DUKE LAW MAGAZINE

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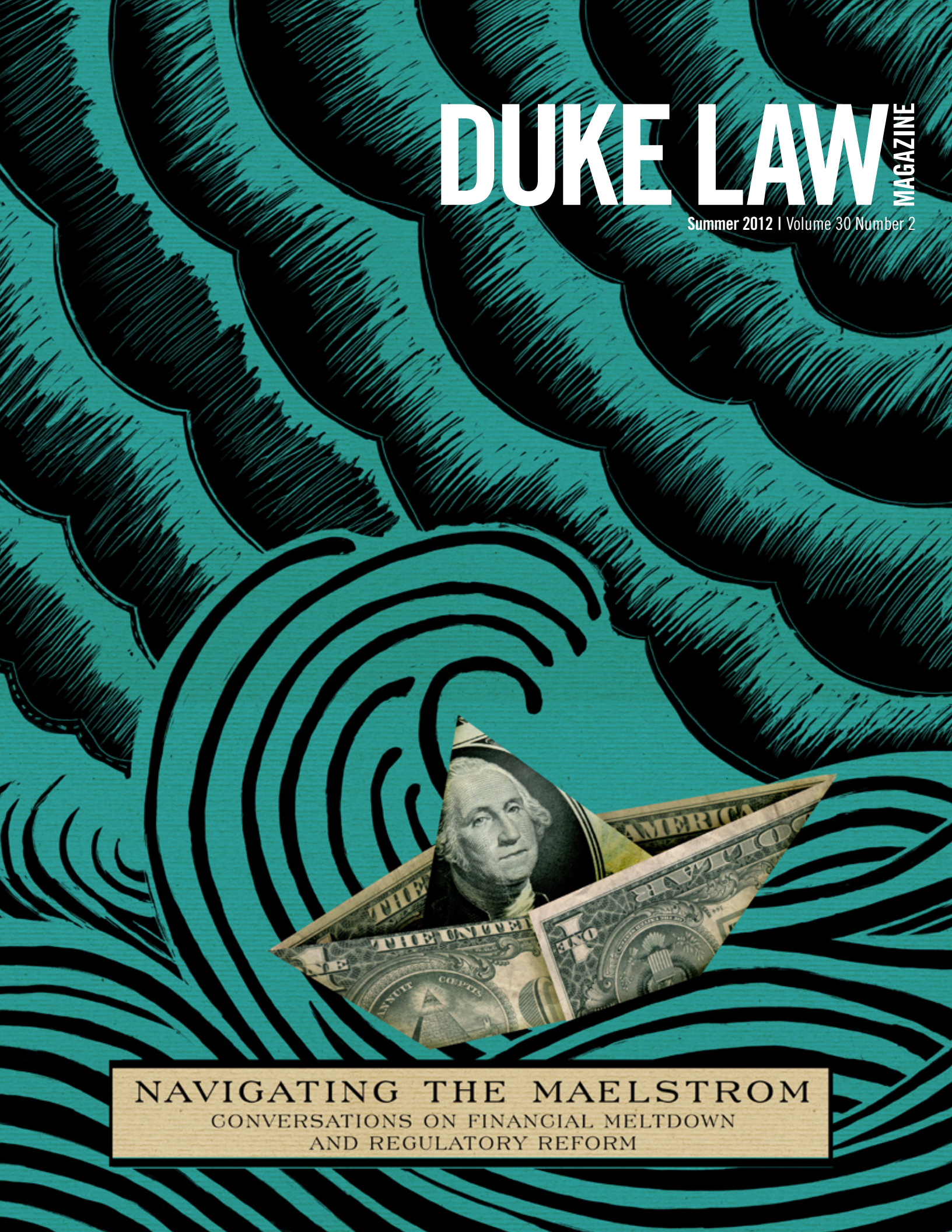

NAVIGATING THE MAELSTROM

CONVERSATIONS ON FINANCIAL MELTDOWN AND REGULATORY REFORM

From the Dean

DEAN DAVID F. LEVI

Dear Friends,

THIS SUMMER WE WELCOMED our first class of judges to our Master of Laws in Judicial Studies program. For four weeks, 18 federal, state, and international judges were eager and hardworking students at our school. I knew that they would be an amazing group; their applications had revealed their passion for their work, for improving their understanding of the judicial function, and for law reform. But I could not have predicted how much joy it would bring to all of us to have them in the building, toiling away happily in fields both familiar and unfamiliar.

