President of the American Bar Association as Chair of the Task Force on Federal Preemption of State Tort Law, composed of a distinguished group of lawyers, judges and law academics. His “Recommendations and Report” as Reporter for the ABA Task Force on Disaster Insurance, adopted by the ABA House of Delegates earlier this year, has been distributed to congressional staffs. Sherman’s paper, “Judicial Supervision of Attorney Fees in Aggregate Litigation: The American Vioxx Experience as Example for Other Countries,” was

delivered at the Annual International Conference of the International Association of Procedural Law in Toronto in July and was published shortly thereafter. His article, “U.S. Supreme Court Rejects Bush Administration Position on Guantanamo Detainees: The Watershed of the *Boumediene v. Bush* Line of Cases,” will be published in the *International Review of Military Law and the Law of War*.

Tania Tetlow presented her paper, “Discriminatory Acquittals” at the SEALS conference in August 2009; the paper will appear later this year in the *William and Mary Bill of Rights Journal*. Tetlow also presented her article on “Discriminatory Acquittals” to the faculty of the Washington University Law School on September 11.

Elizabeth Townsend-Gard presented “Wrestling with the 1909 Copyright Act in Theory and Practice,” at the IPSC Conference at Cardozo, August 2009. She also moderated a New Scholars (IP) panel at SEALS in August. Townsend-Gard was the keynote speaker on a panel discussion, “Copyright and

THE FOLLOWING FACULTY MEMBERS HAVE RECEIVED PROFESSORSHIPS FROM ENDOWED FUNDS:

Onnig Dombalagian

The George Denègre Professorship in Law

Jancy Hoeffel

Catherine D. Pierson Endowed Professorship

Tania Tetlow

The Felder-Fayard Early Career Professorship in Law

the University in the Era of Google Books,” held Nov. 13, 2009, at the James E. Rogers College of Law, University of Arizona. She and W. Ron Gard presented their paper, “Marked by Modernism: Reconfiguring Copyright for the 21st Century,” at the Tulane Law School Summer Faculty Brown Bag series.

Keith Werhan has written a solicited book review of Joseph P. Tomain’s, *Creon’s Ghost: Law, Justice, and the Humanities* (OUP 2009), for the *Law and Society Review*. He also presented at a panel on the Reporters’ Privilege at the SEALS conference in August 2009.

W W L T V

“I’m surprised they are going after [a] relatively small company, but maybe the facts were very egregious. The reality is Community Coffee understood their contracts with the federal government were at risk, they weren’t going to do anything to risk that, these are important to Community Coffee.”

—Professor **Joel Friedman** speaks out about the Department of Labor’s hiring discrimination allegations against Community Coffee. While no minority applicants filed complaints against the company, the Labor Department’s Office of Federal Contract Compliance Programs launched an investigation and determined that, from 2004–2007, Community Coffee violated government regulations by not hiring more minorities “for a part-time barista position.” *October 2009*

UNITED PRESS INTERNATIONAL

“They are basically jails with curtains on the windows. ... They come in shackles.”

—Juvenile Law Clinic student attorney **Candice Balmori** echoes the contention of Orleans Parish Juvenile Court Judge

Mark Doherty, who says the juvenile detention facilities function more as jails than as rehabilitation centers. Doherty asked the Louisiana Supreme Court to allow the state’s first jury trial for a juvenile, contending that since its juvenile detention centers mirror the punishment functions of adult jails, minors also should be entitled to receive jury trials like adults. Balmori argued Doherty’s jury trial request before the state Supreme Court. *October 2009*

THE TIMES-PICAYUNE

“People either can’t get jobs or lost the jobs that they had. Historically, graduate school has been a reasonable place to sit out a recession.”

—**Susan Krinsky** shares her experience as Associate Dean for Admission, Financial Aid & Career Development. A 15 percent increase in applications this fall—the first jump in interest the school has seen since Katrina—leads her to believe things are getting back to normal. Still, Krinsky admits she is very interested to see where the application numbers will land for the 2010–11 academic year. *November 2009*

RECESS FOR REFLECTION



“LIVE YOUR QUESTIONS NOW, AND PERHAPS EVEN
WITHOUT KNOWING IT, YOU WILL LIVE ALONG
SOME DISTANT DAY INTO YOUR ANSWERS.”

—*Rainer Maria Rilke*





TAKING THE LAW IN THEIR HANDS

CLINICAL LEGAL EDUCATION CHANGES LIVES

BY NICK MARINELLO AND LAUREN VERGONA

PHOTOGRAPHS BY EUGENIA UHL

“The real world is not like some case in a casebook with abstract facts.... [In clinics] you’re put in a situation where you don’t know what the facts are. You have to extract them yourself. And that is the most valuable kind of learning, the active, involved learning. And that transforms law schools.”

—THE LATE JOHN KRAMER,

DEAN OF TULANE LAW SCHOOL FROM 1986 TO 1996



AT THE BEGINNING of every academic year, student attorneys enrolled in the law school's Criminal Litigation Clinic are given a tour of Orleans Parish Criminal District Court. Along the way they make a stop at magistrate court, presided over by Judge Gerard Hansen. In the months to come, Hansen will see the students return to his court as legal representatives of indigent clients. As he does every year, Hansen reads the awe and anticipation in the students' eyes and then delivers what is both a simple and profound observation.

"When I graduated law school, I didn't even know where the courthouse was," he tells the student attorneys. "You will not only know where the courthouse is, but you will have argued cases in it."

Building the bridge between knowing and doing is what clinical legal education is all about. Without clinic experience, a student could graduate from law school never having argued a case, drafted a motion or represented a client. Yet as soon as they pass the bar, they would be licensed to do all of those things.

"The best way to learn is to do," says Katherine Mattes, interim director of the Criminal Law Clinic. "And for a law student to learn to practice law, he or she must meet clients, draft real legal documents, examine real witnesses and make real arguments in a real courtroom. To be able to do all of this while you are being supervised and have the safety net provided by a clinic experience is invaluable."



A NEW ERA

This year, clinical education at the law school celebrates its 30th anniversary. Jane Johnson (L '74) has been involved in clinical education at Tulane for the entirety of that time.

"I believe the clinics were created in recognition of the fact that a new era of legal education was beginning and that Tulane should join in," says Johnson, director of the Public

Interest Externship and founding director of both the Civil Litigation Clinic and the Domestic Violence Clinic.

As late as 1969, only a handful of the nation's law schools included clinical education alongside their traditional curricula. Beginning in 1968 and continuing through the early 1970s, however, the Council on Legal Education and Professional Responsibility began making what would amount to \$11 million in grants to approximately 90 law schools across the country to establish live-client clinics.

While Tulane was not in that initial wave of schools, it was only a matter of time before the law school administrators, responding in part to student interest, jumped into the game, creating the civil, criminal, and juvenile clinics, all of which were housed in cramped quarters on Freret Street, down the block from what in those days was the law school's location in Joseph Merrick Jones Hall.

"This new form of legal education had at its core the involvement of students in representing real clients under faculty supervision," says Johnson.

Back in the late '70s, David Katner (A&S '77, L '80) was among the law students circulating a petition advocating clinical education at the law school. Today Katner is a professor of clinical law and director of the Juvenile Law Clinic, a position he has held since 1984.

"Clinical education was somewhat controversial when it

"CLINIC WORK IS DIFFICULT;
THE LEARNING CURVE IS
ENORMOUS, CLIENTS' NEEDS
ARE SERIOUS AND LONG
HOURS ARE STANDARD."



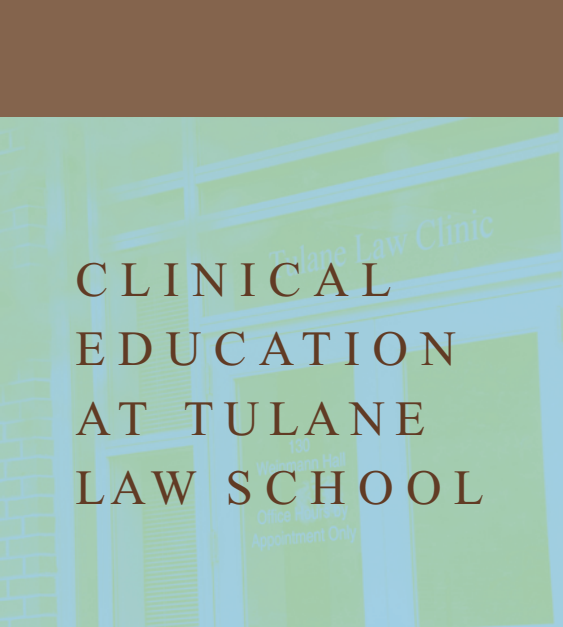
emerged on the national scene, as it competed with more traditional classes for student participation," says Katner. "Today, however, most top tier schools offer live-client clinic instruction, and the [American Bar Association] has pressured law schools to expand on experientially based legal training."

The original three clinics are now joined by the

CIVIL LITIGATION CLINIC

1st row (l to r): M. Lucia Blacksher (Clinical Instructor), K. Tregilgas, B. Barrient, B. Buckley, W. Gamble, Z. Weisberg, D. Meyer; E. Greenbaum, Stacy Seitsmaydre (Associate Professor/Director). 2nd row: Joseph Escandon (Visiting Clinical Instructor), W. Duesman, N. Copping, A. Provosty, C. Bernhardt, P. Hernon, M. Schopf, J. Belaga. Not pictured: C. Johnson





CLINICAL EDUCATION AT TULANE LAW SCHOOL

The Louisiana Supreme Court and federal courts in Louisiana authorize third-year law students to conduct a limited law practice for indigent clients. Under the direction of Tulane supervising faculty who are members of the Louisiana bar, students represent clients by investigating, preparing, and trying cases, or by becoming involved in administrative or legislative proceedings.

In the Tulane law clinics, instruction is provided in a variety of contexts. For most of the clinics, students enroll in a seminar on lawyering skills, which addresses interviewing, counseling, negotiating, case planning, discovery, and motion practice. The emphasis is on lawyering skills that students will use after leaving law school. Students may also learn through simulated role performances, which are videotaped and critiqued. Finally, under faculty supervision, students represent individuals or organizations before trial or appellate courts, administrative agencies, or legislative bodies.

CIVIL LITIGATION CLINIC

Represents clients primarily in civil rights matters in federal court. The civil rights docket includes fair housing, employment discrimination, police misconduct, and First Amendment claims.
DIRECTOR: Stacy Seicshnaydre (L '92), William K. Christovich Associate Professor of Law
CLINICAL INSTRUCTOR: M. Lucia Blacksher (BA '96)
VISITING CLINICAL INSTRUCTOR: Joseph Escandon (L '07)
FOUNDED: 1979
CURRENT # OF STUDENT CLINICIANS: 15

CRIMINAL LITIGATION CLINIC

Through appointment by state courts, the criminal clinic represents indigent defendants charged with misdemeanors and felonies. Students participate in every phase of a criminal case, from first court appearance through appeal. The clinic's caseload relieves the state courts of some of the cost of public defenders. The clinic also aids the court in providing representation in cases involving multiple defendants, where the public defender's office may be presented with a conflict in representing more than one defendant.
INTERIM DIRECTOR: Katherine M. Mattes, Professor of the Practice
CLINICAL INSTRUCTOR: Sheila C. Myers (L '74)
FOUNDED: 1979
CURRENT # OF STUDENT CLINICIANS: 12

DOMESTIC VIOLENCE CLINIC

Handles both civil and criminal cases and is designed to address clients' representation needs in family law, housing, employment, consumer credit, and criminal matters resulting from relationship violence.
DIRECTOR: Tania Tetlow (N '92), Felder-Fayard Associate Professor of Law
DEPUTY DIRECTOR: Becki T. Kondkar
FOUNDED: 2002
CURRENT # OF STUDENT CLINICIANS: 10

ENVIRONMENTAL LAW CLINIC

Represents indigent persons and community organizations seeking to protect and restore the environment.
DIRECTOR: Adam Babich, Professor of Law
DEPUTY DIRECTOR: Jill Witkowski, Professor of the Practice
CLINICAL INSTRUCTORS: Elizabeth Calderón (MA '94, L '98), Lisa Jordan (LLM '91), and Corrine Van Dalen
FOUNDED: 1989
CURRENT # OF STUDENT CLINICIANS: 28

JUVENILE LAW CLINIC

Represents both parents and their children in cases in the Orleans Parish Juvenile Court system. Cases involve indigents unable to afford counsel for juvenile delinquency matters, children in need of care (neglect and abuse) cases, and termination of parental rights cases. Student attorneys handle all pre-adjudication investigations, motion hearings, trials, and appeals.
DIRECTOR: David R. Katner (BA '77, L '80), Professor of Clinical Law and Felix J. Dreyfous Teaching Fellow in Juvenile Law
FOUNDED: 1979
CURRENT # OF STUDENT CLINICIANS: 10

LEGISLATIVE & ADMINISTRATIVE ADVOCACY CLINIC

The Legislative & Administrative Advocacy Clinic has operated [under The Public Law Center] since January 1988 as a clinical legal education program, teaching courses in legislative process and administrative rulemaking to second- and third-year law students at both Tulane Law School and Loyola University New Orleans School of Law.
DIRECTOR: David Marcello (L '71), Adjunct Professor of Law
FOUNDED: 1988
CURRENT # OF TULANE LAW SCHOOL STUDENT CLINICIANS: 13
(an additional 10 student clinicians attend Loyola Law School)

Environmental Law Clinic (1989), Domestic Violence Clinic (2002), and the Legislative and Administrative Advocacy Clinic (1988), which is a joint operation with Loyola University New Orleans School of Law.

Carrying on the same tradition that started nearly three decades ago, this past August 75 new student attorneys of the Tulane Law Clinics were sworn in to practice law under the provisions of Rule XX in the en banc courtroom of the Louisiana State Supreme Court.

“The number of clinics has increased thanks in large part to the clinics’ biggest fan, our former dean, the late, great John Kramer,” says Johnson.

Over the years, recruitment of additional clinical instructors has allowed for an increase in enrollment in most clinics. The growth in student interest, as Johnson points out, may also owe in part to the fact that the clinics are now housed in a more commodious and pleasant environment since being relocated from “the dumpy house on Freret Street” to Weinmann Hall.

“We were isolated over there, like a moon colony in a science fiction novel,” says Johnson.

Since 1979, the legal careers of more than 2,000 Tulane attorneys have been prefaced by work in the law clinics, and more than 4,000 indigent clients have received free, quality legal services. The clinical program is well known nationwide and plays an important role in recruiting new students to the law school.

TRAINING BY DOING

There have been only three great innovations in the training of lawyers, says Johnson: the establishment of law schools, the institution of the case book method, and the introduction of clinical education.

Listening to Johnson discuss clinical education is an education in itself. And the take-home message is this: if you love what you do, you will remain passionate about doing it. After 30 years,



“THE COMMENT OF AN ORDINARY CITIZEN CARRIES MORE WEIGHT IF OFFICIALS KNOW THAT THE CITIZEN HAS THE POWER TO SEEK JUDICIAL REVIEW OF ANY ADMINISTRATIVE DECISION HARMING HIM.”

ENVIRONMENTAL LAW CLINIC 1st row (l to r): Elizabeth Calderon (Instructor), A. Villegas, A. Heishman, B. Mogabgab, L. Benbenisty, J. Tuchman, R. Nazarian. 2nd row: Corinne Van Dalen (Instructor), M. Altaras, E. Cerimele, M. Hupp, A. Zeiter, K. Yancey, M. Marsh, C. Scott. 3rd row: D. Tynan, Jill Witkowski (Deputy Director), J. Gray, A. Owings, D. Barnett, M. Miller, S. Patel, M. Murphy. 4th row: Adam Babich (Professor/Director), E. Ranchoff, K. McDunn, B. Griffith, T. Culley. Not pictured: L. Topp, M. Jordan, L. Swanner, D. Csank, B. Manning, S. Biswas, Lisa Jordan (Instructor)

Johnson talks about the clinics like a starry-eyed romantic.

“Training occurs by doing,” she says. “Students learn by planning action, taking action and reflecting on the action taken.”

All clinical education at Tulane operates roughly in the same manner. Rule XX allows third-year law students, under the supervision of an advising attorney, to conduct limited law practice for indigent clients.

A clinic is a time-consuming commitment. Johnson explains that in most clinics three separate courses must be taken, each for three hours of academic credit: clinic seminar and clinic casework in the fall, and clinic casework in the spring. “Clinic work is difficult; the learning curve is enormous,

CRIMINAL LITIGATION CLINIC 1st row (l to r): B. Dinehart, J. Bach, A. Drozdek, D. Gurdian, B. Lee, S. Chaudhri, D. Gabriel. 2nd row: Katherine Mattes (Interim Director), J. Ullman, K. Schlemmer, J. LaMarca, J. Kelley, P. Wood, Sheila Myers (Clinical Instructor)



clients' needs are serious and long hours are standard.”

What students learn from their clinical experience will vary from clinic to clinic.

“Students are expected to take the initiative with their cases, to develop case plans, to draft pleadings, argue motions and try cases,” says Tania Tetlow, director of the Domestic Violence Clinic and Felder-Fayard Associate Professor of Law. “In our clinic, this means representing domestic violence survivors in a wide array of family law issues, from protective orders to highly contested custody proceedings, along with the other legal issues that trap our clients in violent relationships, financial issues relevant to their economic independence, housing and employment.”

The array of issues is very different from those in the Environmental Law Clinic.

According to clinic director Adam Babich, students in the environmental clinic “litigate and negotiate environmental citizen suits to abate industrial pollution, appeal permits for environmental pollution or destruction of wetlands, challenge agency regulations that fall short of legislative mandates, and prod government to perform statutory duties.”

Another degree removed is the work of the Legislative and Administrative Advocacy Clinic, which operates under The Public Law Center (TPLC). Students in this clinic do not litigate. Rather, students learn and pursue law-making through legislative enactment and agency rulemaking.

“At one time I took to describing our clinic as the ‘uncola’ because of those differences,” quips David Marcello, the clinic’s founding director.

A student graduating law school with traditional legal education is likely to assume that the most substantial body of law is written by appellate judges, says Marcello.

“In fact, however, much of the law that directly affects people’s lives is a product of legislatures, and perhaps even more is produced pound for pound by administrative agencies in the form of rules and regulations.”

And yet, underlying all the rules and regulations, briefs, and hearings is a common lesson imparted to all students no matter which clinic they are affiliated with.

“Representing exclusively indigents who cannot afford an attorney forces students to embody the professional obligation to render service to the poor,” says Johnson. “Most clinic students do not specialize in the representation of indigents once they enter practice, but few forget their experience.”



SAVING LIVES

While clinical experience is one of a number of components integral to a contemporary legal education, it is unique in that it does not exist solely for the student’s edification.

“Students see the direct correlation between what they learn and what they do for their clients,” says Stacy Seicshnaydre, director of the Civil Litigation Clinic. “They experience the tremendous impact that a lawyer can make on a client’s life.”

The work that is done by the clinics on behalf of clients represents a significant swath of societal concerns.

Seicshnaydre can tell the story behind any number of advocacy efforts currently under way at the Civil Litigation Clinic, each one more compelling than the next.

There is the case of the double amputee who was denied his apartment upon his return from the hospital. The clinic alleged that the landlord illegally implemented an independent living requirement against the amputee, refusing to allow him to live alone in the apartment. The students helped him reach a settlement of the case and he now lives independently.

Then there’s the story of the prisoner in Angola State Penitentiary who was severely disciplined for an ad he placed on the Internet seeking legal counsel. Alleging that the prisoner’s First Amendment rights were violated, students argued for a motion for summary judgment, which was granted.

DOMESTIC VIOLENCE CLINIC
1st row (l to r): D. Canales, C. Manske,
A. Tomlinson, V. Lam, H. Lopez.
2nd row: A. Grams, S. Cryder,
S. DeLeeuw, T. Keslar, Becki Kondkar
(Deputy Director), Tania Tetlow
(Associate Professor/Director).
Not pictured: N. Bowyer



ENVIRONMENTAL LAW CLINIC ENCOUNTERS CONTROVERSY

BY ADAM BABICH



The Tulane Environmental Law Clinic's (TELC) work on behalf of clients can be controversial. This is not surprising since environmental disputes usually involve concerns about public health, economics, and the quality of life. Many of these disputes are driven by the disproportionate impacts that polluting facilities can have on lower-income and minority communities and also by disparities between the abilities of regulated companies and ordinary citizens to influence agency decision makers.

Tensions became especially pronounced in the late 1990s when TELC represented St. James Citizens for Jobs and the Environment, Louisiana Environmental Action Network (LEAN), and others in opposing Shintech, Inc.'s proposal for a polyvinyl chloride plant in a predominately African-American and lower income community in St. James Parish, Louisiana. In 1997, TELC and Greenpeace filed a petition for a formal EPA objection to the state's Clean Air Act permit for the plant, citing regulatory violations and environmental justice concerns. TELC also raised the environmental justice issues in a separate civil rights complaint filed with EPA. EPA responded with an order that objected to the permit under the Clean Air Act and noted that the environmental justice concerns "deserve serious attention" and that EPA would investigate them. The next year, Shintech abandoned its plans for a St. James Parish facility and announced it would build a smaller plant elsewhere in Louisiana.

The American Bar Association honored TELC as co-recipient of its first "Award for Distinguished Achievement in Environmental Law and Policy" in 2000, largely due to the clinical work on the Shintech case. TELC was also a runner up for the *National Law Journal's* Lawyer of the Year award in 1998. But the Shintech case also sparked a backlash. The governor asked Tulane's donors to withhold support for the University. Tulane's president responded that TELC's students "have done nothing wrong; they have made a fine contribution to our state."

After members of the business community asked the Louisiana Supreme Court to rein in TELC, the Court, in 1998, revised the rule that allows law students to make formal appearances on behalf of clients. The deans of Tulane and Loyola Law Schools, the American Association of Law Schools, and others objected to the changes and the Court softened some of them. Louisiana's Attorney General and State Bar Association, among others, asked the Court to stay or rethink the revisions. Law professors from across the country rallied with representatives of civil rights and environmental organizations in front of the Louisiana Supreme Court to protest the new rule. Finally, the Court further softened the revisions in March 1999. As subsequently interpreted by the courts, the 1999 revised rule does not limit TELC's ability to represent clients on controversial or high-impact cases.

Today, TELC tries to defuse and manage controversy by stressing the duty of all lawyers to expand access to the legal system and to see that justice is not rationed by ability to pay or denied to those whose views might be controversial. Under the Rules of Professional Conduct that govern Louisiana's legal profession, representing a client "does not constitute an endorsement of the client's political, economic, social or moral views or activities." Thus, former Tulane Law School Dean Lawrence Ponoroff explained to a local newspaper that, "The clinic is neither anti-business nor pro-business.... It is in the business of representing clients with legitimate claims under the law."

Current Interim Dean Stephen M. Griffin has noted, "While many vague accusations have been made against the clinic, it has always operated according to the highest legal and ethical standards."

Tetlow does not mince words when assessing how clients of the Domestic Violence Clinic are affected by the work done on their behalf.

“Our clinic literally saves lives,” says Tetlow. “We have helped clients who have been tortured and beaten beyond recognition to escape their abusers.”

“...The work of the clinic has impacted very many lives,” says Katner. “Our clients may be spared the indignity of returning to homes where they have been abused or neglected, or they may be spared being adjudicated a juvenile delinquent.”