Their days were filled with stimulating instruction from some of our most skilled and interesting scholars and teachers: Curt Bradley and Larry Helfer on International Law in U.S. Courts; Michael Bradley on Forensic Finance; John de Figueiredo on Analytic Methods; Mitu Gulati and Jack Knight on Study of the Judiciary; Maggie Lemos and Ernie Young on Federalism; Francis McGovern and Judge Lee Rosenthal on Issues Facing the Judiciary; Jeff Powell on Judicial History; Neil Siegel and Justice Samuel Alito on Constitutional and Statutory Interpretation. I recall a particular Friday when the day began with a unit on judicial biography with Linda Greenhouse, the Pulitzer Prize-winning former *New York Times* Supreme Court reporter, and John Jeffries, the distinguished former dean of the University of Virginia Law School. Following this stimulating class, the judges discussed Judge Richard Posner's latest book on the judiciary with Judge Posner himself, who appeared by video link. Later, Justice Alito arrived to begin his class on interpreting the Constitution. It was an incredible day.

In the late afternoons and evenings and on the weekends, the judges prepared for class and also attended to chambers work. They worked hard. One of them told me that he expected no less from Duke — a challenging experience that would leave its mark and require extraordinary effort. Now the judges have returned to their regular jobs, yet still with papers to write and problem sets to complete. They will be back next summer for another set of courses and then will complete a master's thesis on a topic of their choosing.

If the judicial master's program continues to go well, we will have created something special for our profession and the Law School. It is not easy to be a judge in the current climate. The conditions of employment are worsening at the same time that the demands of the job are increasing. Our judges need all the help we can give them in handling their cases wisely and administering complex systems of dispute resolution. A well-educated judiciary, with access to the very best teaching and scholarship that the academy can offer, is critical to the success of our state and federal judicial systems, which is so central to the success of our democracy. On the other side of the equation, Duke Law School gains 18 new alumni who are judges around the country and the world, and who are able to help guide our school and our students. Our faculty gains the rare opportunity of testing their ideas on active, experienced judicial officers who, in turn, can point us in new directions and provide valuable feedback.

Every now and then we get the chance to do something in our jobs that is not only good for the institution but that we really care about on a personal level. As a former judge and now dean, bringing this program to life has been that for me. I could not be more grateful to the many alumni, faculty, and friends who made it possible. The day when these 18 judges hold Duke Law degrees in their hands will be a wonderful day for them, and for Duke Law School.

I am grateful to our faculty for their dedicated teaching during these four weeks. Jack Knight and Mitu Gulati provided leadership and vision for the curriculum. Our new director of the Judicial Center, John Rabiej, provided the all-important administrative direction with critical early help from Assistant Dean Tia Barnes '03.

We can do much more to help unify the academy and the judiciary. The master's program is just one of several programs, conferences, projects, and research that the Center for Judicial Studies may undertake to the benefit of the Law School and the judiciary. It will be exciting to watch how the center develops in the years ahead.

Every now and then we get the chance to do something in our jobs that is not only good for the institution but that we really care about on a personal level. As a former judge and now dean, bringing this program to life has been that for me. I could not be more grateful to the many alumni, faculty, and friends who made it possible. The day when these 18 judges hold Duke Law degrees in their hands will be a wonderful day for them, and for Duke Law School.

Best wishes for a relaxing summer.

Sincerely,

David F. Levi

David F. Levi
Dean and Professor of Law

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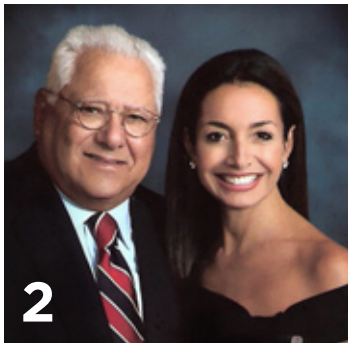
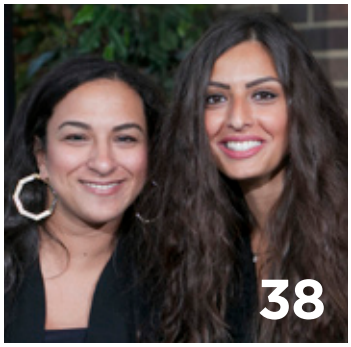
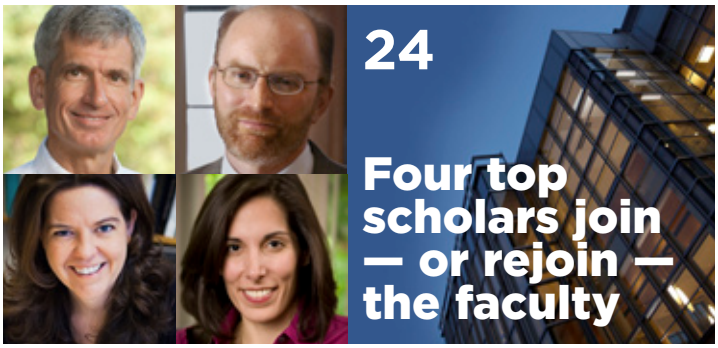
DUKE LAW

10–23 Navigating the maelstrom

Conversations on financial meltdown and regulatory reform







News Briefs

Stars commit $5 million to support student scholarships, financial aid

A NEW $5 MILLION commitment from Stanley A. Star '61 and his wife, Elizabeth Star, will establish three new full-tuition scholarships for outstanding Duke Law School students and create a matching gift fund designed to encourage other donors to support the school's financial aid programs.

This is the Stars' latest major gift to Duke Law School. In 2004, the couple gave $3 million to construct Star Commons, a four-story, light-filled community space that is now a cornerstone of the Law School's building. In 2011, the couple gave $5 million to help create four new professorships.

Photo: Mark Dellas

"Once again the Stars have shown remarkable vision and leadership," said Dean David F. Levi. "They transformed our physical space, they strengthened our faculty, and now they seek to keep our doors open to all deserving students who wish to come to Duke Law School. Increasing scholarship assistance so that law school is affordable is one of our highest priorities. Together the Star Scholarships and the Star Challenge are a big step forward toward that goal."

Of this latest gift, $3 million will be designated to support full-tuition scholarships. The other $2 million will establish the Star Challenge, a matching fund designed to encourage other donors to establish endowed financial aid funds. Duke Provost Peter Lange, the university's chief academic officer, said he will provide an additional $1 million in university funds to enhance the matching fund created by the Star gift.

"I am impressed with Stanley and Elizabeth Star's commitment to Duke," said Lange. "It is a pleasure to see their excitement grow as they become more and more involved in supporting Dean Levi's ambitious vision for the law school. I was inspired by their generosity, and I hope many others are inspired, too."

> *"Once again the Stars have shown remarkable vision and leadership."*
>
> — Dean David F. Levi

"We have always hoped to inspire others with our giving," said Stanley Star. "We get so excited when we are able to come here and see the potential for growth in this school and to see the enthusiasm of the faculty and the students. We can see how our contributions are helping the school and the people here. And the thanks and acknowledgment we receive is really nice. We just couldn't be more excited to be part of this community."

The Star Challenge will match new gifts for endowed scholarship and fellowship funds at the Law School, providing an additional $1 for every $2 committed. For instance, a new $250,000 gift would be augmented with $125,000 from the Star Challenge.

By structuring their gift in this way, the Stars provide the Law School with additional means by which to motivate donors who are considering gifts for student financial aid, said Jeff Coates, the Law School's associate dean of alumni and development.

"Students are struggling to finance law school, and we want to do everything we can to make sure that outstanding students who want to attend Duke Law School may do so regardless of their ability to pay," said Coates. "We are tremendously grateful to Stanley and Elizabeth for recognizing the urgency of this need, for devoting their own resources to support our students, and for helping us excite and inspire other donors who wish to help our students."

Scholarship and fellowship funds are critically important in bringing the very best students to Duke Law, said Bill Hoye, associate dean of admissions and student affairs. "The Star Scholarship will soon become, as Duke Law's Mordecai Scholarship has already proven to be, one of the most sought-after scholarship awards among top applicants to the nation's most selective law schools. I am thrilled that deserving new students will be able to proudly inform family, friends, and prospective employers that they have been named Star Scholars at Duke Law School."

For information about establishing a scholarship or fellowship fund utilizing matching funds from the Star Challenge, contact **Jeff Coates** at **(919) 613-7175**.

Alumni from across Japan gathered in Tokyo on March 7 to celebrate Associate Dean Judy Horowitz's tenure as the head of Duke Law's international programs. Dean David F. Levi and Associate Dean Jennifer Maher '83 (flanking Horowitz, front row, center) attended the event with Horowitz.

The Judy Horowitz Scholarship honors architect of Duke's international programs

WHEN JUDY HOROWITZ began working with Duke Law School's international programs in 1981, only a handful of international lawyers were enrolled as LLM and SJD students, and exchange relationships, summer institutes, and international alumni associations simply did not exist.

Horowitz has worked closely with four consecutive deans of Duke Law School to build a top-notch International Studies program at Duke Law. In 2011–2012, 96 attorneys were enrolled in the LLM program and 15 students were in the SJD program. Duke Law now has exchange agreements with 21 foreign universities; the Asia-America Institute in Transnational Law and the Duke-Geneva Institute in Transnational Law are thriving, as is the Durham-based Summer Institute on Law, Language and Culture; and alumni have organized clubs all over the world.