Yet even the most procedural undertakings reveal the humanity of the law. Recently, the Criminal Litigation Clinic has filed numerous habeas corpus petitions on behalf of defendants who have had an initial finding of incompetence, but by law are remanded to a mental health facility to determine if competency to stand trial can be restored by appropriate medical treatment and therapy. Due to a shortage of facility beds, these defendants can remain in local sheriffs’ custody for months and in some cases years before being transferred. In effect, they remain in jail, never having been convicted of a crime and receiving no mental health care.

“In each of the cases,” says Mattes, “the filing of the petition has led to the defendant receiving a bed or a placement in an alternative treatment setting.”

FARING FORWARD

Adam Babich mulls over a passage in T.S. Eliot’s “Four Quartets.”

“As I understand it,” Babich explains, “the words instruct life’s voyagers to embrace our journeys, to ‘fare forward’ because we may never know the satisfaction of arriving at any terminus.”

Those words, he says, strike a chord with environmental educators and lawyers who are unlikely to live long enough to see the long-term impact of their efforts.

“Will our students, or our students’ students, help forge a sustainable relationship between industrial society and nature?” he asks. “Can our work help buy communities enough time for lasting solutions to emerge and take hold?”

Still, he can take a measure of comfort in the here and now. “The Environmental Law Clinic has an impact even broader



“THE TAKE-HOME MESSAGE IS THIS: IF YOU LOVE WHAT YOU DO, YOU WILL REMAIN PASSIONATE ABOUT DOING IT.”

than the cumulative effect of our cases and negotiations,” says Babich. “This is because the mere availability of legal services empowers community members

in their dialogues with regulators and industry.”

There is a quote from a ruling by the U.S. Court of Appeals for the Fourth Circuit that Babich calls on: “The comment of an ordinary citizen carries more weight if officials know that the citizen has the power to seek judicial review of any administrative decision harming him.”

“Taking full responsibility for another person’s problems—their financial plight, their safety, their self respect, even their liberty—is a sobering duty and students rise to the challenge by working extremely hard,” says Jane Johnson. “It’s different when the end result of a course isn’t a grade on your transcript, but the difference in a person’s life.”



JUVENILE LAW CLINIC
1st row (l to r): C. Balmori,
P. Guzman, A. Moore,
J. Hillman, C. Cooper.
2nd row: W. Musgrove,
M. Leung, A. Glaser,
D. Gibson, J. Daniels, David
Katner (Professor/Director)

CLASS NOTES

1964

Bob Bennett, a hotelier for the past 22 years, is a vice president of Southern Innkeepers Association, the oldest hospitality organization in America. He is the current president of the Mississippi Hotel and Lodging Association. Bennett and his wife, Missy, own and operate the Edgewater Inn in Biloxi.

1965



Enoch Overby of Calhoun, Ga., was recently awarded an Amicus Curiae (“friend of the court”) certificate by the Supreme Court of Georgia—one of the highest honors given by the state’s Court. Signed

by all seven justices, the certificate recognizes Overby’s outstanding service to the state’s judicial system, his constant concern for justice for his fellow man, and his loyalty to the aims and aspirations of our court system. Overby was honored by the state bar of Georgia on his last day as chairman of the Georgia Supreme Court’s Board to Determine Fitness of Bar Applicants. He recently retired after 11 years of service.

1966



Russ M. Herman was elected by his peers for inclusion in the 2010 edition of *Best Lawyers in America* (Appellate Law, Maritime Law, Mass Tort Litigation and Personal Injury Litigation) (25).

1969

Michael M. Fleishman, an attorney with Greenebaum Doll & McDonald PLLC, recently was selected for inclusion in *Best Lawyers in America* 2010 (Corporate Law; Real Estate Law) (25).

Frank E. Lamothe, III, of the Lamothe Law Firm (Covington, La.), has been included in *Best Lawyers in America* 2010 (25).

1970

Dewet W. Corley has been elected to the LSU Shreveport 2009–10 board of directors. Corley has served on the board of directors of the Biomedical Research Foundation of Northwest Louisiana, Holy Angels Residential Facility, LSU Health Sciences Foundation, and the Greater Shreveport Chamber of Commerce.

Don Jones, two-term president of Hillwood Country Club in Princeton, Ky., has been named one of the top 21 Private Club Presidents for 2008 by *BoardRoom Magazine*, the official publication of the Association of Private Clubs and Directors. The award recognizes the world’s top private club presidents for their outstanding work. Jones was featured in the July/August edition of the magazine.

1971

W. Paul Andersson, senior and founding partner of Leake & Andersson, LLP, was listed among 2008 “Top Lawyers” by *American Lawyer* magazine. He has been included in *Best Lawyers in America* 2010 (10) and was named in 2009 by *Super Lawyers* magazine in Louisiana. *New Orleans CityBusiness* listed Andersson as one of 50 New Orleans-area attorneys in its 2009 “Leadership in Law” awards.

1974

James L. Ellis, an attorney with Taylor Porter in Baton Rouge, was listed in *Best Lawyers in America* 2010 (Energy Law).

Keith M. Pyburn, Jr., Regional Managing Partner of Fisher & Phillips LLP (New Orleans), has been selected by his peers for inclusion in *Best Lawyers in America* 2010 (Labor and Employment Law) (10).

Cynthia R. Shoss is in her 28th year at Dewey & LeBoeuf (and its pre-merger firms), where she specializes in insurance regulatory work, principally in M&A and restructurings. She is listed in *Best Lawyers in America*, *New York Super Lawyers* and *Chambers USA Leading Business Lawyers*.

1975

Sanford “Sandy” Teplitzky, an attorney with Ober Kaler, was selected by his peers for inclusion in the 2010 edition of *Best Lawyers in America* (Healthcare Law).

The Honorable Gene Thibodeaux, chief judge of the Third Circuit Court of Appeal, is a recipient of the Thurgood Marshall Award from the Judicial Council of the National Bar Association. The award was presented at the Judicial Council’s annual award luncheon in San Diego. The Thurgood Marshall Award is given to a judge who has demonstrated a recognition of civil rights issues and a personal commitment to the advancement of those issues and who serves as a role model for lawyers and judges.



Thomas R. Trotter, an attorney with Vorys, Sater, Seymour and Pease LLP, recently was selected for inclusion in *Best Lawyers in America* 2010 (Municipal Finance).

1976

Yvette Kane, a federal judge of the U.S. District Court in Pennsylvania, was honored to deliver a spring commencement address at Nicholls State University. Born in Donaldsonville, La., Kane received a sociology degree from Nicholls State (’73), before graduating from Tulane Law School. In 1998, President Bill Clinton nominated Kane to a U.S. district court seat, and she has served as chief judge since 2006.

Rose McCabe LeBreton recently was honored as one of the best real estate attorneys in Louisiana by *Best Lawyers in America* and *Super Lawyers*. LeBreton, who has been serving as the current president of New Orleans Commercial Real Estate Women, also was recognized by *New Orleans CityBusiness* as one of 50 nominees for 2009 Women of the Year. LeBreton has been instrumental in reviving the New Orleans alumni chapter of Tulane Law School through creating a series of ongoing events to acquaint local alumni with their school and their peers to strengthen the law school community support of the university, and increase hiring of Tulane graduates so that talent stays in the city.

Dr. Sathit Limpongpan is the new Permanent Secretary for Finance, Thailand. He succeeds Suparut Kawatkul, who was recently found guilty of malfeasance by Thailand’s National Anti-Corruption Commission (NACC).

1978

James “Jay” Lapeyre Jr., president, The Laitram Corp., Harahan, was listed in *1012: Business News from Louisiana’s Creative Corridor* as one of the region’s great “movers and shakers.” Head of a manufacturing company that employs more than 1,000 workers, Lapeyre is the immediate past chairman of the Business Council of New Orleans and the River Region and is involved in a host of area business and civic organizations. He has led numerous business-recruitment efforts and played a leading role in New Orleans’ recovery from Hurricane Katrina, leading efforts to reform the city’s property tax assessment system.

1979

Patrick Johnson Jr. of Lemle & Kelleher, L.L.P. (New Orleans) was noted as ‘recommended attorney’ in the *Legal 500 United States 2009* edition. According to the profile in *Legal 500 United States*, Johnson “is widely experienced in creditor and debtor rights and is frequently involved in litigation.”

1980



Ashley Belleau, a partner in the New Orleans office of Montgomery, Barnett, LLP, has been elected president-elect of the Federal Bar Association, a national organization headquartered in the Washington, D.C., area. Belleau was sworn in at the association’s annual meeting and convention in Oklahoma City on Sept. 12, 2009.

CaSandra Cooper Gates has been promoted to the position of senior vice president for administration at the Louisiana Offshore Oil Port. She has worked for 28 years in senior management posts at LOOP, the nation’s only deepwater oil port capable of directly receiving supertankers offloading crude oil cargoes.

1981

Tom Gooding recently became chairman of the board of trustees of Valwood School. Valwood is an independent college preparatory school in Valdosta, Ga. His wife, Mary, was recently appointed to the Valdosta–Lowndes County Industrial Authority. Gooding is a partner with Elliott, Blackburn, Barnes & Gooding (Valdosta).

1982

Beverly Godbey, a partner in the Dallas office of Gardere Wynne Sewell LLP, has been appointed to the Texas Access to

ALUMNUS STEALS THE SHOW

In June, the stage version of author and screenwriter **Robert Harling III**’s (L ’77) movie sensation *Steel Magnolias* went on tour in Australia. The heartwarming tribute ran in Sydney from June 5 to 28, 2009, followed by a 23-week Australian tour. With more than 150 performances scheduled, the show played in 30 venues and covered 30,000 kilometers, traveling to cities including Adelaide, Ballarat, Brisbane, Darwin, Melbourne, Launceston, Rockhampton, Tamworth and Wagga Wagga.

Harling, who shortly before graduating from Tulane law decided to pursue acting instead of law, wrote the play in roughly 10 days, triggered by the personal account of his sister Susan Harling’s death from complications due to type 1 (juvenile) diabetes. In 2008, the Louisiana Legislature proclaimed October 7 as the annual Susan Harling Robinson/ Steel Magnolias Day to annually remember the alum’s sister and the plight of all people living with diabetes.

In March of 2005, *Playbill*’s Kenneth Jones had a brief encounter with Harling. Asked whether law school helped organize his thoughts in a way that helped him be a dramatist, Harling responded, “They teach you, especially in your court classes, to

- *Harling worked his way through law school at Tulane University by singing with a big band, Jubilation, and acting in local theater.*
- *The last running performance of the play in Australia was in 1988. Nicole Kidman starred.*
- *Harling adapted Steel Magnolias into a screenplay that became the 1989 critically acclaimed film starring Julia Roberts, Sally Field, Dolly Parton, Daryl Hannah, Olympia Dukakis and Shirley MacLaine.*
- *He made his film directorial debut in 1996 with The Evening Star (sequel to hit Terms of Endearment) and also wrote the screenplay for the film, First Wives Club.*



“MAGNOLIAS ARE VERY DELICATE FLOWERS, BUT LIKE SOUTHERN WOMEN, IF YOU LOOK CLOSELY, YOU’LL SEE THEY’RE MADE OF MUCH STRONGER STUFF.”

organize your arguments for the best possible effect and impact. In a way, you’re doing a one-man show in front of jury. You are trying to do something for a desired effect. You are trying to convey ideas...it’s still all structure and that is really drilled into you in law school.”

Raised in Natchitoches, La., the southerner says the title *Steel Magnolias* stems from a phrase he has heard all his life. “At one point or another, all Southern men are pressed into service and sent out to the garden to gather magnolias for use as decorations,” he explains. “Magnolias are very delicate flowers, but like Southern women, if you look closely, you’ll see they’re made of much stronger stuff.”