Duke Law School's international alumni now number more than 1,200 and are engaged in every manner of legal endeavor. They are partners in major law firms, leading in-house legal departments, and prominent judges, prosecutors, public interest lawyers, and government officials. Without exception, all were affected by Horowitz during their Duke education, and most count their time at Duke as being transformative.

"To me and to other students, Judy is the face of the Law School's internationalization," said Li Xiaoming '90, partner and head of the China practice at White & Case in Beijing and a member of the Board of Visitors. Li, who came to Duke as a Nixon scholar, credited former deans Paul Carrington, Pamela Gann '73, and Katharine Bartlett for their "vision, audacity, and perseverance" in investing in programs that brought international students to Duke.

"Judy put all the pieces together. She is connected to students old and new, and she links all the continents," Li said. "She has a great wealth of knowledge of different cultures, habits, and ways to communicate. She gives international Duke Law students and alumni a voice."

To honor Horowitz's pivotal role in transforming it into an international institution, Duke Law has created the Judy Horowitz Scholarship Fund, to which Li and others have made leadership gifts. Once fully endowed, it will provide a full scholarship each year to a deserving international scholar and create a permanent tribute to the architect of much of the Law School's international success.

"One of the remarkable features of Duke Law School is how international it is, and no one has done more to further its international presence and reputation than Judy Horowitz," said Dean David F. Levi. "The LLM program that Duke has is a result of her hard work. The program is notable, in large part, because the LLM students are so well integrated into the life of the Law School and sit side by side with JD students in their classes. Judy and, now, Jennifer Maher, work very hard to assure our foreign students that they will be welcomed into the intellectual community and student life of Duke Law School.

"This scholarship is our way of celebrating Judy's achievement, and nothing could be more meaningful for her than a scholarship in her name to assist deserving students to come to the very programs that she did so much to create," Levi said.

> *"To me and to other students, Judy is the face of the Law School's internationalization."*
>
> — Li Xiaoming '90

» To contribute to the Judy Horowitz Scholarship Fund, contact the Alumni and Development Office at **(919) 613-7017** or **alumni_office@law.duke.edu**.

News Briefs

GILBERTSON '12 RECEIVES TWO YEAR APPLESEED FELLOWSHIP

THERESA GILBERTSON '12 has been awarded a two-year postgraduate fellowship with New Mexico Appleseed. The Albuquerque-based organization advocates for policy changes concerning hunger and education to benefit poor and underserved communities.

The fellowship supports Gilbertson's interest in policy creation and education.

"I'd like to build a repertoire of knowledge about how policy works on a meta scale," she said. "Looking at my work with the Children's Law Clinic, it's person to person, on a case-by-case basis. This will be an opportunity for me to see what policymakers, legislatures, and organizations can do on a different level to reach the same kinds of issues and problems."

During her time at Duke Law, Gilbertson also worked with the Innocence Project, the Human Rights Society, and Legal Aid of North Carolina in addition to her public interest coursework.

Gilbertson said her work as a 2L in a seminar on gender violence in Haiti has proven especially relevant to her fellowship work.

"We were actually crafting suggested provisions for civil codes and looking at it from the perspective of what can the government do to address this really serious problem of violence against women and what is going to fit into this legal climate," she said. "I think that will be really good preparation for the work I'm doing in New Mexico because it will be those same issues of what's going to work in this community."

Before coming to Duke, Gilbertson was involved with the Child Leader Project, a group at her university dedicated to social justice and education.

"I sort of see my fellowship with Appleseed as a continuation of that work. They have a lot of the same goals and interests," Gilbertson said. "I'm looking forward to the next step."

LEITCH '12 WINS BURTON LEGAL WRITING AWARD

BRYAN LEITCH '12 received the 2012 Burton Legal Writing Award at a black-tie ceremony at the Library of Congress on June 11. Leitch was honored for his article, "Where Law Meets Politics: Freedom of Contract, Federalism, and the Fight Over Health Care," 27 *J. L. & Pol.* 177 (2011).

The Burton Legal Writing Awards recognize outstanding articles by practicing lawyers and law students "that are clear, concise, and comprehensive," according to the website of the nonprofit Burton Foundation. They are selected by a panel of academics, jurists, and public servants.

One of 15 honorees in the "Law School" category, Leitch wrote his paper as a 2L. He subsequently won Duke Law's 2011 Faculty Award for Legal Writing.