WALTER J. LEGER JR. RECEIVES NOBA'S PRESIDENTS' AWARD

Walter J. Leger Jr. (L '76), a senior partner at Leger & Shaw, was awarded the New Orleans Bar Association's 2009 Presidents' Award at a reception held in his honor on July 30, 2009. The award recognizes

attorneys who have dedicated themselves to community service in the exercise of the highest ideals of citizenship. It is the most acclaimed recognition from the association.

Leger is an active member of the community and currently serves as treasurer of the New Orleans Bar

Association, co-chairman of the Louisiana Recovery Authority, and chairman of the St. Bernard Economic Development Commission. His career has spanned over 30 years representing individuals, businesses, port authorities, towing companies, barge owners, shipyards, ship pilots, officers and crew. He has served as chairman of the St. Bernard Chamber of Commerce five times in the past 15 years and is a past chairman of the board of the New Orleans Regional Chamber of Commerce, co-chairman of the Metrovision Regional Economic Development Partnership, and a member of the Executive Committee of GNO, Inc. and the Southeast Louisiana Business Council Coalition.

As Leger received the Presidents' Award, he said, "After nearly four years of disbelief, determination, hard work, and faith, we reflect on an event still incomprehensible in scope. We have questioned our government, our faith, our neighbors, and our lives. When our economy stalled to a halt and our families dispersed, we pulled as one, all of us together. This was the test of all our lifetimes, and we have passed. Our destiny, our legacy is what we have done and what we do."

It should come as no surprise that earlier this year, Leger also was listed in *1012: Business News from Louisiana's Creative Corridor* as one of the region's great "movers and shakers."

Justice Commission. Godbey, a prominent litigator and a member of Gardere's trial practice group, is best known for her expertise in insurance litigation. The Texas Access to Justice Commission was created in 2001 by the Texas Supreme Court to provide statewide leadership to improve the quantity and quality of legal services to low-income and poor Texans. Godbey's term on the commission began June 1.

Morey Raiskin, an attorney with Lowndes, Drosdick, Doster, Kantor & Reed, P.A., is listed in *Best Lawyers in America 2009* (Labor and Employment Law).

1984

M. Miller Baker is a partner in the Washington, D.C., office of McDermott Will & Emery LLP. Miller co-heads McDermott's Appellate Practice Group, and is rated by *Chambers USA 2009* as a leading appellate lawyer at the national level. On May 7, 2009, the *Am Law Litigation Daily* named Miller as "Litigator of the Week" for his 6-3 U.S. Supreme Court win in *Arthur Andersen LLP v. Carlisle*, which effectively overturned a D.C. Circuit decision written by then-Judge John Roberts.

Jon Schuyler Brooks, a litigation partner and Environmental Practice Group co-chair at Phillips Nizer LLP, argued a case before the Delaware Supreme Court in July. The Court adopted his arguments on each of the four first-impression questions of Delaware escheatment law that had been certified to the court by the Southern District.

Leonard A. Davis was selected by his peers for inclusion in the 2010 edition of *Best Lawyers in America* (Commercial Litigation).

1985

Darrell Cartwright was recently named one of Birmingham's "Top Attorneys" by *Birmingham Magazine*. He was the only attorney selected in the group engaged in a solo practice. "I am humbled by the news," Cartwright said when he learned of his selection. "My practice focuses on so many different areas of tax, estate and business law as a solo practitioner that it is truly an honor to be recognized by my peers."

Susan Pace Hamill, a professor of law at the University of Alabama since 1994, teaching in the areas of tax law, business organizations and ethics, has published two new articles: "The Vast Injustice Perpetuated by State and Local Tax Policy" (Volume 37 *Hofstra Law Review*, 2008), and "An Argument for Providing Drug Courts in All Alabama Counties Based

"WHEN OUR ECONOMY STALLED TO A HALT AND OUR FAMILIES DISPERSED, WE PULLED AS ONE, ALL OF US TOGETHER."

on Judeo-Christian Ethics” (Volume 59 *Alabama Law Review*, 2008).



R. Keith Jarrett has been elected managing partner of Liskow & Lewis. Jarrett joined the firm in 1985 and has built his practice in the areas of energy and maritime litigation. Prior to joining

Liskow & Lewis, Jarrett clerked for Judge Alvin E. Rubin of the federal Fifth Circuit Court of Appeals.

Jennifer S. Smart, an attorney with Greenebaum Doll & McDonald PLLC, was recently selected for inclusion in *Best Lawyers in America* 2010 (Tax Law).

1986

Regina M. Hurley has joined Verrill Dana, LLP, as counsel to the Private Clients Department (Boston). Hurley specializes in all aspects of domestic law, including divorce, custody, removal, international parental abduction and non-traditional family law matters. Prior to joining Verrill Dana, Hurley chaired the Family Law Group of Deutsch, Williams, Brooks, DeRensis & Holland, P.C.



Tony Stiegler, a partner at Cooley Godward Kronish, LLP, has been named president-elect of the Legal Aid Society of San Diego, where he will serve a two-year term and then serve as president for an additional two-year term. Stiegler is also the co-chairman of Cooley's nationwide pro bono practice and has been named one of America's "Best Lawyers" since 2006 (intellectual property litigation and commercial litigation) and a Southern California "Super Lawyer" (trial).

1988

Patricia Bazán Garrubbo has co-founded the natural skincare company, Terralina™. Before launching Terralina, Garrubbo had a dynamic career in the arts as the owner and director of Garrubbo Bazán Gallery, where she dealt with contemporary works of art. Prior to this, she practiced law in New Orleans.

1989

Andrew R. Lee, a partner in Jones Walker's business and commercial litigation practice group, recently was honored for his pro bono work in connection with service as appointed counsel in capital post-conviction proceedings.

1990



Monica Frois has been named co-section head of McGlinchey Stafford's health care section. Frois represents hospitals, physicians, nursing homes and numerous other healthcare providers on

operational issues, transactional issues and a wide variety of litigation. She is listed in *Best Lawyers in America* (Healthcare Law and Medical Malpractice) and is A/V rated by Martindale-Hubbell. Frois is a resident in the firm's New Orleans office.



Stanley A. Millan, S.J.D., an attorney with Jones Walker, has received the U.S. Green Building Council Leadership in Energy and Environmental Design Accredited Professional (LEED®AP) certification. Several

thousand architects and building professionals are LEED-accredited, yet few attorneys have earned this credential; Dr. Millan is one of the few LEED AP-credentialed attorneys in Louisiana. Dr. Millan's practice includes air, water, and waste regulation, including compliance counseling and defense before the U.S. Environmental Protection Agency (EPA), the Louisiana Department of Environmental Quality (LDEQ), and courts. His practice also includes endangered species and wetland regulation, dealing with the EPA, the U.S. Army Corps of Engineers, the LDEQ, the Louisiana Department of Natural Resources (LDNR), and the U.S. Fish and Wildlife Service. His government contracts work covers small business issues, bid protests, contract dispute claims, and negotiations of equitable adjustments. Dr. Millan also teaches environmental law and government contracts law at both Tulane Law School and Loyola University New Orleans College of Law.

1991

David Bates has been named to the 2010 edition of *Best Lawyers in America* (Technology Law). Bates is a shareholder with Gunster, Attorneys at Law (West Palm Beach).



Gary S. Eisenberg, a Cape Town-based immigration lawyer, says his professional life as an attorney in South Africa is enriched by his sojourn at Tulane. "I know that many of my classmates from abroad

still carry with them the Tulane marque, endorsed on their professional lives, like a rare provenance," says Eisenberg. "I hope my own children and their children have the fortune of studying at a university equal in caliber to the Tulane I knew." Eisenberg serves as Chairman of the Immigration & Nationality Committee of the International Bar Association, the world's largest association of lawyers.

Steven M. Stastny, a well-known Birmingham employment litigator, has joined Jackson Lewis LLP. He previously served as managing partner of Ford & Harrison LLP (Birmingham) and has extensive experience in all types of class and protected conduct discrimination, retaliation and harassment lawsuits. An AV-rated attorney, Stastny's significant litigation experience has focused on multi-plaintiff, collective and class-action suits for clients in the manufacturing, retail, healthcare and automotive dealership sectors. His expertise extends to the area of occupational safety and health, which impacts certain Americans with Disabilities Act and workers' compensation retaliatory discharge suits. Aside from litigation, Stastny enjoys spending time with his wife, Lauren, and two sons, John Michael, 7, and Ross, 4.

1993

Jonathan Gottsegen was named senior vice president, general counsel and corporate secretary of United Rentals, Inc., the largest equipment rental company in the world. Gottsegen has returned to greater New York following five years in Atlanta as chief securities counsel for The Home Depot, Inc. He currently resides in Larchmont.

Brian D. Rauer, executive director, Better Business Bureau, Mid-Hudson, New York State region, and general counsel, Better Business Bureau, Metropolitan New York, has been inducted into the New York County Lawyers' Association.

Gregory S. Umberson, MD, has joined the Chicago-based intellectual property boutique firm Hallihan IP Partners. Previously, Umberson was with Ericsson, where he worked on both patent and trademark issues involving the U.S. and other countries.

David M. Valin has been selected as the branch office "Defender of the Year, 2009" for Suwannee, Hamilton, and Lafayette counties, Florida. He has been employed by C. Dennis Roberts, Public Defender, Third Judicial Circuit, since 1993. Valin is also a dedicated family man, married to Rowna McLeod Valin, who is a speech teacher in Columbia County. They are the proud



O'NEILL UPS FIGHT FOR WOMEN'S RIGHTS

Terry O'Neill, an activist from Montgomery County, was elected in June to a four-year term as president of the National Organization for Women (NOW), the largest grass-roots feminist organization in the country. The 1980 Tulane law graduate and former law professor won the group's top job by just eight votes in the Indianapolis election. In her new position, O'Neill over-

sees NOW's multi-issue agenda, which includes: advancing reproductive freedom, promoting diversity and ending racism, stopping violence against women, winning lesbian rights, ensuring economic justice, ending sex discrimination and achieving constitutional equality for women. O'Neill is also presi-

dent of the NOW Foundation and chair of the NOW Political Action Committees, and serves as the principal spokesperson for all three entities.

O'Neill has served as president of Louisiana NOW and New Orleans NOW and as a member of the National Racial Diversity Committee. She is a past president of Maryland NOW and served on the NOW national board twice, representing the Mid-South Region (2000–2001) and the Mid-Atlantic Region (2007–2009). O'Neill was NOW's membership vice president from 2001 to 2005, when she oversaw NOW's membership development program as well as finances and government relations.

"NOW is the organization that fights for the rights of all women no matter the circumstances of their birth, their race or sexual orientation, no matter if they live in poverty or are trying to escape violence," O'Neill stated on the organization's website. "Women are fed up with persistent inequality and are ready for change. I am honored and eager to lead NOW in making that change."

In addition to graduating *magna cum laude* from Tulane law, O'Neill holds a bachelor's degree in French with distinction from Northwestern University. She has one child, a daughter who she says is a proud feminist.

"WOMEN ARE FED UP WITH PERSISTENT INEQUALITY AND ARE READY FOR CHANGE. I AM HONORED AND EAGER TO LEAD NOW IN MAKING THAT CHANGE."

parents of two children, Skye and Cade, who attend school in Branford.

Roderick K. "Rod" West has been elected to the board of trustees at Notre Dame. West has been president and CEO of the electric and gas utility company Entergy New Orleans Inc. since 2007, after serving in a variety of senior management positions with the firm for the previous eight years. A past president of the Notre Dame Alumni Association Board of Directors—and a member of the university's board during his term (1995 to 1997)—he is chairman of the Louisiana State University System Board of Supervisors.

Earlier this year, West also was listed in *1012: Business News from Louisiana's Creative Corridor* as one of the region's great "movers and shakers."