"Bryan wrote the best paper I have ever supervised," said Professor Neil Siegel, a constitutional law scholar and director of the Program in Public Law who has focused much of his recent scholarship on the constitutionality of health care reform. "Before many seasoned academics saw clearly, Bryan insightfully mapped the ragged and blurry boundary between constitutional politics and constitutional law in the ongoing controversy over health care reform. I am proud of him, and I am proud to be part of a school that produces young lawyers like him."

DUKE LAW AWARDS INAUGURAL GLOBAL LEADER SCHOLARSHIP IN CHINA

PEKING UNIVERSITY student Zhao Minglei has been named the inaugural recipient of Duke Law School's full-tuition Global Leader Scholarship. Set to graduate this summer with a dual degree in economics and French linguistics, Zhao will be a member of the Duke Law JD Class of 2015.

Zhao was selected among nine scholarship finalists after a rigorous series of personal interviews held in Beijing in early March with Professor Paul Haagen and several prominent Chinese alumni: Gao Xiqing '86, president and chief investment officer of the China Investment Corporation and a Duke University trustee; Yan Xuan '87, president of Nielsen Greater China; Li Xiaoming '90, who heads the China offices of White & Case and is a member of the Board of Visitors; and Hui Mei MLS '02, secretary of the China financial Futures Exchange in Shanghai.

"There is an enormous pool of talent in China," said Haagen, who chairs Duke University's China Faculty Council. "We at Duke are in the unusually favorable position of having distinguished alumni in China who are willing to put in the effort to help us identify and bring to the Law School this new generation of China's future leaders.

"The first recipient of the scholarship, Zhao Minglei, demonstrates a combination of exceptional academic achievement, courage, drive, and commitment to the betterment of society," Haagen added, noting that several of the nine finalists for the scholarship have opted to come to Duke Law this fall to participate in the LLM or JD programs.

Zhao is a top student at Peking University, where he has been awarded several honors, including the 2011 Feung Sungtsun Scholarship and the 2010 Model Student in Academics award. He attended Harvard Summer School in 2011 after working as an audit intern with Ernst & Young in Beijing; in that capacity, he helped conduct the annual audit of Industrial and Commercial Bank of China and China Life Pension.

A gay-rights activist, Zhao also has served as a volunteer with the Chinese Association of AIDS Prevention and Control where he worked on legal issues for HIV-positive people and the China Red Ribbon Beijing Forum. Zhao said Duke Law's long-standing efforts to attract international students and, in particular, Chinese students, were factors in his decision to apply.

"It was the first law school to attract Chinese students after the Cultural Revolution and those former Chinese scholars have realized impressive changes in China," he wrote. "Duke University is also launching a new campus in Kunshan, breaking new ground by bringing liberal arts education [to] China. ... Duke is a school that cares about Chinese students."

Spring break field research in Ghana

HUMAN RIGHTS SEMINARS, FIELD WORK, FOCUS ON GHANAIAN LAW REFORM, HAITI HOUSING MATTERS

TWO SPRING SEMESTER seminars combined classroom study and research with field work to tackle real-world problems pertaining to human rights in Ghana and Haiti.

Eleven upper-year students focused on the legal, constitutional, and social provenance and implications of two bills pending before the Ghanaian parliament that would alter spousal intestate succession and property rights in that country.

Over their March study break, students in Integrating Legal Frameworks: Customary Law, Statutory Law, and Spousal Property Rights in Ghana and their professors, Duke Law Professor Kathryn Webb Bradley and Divinity Professor Esther Acolatse, immersed themselves in field research in the West African nation. In the eastern city of Ho and the capital, Accra, they met with an array of stakeholders in the legislative process, such as parliamentarians, grassroots women's rights advocates, traditional and religious leaders, lawyers, jurists, and scholars.

Guided by a partner at the Law Institute in Accra, the students subsequently produced materials for use by Ghanaian advocates pushing for the bills' passage and by judges who will eventually be charged with the laws' interpretation and implementation.

In a separate effort, seven 2Ls spent their March break in Haiti, working on three legal projects related to that country's ongoing attempts to improve its legal system and to rebuild after a devastating 2010 earthquake. The trip was a component of their self-initiated ad hoc seminar facilitated by Guy-Uriel Charles, the Charles S. Rhyne Professor of Law and a native of the Caribbean nation. He had previously worked with four of the students following their 2011 spring-break trip to Haiti to produce a video documentary on the plight of Haitians who lost their homes in the earthquake; they subsequently established the Haitian Legal Advocacy Project at Duke Law.

After classroom studies on the Haitian political, institutional, and constitutional framework, the students elected to work in teams on issues pertaining to judicial reform, housing and relocation, and women's rights.

The two human-rights related seminars represent a continuation of Duke Law programs designed to offer students opportunities to apply their studies and skills in the area of human rights law to real-world problems.

» Read and see more about these seminars at **www.law.duke.edu/magazine**.


... and Haiti

News Briefs

Reunion 2012

Reunion weekend brought alumni from classes ending in "2" and "7" back to Duke Law. The Law Alumni Association honored **Robert E. Harrington '87**, **Michael J. Sorrell '94**, **Bruce L. Rogers '87**, **Susanne I. Haas LLM '85, JD '87**, and **Amy Y. Yeung '06** for their career achievements and service to the Law School.

Hooding 2012

JUSTICE STEVENS TELLS 2012 GRADUATES TO INCLUDE PRO BONO WORK IN THEIR CAREERS, ALWAYS PRESERVE INTEGRITY

JUSTICE JOHN PAUL STEVENS advised Duke Law School's 2012 graduates to include "a significant amount of unpaid work" in their professional careers when he addressed them at their hooding ceremony on May 12.

"Whether it is bar association work, providing legal assistance to clients unable to pay, or political advocacy of some sort, you will not only learn important lessons not taught in any law school course, but also receive unexpected intangible rewards from such work," said Stevens, who retired in June 2010 after serving for 35 years as an associate justice of the Supreme Court of the United States.

Stevens was addressing the members of the JD and LLM classes of 2012, who were subsequently hooded. Two hundred and twenty graduates received the JD degree during Duke's weekend ceremonies, with 26 also earning an LLM degree in international and comparative law, and 27 also receiving a master's degree from another graduate school at Duke University. Two JD graduates earned simultaneous degrees through Duke Law School's partnerships with other universities, Harvard's Kennedy School of Government and Sciences Po, in Paris. Ninety-five internationally trained lawyers received LLM degrees and 17 completed Duke's one-year program in Law and Entrepreneurship.

Stevens reminded the graduates that integrity is their greatest asset. "If your word is good, you will have a successful career," he said, adding that "I don't know" is a permissible answer to a question posed by a client or prospective client. "Your ability to find answers to difficult questions and your good judgment are far more important assets than your ability to memorize black-letter rules."

LLM Class Speaker Frederik Grysolle and JD Class Speaker Joanna Darcus celebrated all the graduates had accomplished together — and their future potential. "I don't have time to tell the stories of all that we have been part of and how we have been changed through innocence work, street law, clinics, and preparing tax returns," said Darcus. "But that was just our beginning. We are poised to be part of much more."

"Now you are ready to take your place in a profession whose primary purpose is to keep the social fabric together and to keep the machinery of our democracy and our legal and economic systems well-oiled and fair," Dean David F. Levi told the graduates.

"You have earned the right to join our distinguished body of alumni who practice law and serve the common good all over the world."

At their Graduation Gala on May 10, members of the Class of 2012 presented the dean with a check for $108,534. The gift represented 66 percent participation by members of the graduating class — exceeding the committee's goal of 65 percent participation — as well as a $30,000 matching contribution from parents. The gift reflects "how much Duke Law means to us," said Class Gift Committee co-chair Grayson Lambert.

Teaching the Judges' Seminar, front L-R: Dean David F. Levi; Judge Denise Page Hood, U.S. District Court for the Eastern District of Michigan; Judge Anthony J. Scirica, U.S. Court of Appeals for the Third Circuit; Judge Eldon C. Fallon, U.S. District Court for the Eastern District of Louisiana; Professor Francis McGovern; and Judge Lee H. Rosenthal, U.S. District Court for the Southern District of Texas.

From courtroom to classroom

Duke's Master of Laws in Judicial Studies welcomes its first class

EIGHTEEN JUDGES from federal, state, and foreign courts spent early summer at Duke Law, taking classes — and doing homework.

Members of the inaugural class of the new Master of Laws in Judicial Studies program took courses on such subjects as analytical methods, international law in U.S. courts, federalism, forensic finance, and the study of the judiciary, many of which were taught by members of the Duke Law faculty. U.S. Supreme Court Justice Samuel Alito taught a seminar entitled Constitutional Courts, and visiting jurists and scholars taught the weekly Judges' Seminar.

"We created this center because we saw there was a growing divide between the academy and the practicing bar and bench," said John Rabiej, director of the Center for Judicial Studies. "This program is one way in which we'll bring the academy and the bench together to help bridge this divide."