1995

Scott Arceneaux has been appointed Florida Democratic Party executive director. Arceneaux was political director for Chris Dodd's 2008 presidential campaign. Prior to that, he was campaign manager for Douglas Duncan, who ran in the Democratic primary for governor of Maryland in 2006, but withdrew, citing medical reasons.



Andrew J. Baumann, Shareholder at Lewis, Longman & Walker, P.A., has recently been elected to the Board of Governors for Leadership Palm Beach County. He is a graduate of Leadership Palm Beach

County's class of 2009. Baumann's practice focuses on environmental and land use law and litigation.

Eduardo S. Espinosa was elected a partner by K&L Gates, LLP. Mr. Espinosa is a member of K&L Gates' Corporate practice group (Dallas). His practice focuses on mergers and acquisitions, securities offerings and general commercial transactions. A former enforcement attorney for the U.S. Securities and Exchange Commission, Espinosa also represents market participants in various enforcement proceedings with the SEC, state securities agencies and FINRA. Internationally, he advises foreign and domestic entities on cross-border commercial transactions and foreign investments.

Karen Carter Peterson, a member of the Louisiana House of Representatives, was listed in *1012: Business News from Louisiana's Creative Corridor* as one of the region's great "movers and shakers."

Representing the 93rd District since 1999, Peterson has been Speaker Pro Tempore of the House since 2008. Her legislative district encompasses the heart of New Orleans, including the French Quarter, the Central Business District and the Port of New Orleans. As such, Peterson plays a key role in guiding state policies and legislation that affect New Orleans.

1997

Ali Abazari (LLM), an attorney with Jackson Walker L.L.P., was named a “Rising Star” by *Texas Monthly* magazine. Abazari represents clients in a wide variety of environmental matters, including solid waste; remediation; surface mining; and industrial wastewater permitting and compliance counseling.

Tracey Jenell Knuckles has married Christopher Leslie White in Manhattan. Knuckles is the general counsel for the New York City Department of Cultural Affairs. Her husband is a director in loan portfolio management at Merrill Lynch/Bank of America in Manhattan. He is also an adjunct lecturer on public administration at NYU’s Robert F. Wagner School of Public Service.

David J. Nagel is a partner of Feldmann, Nagel & Associates, LLC with offices in Denver, Steamboat Springs, Vail/Avon and Las Vegas. Nagel practices in the areas of corporate transactions, real estate, construction law, commercial litigation, subdivision development and homeowners’ association law. He, his wife Aimee, and their children Austin, 13, and Peyton, 8, reside in Steamboat Springs, Colo.

Teresita Chavez Pedrosa has been elected to partnership in the international law firm of Adorno & Yoss. She is an associate in the firm’s Miami office and a member of the firm’s litigation department. Her primary areas of practice include toxic tort, pharmaceutical and premise liability.

David W. Porteous has joined Ulmer & Berne LLP’s Litigation Department as a partner (Chicago). Prior to joining Ulmer & Berne, Porteous was a partner with Levenfeld Pearlstein, LLC. He has successfully litigated a wide range of complex commercial matters in federal and state courts pertaining to hedge fund governance, redemption and lockup provisions, partnership disputes, and employment disputes. Porteous also regularly counsels clients regarding compliance and risk management practices and procedures.

U.S. Army lawyer Capt. Gretchen Davenport, of LaQuincy, La., organized possibly the first meeting between judges of Iraq’s northern provinces since the regime change in 2003. Davenport said she hoped the conference, which was held on a secure, hilltop retreat, would help the judges begin a professional dialogue.

CAPT. DAVENPORT SPEARHEADS PROGRESS



U.S. Army lawyer **Captain Gretchen Davenport** (L ’03), of LaQuincy, La., organized possibly the first meeting between judges of Iraq’s northern provinces since the regime change in 2003. In early August, the Iraqi judges met face-to-face on a secure hilltop site in Kurdistan to discuss issues concerning the judicial system. A goal of the conference would be to establish an ongoing professional dialogue.

The idea came to Davenport during a local meeting of judges in Salah-a-Din. “When we realized those judges had never met before, we began realizing that judges across the North probably didn’t know each other either,” she stated, explaining that change was the primary reason the judges needed the opportunity to speak personally, ask hard questions, and decide the direction of the judicial system—a process she says is integral to the health and validity of the legal system.

“In the U.S., groups like the American Bar Association meet yearly to share information and learn from each other. It helps professionalize what you do when you can gain another perspective.”

Davenport said the Iraqi court system is based on a model much like judicial systems in France and Egypt where police and investigative judges assemble evidence and hear witness testimony. Trial judges then review the cases, announce verdicts, and hand down sentences. Though no jury is involved, Davenport said the model is based solidly on the rule of law. She feels the judges need more solid forensic evidence on which to base their decisions.

“They rely heavily on confessions and witness statements,” said Davenport, adding the Iraqi police are just beginning to receive training in forensics after nearly 30 years of economic sanctions that have slowed technological advances in forensics, communications and law associations. Salah-a-Din judges have already been using a forensics lab where U.S. forces both process evidence and train Iraqi Police in basic techniques. Iraq only has two facilities and they are not conveniently located for all courts.

However, despite current difficulties, the provincial judge of Salah-a-Din said the Iraqi system is “very well known in the law community and very solid in general.” He said the most difficult time in his career was before the 2003 liberation when Saddam’s administration called the shots. Now there is very little interference in judicial processes.

Davenport said that judges are able to work more freely in post-Saddam Iraq, and both see a positive future as long as they continue to work together across cultural and political boundaries.

“My hope,” said Davenport, “is that they will stay involved with the system and continue to make it successful, that they will be able to adjudicate cases free from intimidation from outside sources. The bottom line here is that the system needs to be free of influence. To really be just, you have to be impartial.”

“THE BOTTOM LINE HERE IS THAT THE SYSTEM NEEDS TO BE FREE OF INFLUENCE. TO REALLY BE JUST, YOU HAVE TO BE IMPARTIAL.”

HUMAN RIGHTS WATCH AND AMNESTY INTERNATIONAL CALL FOR ALUM'S RELEASE



Le Cong Dinh (LLM '00), a prominent pro-democracy lawyer, human rights advocate, and writer, attracted national and international attention last June when Vietnam's Ministry of Public Security police arrested him for violating Article 88 of the Vietnamese criminal code, which bans the distribution of anti-state propaganda.



Three days following his arrest, on June 16, Human Rights Watch

criticized the Vietnamese government calling for the immediate release of Dinh.

Elaine Pearson, deputy Asia director at Human Rights Watch, said the arrest "tells other lawyers and human rights defenders just what they can expect if they dare to speak out. Lawyers, like all citizens, have the right to exercise free speech and peacefully express their views."

In an article from *GlobalVoices*, Amnesty International also condemned the Vietnamese government for stifling freedom of expression stating,

"The arrest appears to be yet another indication of Vietnam's determination to stifle freedom of expression and silence anyone who criticizes the government or holds different views."

According to Amnesty International, at least 30 dissidents have been sentenced to long prison terms since 2006 for being involved with pro-democracy activities and human rights issues.

Dinh is the former vice president of the Ho Chi Minh City Bar Association and a managing partner of DC Law, a renowned private law firm in Ho Chi Minh City. He is best known for his defense of Vietnamese bloggers, human rights defenders, and democracy and labor rights activists such as Nguyen Van Dai, Le Chi Cong Nhan, and Nguyen Hong Hai.

During his defense of democracy activists Dai and Nhan at their appeals court trial in 2007, Dinh said, "Talking about democracy and human rights cannot be seen as anti-government unless the government itself is against democracy."

After studying law at Hanoi Law School and Saigon University, Dinh received a Fulbright scholarship to study at Tulane where he received a master of law degree in 2000.



Katie Mahoney Wolf has three children: Sam, Ethan and Lyla.

1999

Runako Kumbula Allsopp has been appointed deputy general counsel to Washington, D.C., Mayor Adrian Fenty. In this position, she provides advice on legal, policy and ethical issues. As part of her new role, Allsopp served as chair of the Legal Affairs Subcommittee for the 2009 Presidential Inaugural Committee for the District of Columbia. Prior to joining the Mayor's Executive Office, she 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, Allsopp married Roderic H.P. Allsopp of Toronto, Canada, on Aug. 9, 2008, in Washington, D.C. Tulane Law alumni **Monica Elliott** (L '99), **Jeffrey Lawson** (L '99), **Tasha Thomas** (L '99) and **Tyrone Thomas** (L '01) were in attendance.

Caroline Bernard has joined the Martin Law Firm as an attorney. Most recently she was employed by Motley Rice practicing civil litigation. She will primarily be practicing in the areas of criminal, domestic and civil litigation.

Whitney King Fogerty has joined Jackson Lewis LLP as of counsel. Fogerty was previously a shareholder at Ogletree, Deakins, Nash, Smoak & Stewart PC, where she specialized in labor and employment litigation. She has practiced law for 10 years and has been named among *Chambers USA's* Leading Lawyers for Business the past two years. She represents clients in a variety of industries in federal and state courts, as well as in proceedings before the Equal Employment Opportunity Commission, U.S. Department of Labor, the National Labor Relations Board, and various state agencies.

Megan Guy has been named a 2009 Women of the Year by *New Orleans CityBusiness*. For the past 11 years, the publication has recognized 50 women whose successes in business and contributions to the community have set the pace for the region's future.

Jason Lamb recently was selected as the executive director of the Missouri Office of Prosecution Services effective July 1, 2009. The state agency is an autonomous entity within the attorney general's office, and is responsible for providing training, coordination, resources and assistance to Missouri's prosecutors. Lamb previously

"TALKING ABOUT DEMOCRACY
AND HUMAN RIGHTS CANNOT BE
SEEN AS ANTI-GOVERNMENT
UNLESS THE GOVERNMENT ITSELF
IS AGAINST DEMOCRACY."

had served as the elected prosecuting attorney for Audrain County, Mo., for more than six years. Lamb and his wife, Vanessa, have one son, Jackson.

2000

Gustav F. Bahn is a member of Alston & Bird's financial services and products group and focuses his practice on securities offerings and regulation, public and private mergers and acquisitions, and joint venture and private equity transactions (Atlanta).

Montré D. Carodine is an associate professor of law at the University of Alabama School of Law. Her article entitled, "The Mis-Characterization of the Negro: A Race Critique of the Prior Conviction Impeachment Rule," has been published in volume 84 of the *Indiana Law Journal* (2009).

Elizabeth Harper Emmett has joined the newly opened New Orleans office of Ogletree Deakins as of counsel. Emmett's practice focuses on employment litigation and providing advice to employers. She and her husband, **Robert Emmett** (L '95), are the proud parents of John-William, age 1.

Jarret Hale has been promoted to partnership in Hunton & Williams (Dallas). A partner in the bankruptcy, restructuring and creditors' rights practice, Hale will focus on bankruptcy law, consumer protection class action litigation, corporate reorganizations, commercial workouts, and fair debt collection practices.

Natalie Holder-Winfield has been recognized by Fairfield County, Conn., as one of 2009's "40 Under 40." The award cites Holder-Winfield's "extraordinary leadership qualities, ongoing commitment to personal and professional development, and outstanding accomplishments." Holder-Winfield's book, *Recruiting and Retaining a Diverse Workforce: New Rules for a New Generation*, was recently reviewed by *The Employment Law Post*.



Debra Hymel Levy has been named Partner-in-Charge of Brown McCarroll, LLP (Houston). She also has been appointed to Brown McCarroll's firm-wide management committee. Levy's practice focuses on real estate development, leasing, and the acquisition, disposition, construction and financing of real estate projects. Levy is a member of Leadership Houston's Class XXVI, recipient of the 2007 "President's Award" from Commercial Real Estate Women of Houston, and in 2006 was honored by the Galleria Chamber

of Commerce as their "Volunteer of the Year." She was named by Law and Politics Media, Inc. as a "Rising Star" in real estate in 2004 and 2005, as published in *Texas Monthly* magazine. Since 2007, she also has served on the board of directors for the Arthritis Foundation South Texas Region.