The curriculum is distinctive in focusing on the judiciary as an institution, added Jack Knight, the Frederic Cleaveland Professor of Law and Political Science, who serves as co-academic director of the Center for Judicial

DUKE MASTER OF LAWS IN JUDICIAL STUDIES INAUGURAL CLASS

Dennis Adjei
Justice of The Court of Appeal (Ghana)

Robert E. Belanger
Judge, 19th Judicial Circuit of Florida

Kevin A. Blazs
Judge, 4th Judicial Circuit of Florida

Andre M. Davis
Judge, U.S. Court of Appeals for the Fourth Circuit

Marsha Erb
Justice, Court of Queen's Bench of Alberta (Canada)

Jon Ferguson
Judge, Superior Court of California, San Bernardino County

Kem Thompson Frost
Justice, Court of Appeals for the 14th District of Texas

Eva Guzman
Justice, Supreme Court of Texas

George C. Hanks Jr.
U.S. Magistrate Judge, Southern District of Texas

James E. Hardin Jr.
Superior Court Judge, 14th Judicial District of North Carolina

Robert Hunter
Judge, North Carolina Court of Appeals

Barbara Jackson
Associate Justice, Supreme Court of North Carolina

> *"To do your job better, you have to understand how you do your job. And that's what I've gotten here."*
>
> — Magistrate Judge George C. Hanks Jr., U.S. District Court for the Southern District of Texas

Studies with Professor Mitu Gulati. "There are some traditional law school courses, focusing on jurisprudence and recent issues in law, and there are some social science courses, focusing on the administration of courts and how the courts are organized," he said. "It is an interesting blend of approaches, and we are thinking it will facilitate productive discussions and perhaps new ideas for further scholarly study."

The intensive four-week session, which began on May 20, represented the first of two sessions in the LLM program for judges, the only one of its kind offered by a law school in the United States. The degree program requires 22 course credits earned in-residence at Duke over two successive summer terms, as well as writing a thesis.

By all accounts, the students — who also had to keep up with their chambers and dockets during their time at Duke — got what they came for.

"It's a major commitment," Judge Andre Davis of the U.S. Court of Appeals for the Fourth Circuit told a visiting reporter from the Durham *Herald Sun*. "It's hard, hard for all of us, hard to arrange your schedule, and hard to take four weeks away. But it's very meaningful to have this opportunity. And the benefits far outweigh the sacrifices."

"I wanted to enhance my skill set, to be a good judge, the best judge I can be," Magistrate Judge George C. Hanks Jr. of the U.S. District Court for the Southern District of Texas told the same reporter. "I wanted to be in an atmosphere where I would have the time to think about the law. To do your job better, you have to understand how you do your job. And that's what I've gotten here."

They also had a chance to bond in class, over dinners, and at a Durham Bulls baseball game, and to learn from one another.

"We have judges here from all levels," said Texas Supreme Court Justice Eva Guzman. "We're learning how we have handled similar situations. We're getting a broader view, and we're able to explore issues that can only enhance the work we do."

Renee Cohn Jubelirer
Judge, Commonwealth Court of Pennsylvania

Simone Marstiller
Judge, Florida First District Court of Appeal

Philip Pro
Judge, U.S. District Court, District of Nevada

Delissa Ridgway
Judge, U.S. Court of International Trade

Donna Stroud
Associate Judge, North Carolina Court of Appeals

Patricia Timmons-Goodson
Associate Justice, Supreme Court of North Carolina

RABIEJ JOINS DUKE'S CENTER FOR JUDICIAL STUDIES AS ADMINISTRATIVE DIRECTOR

John Rabiej joined Duke Law School's Center for Judicial Studies as administrative director in February. He brings more than 30 years' experience working with judges to his role at Duke, including nearly 20 years' service as chief of the support office for the Judicial Conference Committee on the Rules of Practice and Procedure and its five advisory committees on appellate, bankruptcy, civil, criminal, and evidence rules. He also provided guidance on rules-related issues to the Judicial Conference, the United States Supreme Court, and Congress.

Most recently, Rabiej served as executive director and director of judicial outreach for The Sedona Conference®, where he remains a contributing editor.

Rabiej is working closely with the center's co-academic directors, Professors Jack Knight and Mitu Gulati, to create and implement a variety of new programs to advance the center. He oversaw the center's first class of judges enrolled in its Master of Laws in Judicial Studies program.

"I have known John for many years because of his central role in the rule-making process for the federal courts," said Dean David F. Levi. "He has a wealth of knowledge about court practices and organization, judicial statistics, and law reform. He is a leading expert on electronic discovery. He has worked closely with many judges over the years and is in a position to help connect the new center to leading thinkers in the bench and bar on a range of topics affecting the judiciary and the legal profession, which will be of great interest to our faculty and students."

Rabiej holds a bachelor's degree from Loyola University; a JD from the University of Illinois College of Law; and a master's degree from Georgetown University. He has published numerous articles on the federal rule-making process, civil procedure, and electronic discovery. He is a member of the American Law Institute and in 2011 received a Distinguished Service Resolution from the Judicial Conference Rules Committees.