Ali Yenal has joined the international law firm of Nixon Peabody LLP as a senior associate in the global finance practice (New York City). Yenal joins the firm from McKee Nelson where he was an associate.

2001

Chantel D. Walker has joined Golden Silver (Las Vegas) and will develop and lead its newly established Labor and Employment Practice Group. Walker has extensive experience representing employers in litigation, arbitration, administrative proceedings and collective bargaining. Additionally, she has authored several articles, including "Arbitration and Major League Baseball."

2002

Illinois State Treasurer **Alexi Giannoulis** was honored as an Outstanding Young Person of Illinois at an awards banquet in May. He was nominated for his excellence in government service, philanthropic contribution, academic and athletic accomplishments. In addition to being the youngest state treasurer in the nation when elected to the post at age 30 in November 2006, Giannoulis finds himself in the spotlight as a great personal friend of President Barack Obama.

Monique R. Gougisha has joined the labor and employment law practice group of Ogletree, Deakins as an associate. Gougisha, who represents management clients in federal and state court employment litigation, and in proceedings before various state and federal administrative bodies, will work out of the firm's New Orleans office. She is also a frequent speaker on employment law topics, and a contributing author to publications such as the *Louisiana Bar Journal* and *HR Magazine*. Previously, Gougisha was an associate at Kiesewetter Wise Kaplan Prather.

Doris Wendy Greene is in her second year of teaching at Cumberland School of Law/Samford University, and has just been awarded the Lightfoot, Franklin & White Junior Faculty Scholarship Award for "Title VII: What's Hair (and Other Race-Based Characteristics) Got to Do With It?" (79 U. Colo. L. Rev. 1355 [2008]). Wendy's second article, "Determining the (In)determinable:

Race in Brazil and the United States," will be published in volume 14 of the *Michigan Journal of Race & Law*.

Gretchen N. Scardino, an attorney with Thompson & Knight LLP (Austin), was selected for inclusion in *Texas Rising Stars* 2009 (Trial).

Mark Thomas has joined Gori Julian & Associates P.C. His experience includes criminal misdemeanor cases and traffic offenses, condominium and homeowners' association law, and personal injury claims and personal property liens.

Laura Vogel recently moved from her previous firm of Sterne, Kessler, Goldstein and Fox, PLLC (Washington, D.C.) to Duane Morris LLP (Boston), where she is an associate in the Intellectual Property and Trial groups. Vogel focuses on Hatch-Waxman litigation. She also married Vincent Capuano, PhD in New Castle, N.H., this May.

IN MEMORIAM

Noel Joseph Cipriano ('46)
June 29, 2009
Biloxi, Miss.

David C. Treen ('50)
October 29, 2009
New Orleans, La.

Sanford Berger ('57)
May 7, 2009
Rivervale, N.J.

Eugene G. Taggart ('59)
August 1, 2009
Atlanta, Ga.

Angela Roddey Holder ('60)
April 22, 2009
Durham, N.C.

Kelly E. Miller ('61)
May 12, 2009
Richmond, Va.

Richmond Minor Eustis ('70)
May 30, 2009
New Orleans, La.

Kerri Michael Massari ('73)
July 31, 2009
Lafayette, La.

Thomas J. Cooper ('74)
February 27, 2009
Cambridge, Mass.

Matthew J. Finnell ('79)
February 21, 2009
Springfield, Ill.

Christopher J. McGrath ('88)
August 13, 2009
Houston, Texas



SHAFFER APPOINTED LAW LIBRARIAN OF CONGRESS

Librarian of Congress James H. Billington appointed **Roberta I. Shaffer** (L '80) to the position of Law Librarian of Congress. In announcing his selection, Billington said, "Roberta Shaffer brings to this critical management position both extraordinary vision and demonstrated leadership skills that will continue the Law Library's historically exemplary service to Congress and to the public while addressing the challenges of providing legal research and reference services in our rapidly changing and technologically driven world."

Among her more notable past experiences, in 1984, Shaffer became the first person appointed to the position of special assistant to the Law Librarian in the Library of Congress. In 1987, Shaffer was named a Fulbright Senior Research Scholar at the Tel Aviv University Faculty of Law in Israel. Her rich and diverse background in academia includes the University of Houston Law Center's Legal Communications Program, George Washington University National Law Center Library, the School of Library and Information Science at the Catholic University of America, the Graduate School of Library and Information Science at the University of Texas at Austin, and the College of Information Studies at the University of Maryland in College Park, just to name a few.

Shaffer returned to the Library of Congress in 2005 as executive director of the Federal Library and Information Center Committee/Federal Library Network. In this position, she has overseen procurement, provided advocacy and advice on technology, and managed education and training for a federal program servicing more than 1,500 federal information professionals and 130 vendors.

Shaffer graduated *cum laude* from Vassar College with an A.B. degree in political science/demography and with highest honors from Emory University with a master's degree in law librarianship. Upon graduating *cum laude* from Tulane law, she was admitted to the Texas, District of Columbia, and U.S. Supreme Court bars.

Founded in 1832, the Law Library's resources are available to members of Congress, the Supreme Court, other branches of the U.S. government and the global legal community. With more than 2.6 million volumes, the Law Library contains the world's largest collection of law books and other resources from all countries and provides online databases and guides to legal information worldwide through its website at www.loc.gov/law/.

2003

Sophie Kennedy Counts and her husband, Travis Counts, are delighted to announce the birth of their daughter, Evelyn Caroline Counts. Evelyn Caroline was born July 14, 2009. Travis is a member of Hinkle Elkouri Law Firm L.L.C. in Wichita, Kan.

Julie Skacel Gibson gave birth to Ella Milly Gibson (7 lbs., 14 oz.) on July 15, 2009. Julie is an attorney with Thomson-Reuters, and her husband, Anders Tyler-Cornell Gibson, is an associate with Porter & Hedges LLP. The family resides in Houston, Texas.



2004

Erin Houck-Toll, an attorney at the law firm of Henderson, Franklin, Starnes & Holt, P.A. (Fort Myers), was named a 2009 *Florida Rising Star*. Houck-Toll handles many aspects of business and tax planning, including health care law and mergers and acquisitions.

2005

Cashauna Hill, of Wiles Law Group, LLC, has been elected a new director of the Multnomah Bar Foundation. She practices in the area of insurance defense (construction defense litigation).

Inemesit O'Boyle has been elected the 2009 president of the Greater New Orleans Louis A. Martinet Legal Society.

Mireya Rivera, formerly with Hodgson Russ, has joined Greenspoon Marder. She concentrates her practice in the areas of commercial litigation and family law. A member of the Florida bar since 2005, Rivera served as a staff attorney in the 15th Judicial Circuit Court in Palm Beach County (2005–2006).

2006

Alyssa Carducci Embree has become an associate in the law firm of Crenshaw, Ware & Martin, P.L.C. Embree focuses her practice on commercial real estate and project finance.

Shomari Wade has joined the law firm of Troutman Sanders LLP as an associate

(Washington, D.C.). His practice will concentrate on federal and municipal government contract matters. Before joining Troutman, Wade served in the Executive Office of the Mayor of the District of Columbia for two years.

2007

Brett Buchheit (LLM) is now with the Mintz Law Firm in Lakewood, Colo.

Kara Helmig has been named assistant athletic director for compliance at the University of North Dakota. Her appointment began August 21. Helmig will oversee all aspects of compliance, including eligibility, financial aid, recruiting, amateurism, extra benefits and other regulations, including monitoring compliance with UND, NCAA and conference rules and regulations. She will serve on the athletic department's senior management team.

Norman M. Levedahl has been elected to the Sacramento Law Foundation's Board of Directors as CFO for 2009–2010. Levedahl is an attorney with McDonough Holland & Allen.

Thomas Patrick O'Connor has married Elizabeth Courtney McLennan. O'Connor is a litigation associate in the Chicago law firm Winston & Strawn (New York) and his wife teaches sixth-grade social studies and English at the Eastern Middle School in Greenwich.

Avery B. Pardee, an associate in Jones Walker's Business & Commercial Litigation Practice Group, recently was honored for her pro bono work in connection with service as appointed counsel in capital post-conviction proceedings.

2008



Conrad G. Lucas II and co-author William Norgard have published a book entitled, *Europe Beyond Your Means: The Paris Edition*. The book offers tips on lodging, warning travelers to stay

away from hostels, which they call "hostiles," and giving plenty of advice about what to wear to avoid looking like a typical American tourist. Lucas is spending the year finishing up his doctorate from Vanderbilt.

2009

Taryn Brown currently is working at a corporate law firm in New York. Brown says she eventually hopes to get into the field of sports law.

The following Tulane Law School alumni also are listed in the 2010 *Best Lawyers in America*:

MCGLINCHEY STAFFORD

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): Healthcare Law, Medical Malpractice Law

Donna G. Klein ('81): Healthcare Law (10)**

Colvin G. Norwood, Jr. ('72): Personal Injury Litigation, Product Liability Litigation (10)

Susan M. Tyler ('86): Equipment Finance Law, Real Estate Law

Kenneth A. Weiss ('75): Elder Law, Non-Profit/Charities Law, Tax Law, Trusts and Estates (10)

Constance C. Willems ('77): Commercial Litigation, Communications Law

Henri Wolbrette III ('74): Personal Injury Litigation, Product Liability Litigation

**As of Aug. 1, 2009, Donna Klein is General Counsel for Peoples Health Network.

SHER GARNER

James Garner ('89): Appellate Law, Commercial Litigation, Mass Tort Litigation, Personal Injury Litigation, Product Liability Litigation, Professional Malpractice Law

Peter Hilbert ('77): Maritime Law, Personal Injury Litigation

Leopold Sher ('76): Alternative Dispute Resolution, Equipment Finance Law, Land Use & Zoning Law, Real Estate Law, Structured Finance Law

LISKOW & LEWIS

Donald R. Abaunza ('69): Maritime Law (20)

Thomas Beron ('97): Oil & Gas Law, Energy Law

George Denegre, Jr. ('83): Commercial Litigation

Joseph C. Giglio, Jr. ('77): Real Estate Law

R. Keith Jarrett ('85): Maritime Law
Thomas B. Lemann ('53): Non-Profit/Charities Law, Tax Law, Trusts & Estates Law (25)

Robert B. McNeal ('84): Environmental Law, Oil & Gas Law

Joe B. Norman ('78): Commercial Litigation, Energy Law, Oil & Gas Law

Lawrence P. Simon, Jr. ('72): Natural Resources Law, Oil & Gas Law

John D. Wogan ('66): Banking, Corporate Law, Trusts and Estates Law (10)

Additionally, the following attorneys from Liskow and Lewis have been selected for inclusion in the 2009 edition of *Chambers USA: America's Leading Lawyers for Business*:

Donald R. Abaunza ('69): General Commercial Litigation

Robert B. McNeal ('84): Environmental
Lawrence P. Simon, Jr. ('72): Energy and Natural Resources: Oil & Gas

John D. Wogan (LLB '66): Banking and Finance, Corporate: M&A

Best Lawyers in America

Since its inception in 1983, *Best Lawyers* has become universally regarded as the definitive guide to legal excellence. Because *Best Lawyers* is based on an exhaustive peer-review survey in which more than 25,000 leading attorneys cast almost two million votes on the legal abilities of other lawyers in their specialties, and because lawyers are not required or allowed to pay a fee to be listed, inclusion in *Best Lawyers* is considered a singular honor. (10) Denotes listed for at least 10 years (20) Denotes listed for at least 20 years (25) Denotes listed for at least 25 years

Best Lawyers in America for 2010 is scheduled to be released this December.

Chambers USA: America's Leading Lawyers for Business

Each year Chambers and Partners, an independent research-based company, identifies a select group of attorneys based on client and peer recommendations.

"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 Feb. 1, 2009, and July 31, 2009. If we received your information after that date, we will publish it in our next issue.

ALUMNI GATHERINGS 2009



LAW CLASS
OF 1959
*50th Reunion
Saturday, May 16
Galatoire's*



LAW CLASS
OF 1979
*30th Reunion
Saturday, May 2
Galatoire's*



LAW CLASS
OF 1994
*15th Reunion
Saturday, April 18
Galatoire's*



**LAW CLASS
OF 1949**

*60th Reunion
Wednesday, April 29
Antoine's*



**NEW ORLEANS
ALUMNI LUNCHEON**

*Wednesday, April 22
Ritz-Carlton*



LAW CLASS OF 1989

*20th Reunion
Saturday, April 18
Napoleon House*



**LAW CLASS
OF 1999**

*10th Reunion
Saturday, April 18
Restaurant August*

COMMENCEMENT 2009



Every commencement is a milestone for the graduate. Its pageantry signifies a validation of effort, certification of success and, perhaps, the first serious farewell to childhood. In this respect, the 2009 Tulane law diploma ceremony on May 16 was no

different from any other. It was, however, a poignant milestone for the institution. After eight years at the helm, Lawrence Ponoroff delivered his final commencement address as dean of Tulane Law School. His words won't soon be forgotten.



Holmes Elizabeth Rackleff poses for a picture with former Dean Lawrence Ponoroff, upon receiving The Louisiana State Bar Association Law Student Pro Bono Award.



Lawrence Ponoroff presents a gavel to **Demelza Anne Baer**, who was honored for her service as Moot Court Chief Justice.



Galen Matthew Hair, with former Dean Ponoroff. Hair received the General Maurice Hirsch Award, presented annually to the graduating law student who the faculty feels has contributed most distinctively to university or community needs.



As events led up to Tulane University Commencement 2009, parents, grandparents and other relatives and friends flocked to New Orleans to celebrate their graduates' success.

2008-2009 AWARDS

The Faculty Medal

John Ransdell Guenard

The Dean's Medal

John Ransdell Guenard

Katherine Rhodes

The Civil Law Studies Award

John Ransdell Guenard

The George Dewey Nelson Memorial Award

Lucas Ayers LaVoy

The John Minor Wisdom Award

Margot Lilly Kramer Want

The Tulane Tax Institute Award in Taxation

Lauren Christine Zimmerman

The Charles Kohlmeyer Jr. Award in Maritime Law

Marc Edward Montgomery

The Edward A. Dodd Jr. Award in Admiralty

Jonah Maurice Levine

The Haber Joseph McCarthy Environmental Law Award

Andrew Lewis Seidel

The Louisiana State Bar Association Corporate and Business Law Section Award

Joshua J. Ahn

The Student Bar Association President Award

Melissa Marie Swabacker

The H. Martin Hunley Jr. Award in Health Care Law

Sarah Elise Dobra

Christopher Louis McArdle

Federal Bar Association Award

Eric Adam Naftel

The General Maurice Hirsch Award

Galen Matthew Hair

The Louisiana State Bar Association Law Student Pro Bono Award

Holmes Elizabeth Rackleff

The Brian McSherry Community Service Award

Eric Michael Morley

The James A. Wysocki Trial Advocacy Awards

Michael Joseph Flynn

Kristen Gresham

The Association for Women Attorneys Award

Catherine Ann Becker

The Felix Frankfurter Distinguished Teaching Award

Professor Oliver A. Houck

The Monte M. Lemann Distinguished Teaching Award

Adjunct Professor Kenneth A. Weiss

CREST AWARD LAW STUDENT RECIPIENTS

The Student Crest Awards, started in 1998, are a unified campus recognition of the efforts and achievements of students as demonstrated in the areas of leadership, scholarship and community service.

John Guenard

James F. Kilroy Provost's Award

Cathy LeBlanc

Dean Donald R. Moore Award

Lauren Zimmerman

Service and Leadership Award

TULANE 34 AWARD LAW STUDENT RECIPIENTS

The Tulane 34 Award is presented to 34 graduates university-wide who have distinguished themselves throughout their collegiate life at Tulane University. Students are recognized for their exemplary leadership, service, and academic excellence. Named for the year in which the university was founded, 1834, Tulane 34 is among the most coveted university honors bestowed upon students.

Justin Van Alstyne

Demelza Baer

Carolyn Depoian

John Guenard

Galen Hair

NEW DEVELOPMENT OFFICER HITS THE FIELD OF LAW



This May, Tulane Law School was pleased to welcome Michael Harrington as its newest development officer. Prior to settling down in Weinmann Hall, Harrington served for three years as Director of the Tulane Athletics Fund (TAF). In this capacity, he oversaw all annual fundraising activities for Tulane Athletics, managed the TAF Advisory Board and volunteer booster

clubs, and planned and executed fundraising events.

Previously, Harrington was Athletics Development Associate for the University of Rhode Island, where he coordinated annual giving efforts, including all direct mail and electronic communication efforts. He also gained fundraising experience as a graduate assistant to the athletics director at the University of

Kansas, where he earned a graduate degree in Education. In addition, Harrington holds a bachelor's degree in English from the University of Connecticut and currently is pursuing his MBA from Tulane's A. B. Freeman School of Business.

Michael Harrington may be contacted at 504-865-5993 or via e-mail at mharrin@tulane.edu.

CHECK US OUT!

A gift to any program at Tulane is an investment in excellence, but if you want your donation to go to the *law school*, then remember to check the box for the TULANE LAW FUND. Gifts to the law school are used strictly for the benefit of law school faculty and students, and every gift raises our percentage of giving support.

TULANE LAW CLINIC 30TH ANNIVERSARY WEEKEND

SAVE THE DATE FRIDAY, APRIL 9, 2010

Plus, the Tulane Environmental Law Clinic honors 20 years in the making.

CLE HOURS FOLLOWED BY A MILESTONE CELEBRATION

French Quarter Fest, Environmental Law Summit,
and Tulane Law School Reunion Weekend

<http://tulane.edu/alumni>

JULY 1, 2008–JUNE 30, 2009

TULANE LAW SCHOOL

HONOR ROLL OF DONORS



EVERY GIFT MAKES A DIFFERENCE

Despite the challenging economic environment of the past year, Tulane Law School has succeeded in its core mission: delivering outstanding legal education, preparing our students for the challenges on the road ahead, and delivering cutting-edge scholarship in the field of law. We succeed because of the generous support of thousands of alumni, parents, friends, and others who recognize the great value leveraged through a charitable donation to Tulane Law School.

For the fiscal year 2008-09, the law school received a total of \$3,889,000 in new gifts and pledges. Of this total, \$605,000 came through annual donations to the Tulane Law Fund, our most important source of annual philanthropic support for the law school. The Tulane Law Fund is a way for every alum, parent and friend to make a difference in the life of the law school. Through the simple act of making a gift to the Tulane Law Fund, supporters may feel assured in knowing their investment is being applied to the most important areas of need.

The Tulane Law Fund is not a lagniappe; it is a core and essential component of the law school's budget for the dean and his administration. As an unrestricted resource, annual fund dollars may

be allocated wherever most needed, and it plays a pivotal role in advancing the law school forward each year. A substantial portion of the annual fund goes to support our most important resources: our students and our faculty.

The Tulane Law Fund is, of course, the easiest way for alumni and friends to contribute to our success. The law school is grateful to the generous and visionary support of those who have invested in its future through the creation of named endowments to support faculty positions, student tuition scholarships, or other programmatic purposes. The creation of an endowed fund carries on in perpetuity the values of the donor, ensuring the law school is able to carry on with the important work we have been doing so well for more than 160 years.

Each year, we make a special effort to recognize those who have shown their support for Tulane Law School through their charitable gifts. The Honor Roll of Donors is a way for us to acknowledge our appreciation for each of our supporters. No matter the size of their gift, every donor to the law school is listed herein. To each of you, thank you.

THE FOUNDERS SOCIETY

The Founders Society recognizes those benefactors—individuals, families, and institutions—who have committed \$1 million or more to the law school in their lifetime.

Anonymous Donor
Mr. David Boies
Mr. Gerald L. De Blois
Wendell & Anne Gauthier Family
Foundation
Mrs. Anne Barrios Gauthier

Eugenie & Joseph Jones Family
Foundation
Louisiana Board of Regents
The McKnight Foundation
Mrs. Beryl Whiteman Stiles*
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In the annals of Louisiana law of the past half century, the name Athanassios Yiannopoulos looms large. A faculty member at Tulane Law School from 1979 to 2008 and at Louisiana State University's Paul M. Hebert Law Center for twenty years prior, "Thanassi" has been a leading and central force in the modern era of the Louisiana Civil Code. He has been cited more than 400 times in published opinions, one-quarter of those by the state supreme court, and amongst his innumerable contributions, his important work on revising the Louisiana Civil Code as reporter for the Louisiana Law Institute continues today. Although Thanassi has retired from teaching, he continues to serve as director of the law school's summer program in Greece and as a professor emeritus.

In honor of his many important contributions to the study of civil law, his service to Louisiana, and his work as past director of Tulane Law School's Eason-Weinmann Center for Comparative Law, the A. N. Yiannopoulos Professorship in Comparative & International Law was established and endowed in 2008 by an anonymous friend and fan of his work.

TOM STAED GIFT HONORS C. J. MORROW'S LEGACY

Tom Staed (L '58) knows the value of leadership. Prior to attending Tulane, he served with the U.S. Marine Corps in Korea; as a student at Memphis University, he served as sports editor of the newspaper and annual. More recently, as a member of the Board of the Embry-Riddle Aeronautical University in Florida, he worked alongside those for whom the saying "shoot for the stars" is not a euphemism but a day's work, from military and civilian pilots to astronauts.

As a Tulane law student, Tom received an early lesson in leadership from Clarence "C.J." Morrow, a 1934 Tulane law graduate. In addition to serving as a professor of law from 1938 until his death in 1968, Morrow served as acting dean of the law school from 1951 to 1952 and subsequently was in charge of law admissions. "C.J. was special to me because he was an incredibly good teacher," Staed recalls. "He was also the one who dealt out the scholarships."

When it was his turn to lead the way for Tulane Law School, Tom demonstrated his commitment. A past member of the Dean's Advisory Board and the Law Building Committee, in 2005 he organized a fundraising effort amongst his former classmates to create an endowed scholarship. After all the results were in, Tom knew much more needed to be done, so he stepped in himself, making a significant contribution from his own resources to establish the C.J. Morrow/Staed Family Scholarship at the law school.

More than a professor, C.J. Morrow was a friend to Tom. Morrow encouraged Tom to stay in law school through an act that might be described as academic tough-love.

"In probably my second year, I went to sleep in his class one day, and he asked me to stay behind. 'Mr. Staed,' he told me, 'you've been sleeping in my class, and this is not the first time. If you fall asleep again, here's what I am going to do: One, I am going to kick you out. Two, I am going to fail you. And three, I am going to take away your scholarship.' After that, every time I would find myself starting to nod off, I would start slapping my face to keep me awake. I would look up at C.J., who would be grinning from ear to ear."

Morrow's medicine worked, and Tom flourished in the many classes he took with Morrow, along the way forging a bond of friendship.

After graduation, Tom worked as a lawyer with the California Company in New Orleans, an experience which helped prepare him for the Florida Bar exam when his family decided to relocate. Tom practiced in Florida and then went on to lead a very successful business career in the hospitality industry, managing and developing over a dozen lodging properties in the Daytona Beach area, along with a number of condominium projects as well. In addition to many civic contributions to his industry and his community, he is past president and chairman of the American Hotel and Lodging Association and of Best Western International.

As a lawyer and businessman, Tom has used his Tulane Law School education to navigate the ins and outs of succeeding in a competitive environment. "My law degree helped me in all my career paths. In everything I did, the law school played an important role. Tulane and hard work enabled me to be where I am today, but it was C.J. Morrow who selected me for the scholarship that enabled me to attend Tulane."

Tulane Law School is grateful for Tom's leadership on behalf of Tulane and the Class of 1958, as well as for his generous personal commitment to creating the Morrow/Staed scholarship.



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Tulane Law School thanks and recognizes the generous commitment of our Fellows of the Law School. Donors recognized as Tulane Law Fellows are those individuals and institutions who donate unrestricted gifts of \$1,500 or more annually to the Tulane Law Fund, which annually provides the dean and administration with the critical resources necessary to address the most pressing needs of the school throughout the academic year. Tulane Law Fellows comprise an important part of our alumni leadership and contribute to the strength and future of the law school. (Law graduates of the last decade are recognized as Fellows based on a set of reduced-giving thresholds, thus ensuring recognition of a new generation of leaders supporting the law school.) If you would like to learn more about donating and being recognized as a Fellow of the Law School, please contact the law school development office.

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ART HEROLD GROWS GIVING TREE

by Andrew Romero

In Tulane parlance, Arthur Herold bleeds green. Art's loyalty to Tulane runs wide and deep. A graduate of the law class of 1966, Art is a partner in the Washington, DC firm of Webster, Chamberlain & Bean, one of the nation's leading law firms specializing in legal services to non-profit organizations. He completed his undergraduate degree at Tulane's School of Arts & Sciences in 1963, and a glance at his family tree reads like a page from Tulane's history. His father, Simon Herold, practiced law in Shreveport after graduating from the law school in 1935 and Arts & Sciences in 1933. Art's mother Elaine Levy was a proud member of the Newcomb College Class of 1937. His grandparents both graduated from Tulane as well: his grandfather, as a member of the School of Medicine Class of 1907, and his grandmother a member of the Newcomb Class of 1909. (And we are not counting the cousins and siblings along the Herold/Tulane family tree...) Oh, and his daughter and his wife received their degrees from Tulane as well.

Every year, Art expresses his feelings for Tulane by giving as a Fellow of the Law School. Ask him why he gives to the law school (an action he has repeated nearly every year since graduating), and the answer is simple. "I like to say thank you," he shared in recent comments with *Tulane Lawyer*. "I recognize Tulane has changed a lot over the years, every good organization does. But the reason I give to the Tulane Law Fund as a Fellow every year is because of what Tulane did for me. The law school gave me a profession and a career for which I am indebted, and I feel it is my obligation to give back to Tulane," he went on to explain. "People who give to universities want to preserve the meaning of their degrees and make sure that their university is as strong as it can be. The time to make that investment is today. So I give to Tulane today for the past and the future of the university."

Thank you, Art.

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Giving in installments is helping many donors, especially younger alumni, make a bigger impact with their donations to Tulane Law School. How can you spread your gift over time? Simply visit www.law.tulane.edu/giving and make your donation to the Tulane Law Fund using our secure online giving system.

Using a credit or debit card online allows you to spread your donation over several months or a full year. Many donors are choosing to step up their giving to the level of our Law Fellows Society (with gifts of \$1,500 or more) by having their donation automatically debited at \$125 monthly. Not giving yet?

Why not start with \$50 a month? It's like buying dinner for an old friend.



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Our thanks to the following corporations that have generously matched employee gifts to Tulane Law School.

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WAYS OF GIVING TO TULANE LAW SCHOOL

TULANE LAW SCHOOL educates tomorrow's leaders today, and investing in our programs and students represents one of the best charitable contributions an individual can make. From community service to scholarships to cutting edge academic inquiry, your giving advances the interests and priorities of the institution. There are many ways to make a charitable gift or pledge to support the law school.

GIVING TO THE TULANE LAW FUND

Because it supports every aspect of the law school's operations, the easiest and perhaps most leveraged way to support the law school is through outright giving to the Tulane Law Fund. Gifts may be made to our annual fund by check or credit card using the envelope included in this issue of the *Tulane Lawyer*. Gifts also may be made online at www.law.tulane.edu/giving, where donors may choose to donate using automatic monthly donations via credit or debit card.

Donors also may choose to give appreciated securities as part of their contribution to the law school. Gifts of stocks that have increased in value provide a tax-wise way for donors to contribute. Donors who give appreciated stocks receive full credit for the net value of their donations and, at the same time, potentially avoid the capital-gains taxes that might come if they simply sold their shares outright.

RESTRICTED GIVING

Many times a donor knows exactly what they want to fund. The law school welcomes gifts to support our endowed scholarships, the library, and the many public interest programs and clinics that form part of the hallmark of the Tulane experience. The best way for a donor to make a restricted gift to a specific program is to contact the law school's development office.

ENDOWED GIFTS

There is no greater way to leave a lasting legacy at the law school than through the creation of an endowed fund. Whether for student scholarship or to underwrite a faculty position, a named endowed fund serves in perpetuity as a living memorial at the law school. Endowed funds are managed by the university for the preservation of capital and to support designated programs through an annual payout. In tough economic times, endowed funds serve as bulwarks to preserve our progress in

hiring the best faculty and recruiting the best students. Donors also may establish an endowed fund in their lifetime using outright gifts or pledges, and then further build their named fund later through a bequest or other deferred gift.

LIFE INCOME GIFTS

Especially appealing to seniors are the many charitable gift options for individuals to plan a deferred gift to the law school, which also produces an income stream for themselves or loved ones. Through a life income plan, in exchange for your gift, the plan will make lifetime payments to you, your spouse, or anyone you name, and the remainder will pass to Tulane for the purpose you specify. The amount projected to pass to Tulane is usually tax deductible. Another popular example, the charitable lead trust, may be set up with initial donations by an individual, after which the trust then will make payments to Tulane for a specified period, and then the assets in the trust will pass to the donor's named beneficiaries, usually children or grandchildren. (A lead trust can result in substantial gift and estate tax savings.)

BEQUESTS

Donors may include Tulane Law School as a beneficiary of their estate, and charitable bequests are tax-deductible for estate tax purposes and can be structured in many ways. Sample bequest language is available from the law school's development office.

To discuss these options, learn more about other ways to support Tulane Law School, or simply make a gift to the law school, contact Andy Romero, senior director of development, at Tulane Law School: 504-862-8559 or via e-mail at aromero@tulane.edu.



TAX TOPICS FOR THE PHILANTHROPIC: AN ATTORNEY'S GUIDE

GIFT ANNUITIES PROVIDE CERTAINTY IN UNCERTAIN TIMES

BY LIZBETH TURNER (L'85)

Charitably-inclined investors whose risk tolerance was tested by the market's volatility may want to consider a charitable gift plan that provides the certainty of fixed income.

The charitable gift annuity is a simple contract by which a donor gives assets (usually cash or marketable securities) to a charity in exchange for a lifetime annuity. The charity agrees

to pay a fixed amount at least annually to the donor or to annuitants designated by the donor. The remaining principal passes to the charity when the annuity ends. No trust is involved, so a gift annuity can be established easily and maintained with little expense.

The chart below illustrates the maximum rates currently offered for gift annuities established with Tulane.

MAXIMUM ANNUITY RATES FOR ONE LIFE		MAXIMUM ANNUITY RATES FOR TWO LIVES	
AGE OF ANNUITANT	RATE	AGE OF ANNUITANTS	RATE
65	5.3%	65/70	5.0%
70	5.7%	70/70	5.2%
75	6.3%	70/75	5.3%
80	7.1%	75/75	5.6%
85	8.1%	80/80	6.1%
90	9.5%	80/85	6.5%

Some donors prefer a lower rate than the maximum because the charitable income tax deduction increases as the rate decreases.

Note that Tulane may not be able to enter into gift annuity agreements with annuitants in certain states because of state law restrictions.

EXAMPLE

Bill, age 75, donates \$50,000 cash to Tulane in exchange for a gift annuity that will pay him an amount equal to 6.3% of the donated amount for his lifetime, and then will benefit Tulane Law School.

Annual payment amount: \$3,150

Estimated tax deduction*: \$22,440

How payments are taxed each year*: \$2,224 tax-free and \$926 taxed as ordinary income for 12.4 years; then entire annuity becomes ordinary income.

BENEFITS OF ESTABLISHING A GIFT ANNUITY WITH TULANE

- Fixed payments guaranteed by Tulane for the life of one or two annuitants
- Satisfaction of providing significant philanthropic support
- Immediate income tax deduction (for those who itemize deductions)
- Partial tax-free payments in most cases
- Favorable capital gains tax treatment if the donor is one of the annuitants
- Estate tax savings

FOR MORE INFORMATION

about gift annuities and other life income plans offered by Tulane, contact Tulane's Office of Planned Gifts at 800-999-0181, 504-314-7377, or ltturner@tulane.edu.

Please visit Tulane University's planned giving website at www.plannedgiving.tulane.edu.

**Note: These amounts are estimates and depend on the IRS discount rates in effect when the gift is made. Gift annuities benefiting annuitants other than a donor may result in a taxable gift.*



SAVE THE DATES

DATE	TIME	EVENT TITLE	LOCATION
Dec. 29–30	9 a.m.–5:30 p.m.	Tulane Law School's 20th Annual CLE-by-the-Hour	Tulane Law School (TLS)/ John Giffen Weinmann Hall (WH)
Feb. 8	5 p.m.	Dermot S. McGlinchey Lecture "The Construction Zone" Prof. Lawrence Solum, Univ. of Illinois College of Law	Room 110, TLS/WH
Feb. 24	6 p.m.	William Tetley Maritime Law Lecture "21st Century Piracy and the Taking of the Maersk Alabama" Capt. (Ret.) Gordan van Hook, Sr. Dir., Innovation and Concept Development, Maersk Line, Ltd.	Room 110, TLS/WH
Mar. 1	5 p.m.	Wendell H. Gauthier Lecture "James Carville Looks at American Politics" Prof. James Carville, Tulane University	Room 110, TLS/WH
Mar. 8	5:30 p.m.	Eberhard P. Deutsch Lecture "International Criminal Justice and the International Criminal Court: Why Should America Care" Prof. Leila Nadya Sadat (L '85), Washington Univ. School of Law	Room 110, TLS/WH
Apr. 9–11	TBA	Tulane Law Clinic 30th Anniversary Weekend	Location TBA
Apr. 10*	TBA	Law Class of 2005, 5th Reunion Law Class of 2000, 10th Reunion Law Class of 1995, 15th Reunion Law Class of 1990, 20th Reunion	Location TBA
Apr. 15–16	8 a.m.–5:30 p.m.	Tulane Law School Corporate Law Institute	Roosevelt Waldorf Astoria Hotel New Orleans
Mid-April*	11:30 a.m.	New Orleans Alumni Luncheon	The Ritz-Carlton New Orleans
May 14–16*	TBA	Law Class of 1960, 50th Reunion	Location TBA
May 15	TBA	Unified Commencement Tulane Law School Diploma Ceremony	Louisiana Superdome McAlister Auditorium

For more information on Continuing Legal Education (CLE) events, call 504-865-5900 or visit www.law.tulane.edu/cle.

*For details regarding class reunions, or to confirm times and locations of all the happenings listed above, please contact Ellen Brierre, law school alumni affairs manager, at 504-865-5920 or via e-mail: ebrierre@tulane.edu.



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Interim Dean
 Stephen M. Griffin



ADDRESS UPDATE / CLASS NOTE

Send class notes to Ellen Brierre, manager, law school alumni affairs

E-mail: ebrierre@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>

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