Conference: Presidential and judicial oversight of administrative agencies

The Center for Judicial Studies' inaugural conference, held on April 27, focused on presidential and judicial oversight of administrative agencies. Leading academics, federal judges, and policymakers, including current and former officials from the White House's Office of Information and Regulatory Affairs (OIRA), the U.S. Patent and Trademark Office (USPTO), and the Consumer Financial Protection Bureau, examined advances in the academic literature at the intersection of social science, law, and doctrine that can meaningfully be applied to executive and judicial decision-making.

The daylong conference focused on four discrete topics: presidential oversight of administrative agencies through OIRA; judicial oversight of administrative agencies; the formal analyses of judicial and agency decision-making, often empirically based, that are conducted by social scientists and legal scholars; and judicial oversight in patents and antitrust, two scientifically, technologically, and economically complex areas where the judiciary has been a dominant player in making law.

"Administrative decision-makers and judges presented invaluable perspectives on the scholarly articles that were presented," said Arti Rai, the Elvin R. Latty Professor of Law. Rai co-organized the conference with John de Figueiredo, the Edward and Ellen Marie Schwarzman Professor of Law.

NAVIGATING THE MAELSTROM

CONVERSATIONS ON FINANCIAL MELTDOWN AND REGULATORY REFORM

HOW THE SUBPRIME MORTGAGE CRISIS BECAME A CREDIT CRISIS and threatened the U.S. financial system was the focus of *Duke Law Magazine's* spring/summer 2008 cover story. The issue went to press during a tumultuous period that saw the takeover or outright failure of major financial institutions, the evaporation of credit, and a near collapse of the worldwide financial system. In October 2008 Congress passed the Emergency Economic Stabilization Act, which allowed the government to bail out failing banks and facilitated the establishment of the Troubled Asset Relief Program (TARP), followed notably — and controversially — by passage of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank) in 2010.

Where are we four years later? On March 22, Dean David F. Levi discussed the financial crisis and steps toward recovery with Professors James Cox, Steven Schwarcz, Lawrence Baxter, and Bill Brown, all internationally recognized experts on regulation and finance and frequently quoted commentators throughout the crisis. An excerpt of their conversation follows. **»**

Dean Levi: When we looked at [the financial crisis] before, we looked at subprime mortgages, leverage in the system, derivatives. ... With a little bit of history do we have a different set of explanations than we had before, or does it look pretty much the same?

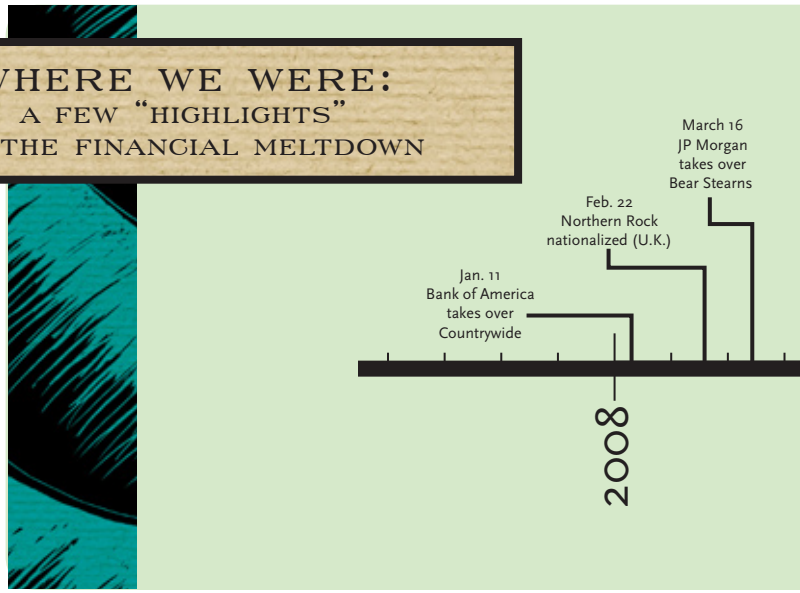
Professor Cox: What we've all learned in the last few years is that a government action can save the moment. What I fear is that Dodd-Frank makes that government action less likely in the future.

I think it's amazing that the Dow-Jones average today is above 13,000 given where we were and that we have banks where they are. We got there by this huge flushing of cash into the system worldwide. Trillions of dollars within months in the fall of 2008 — around the globe it was just flushed into economies around the world. We blew through stop signs in bailing out AIG. If it had failed, it would have been, I think, 70 to 80-fold larger than Lehman. Then we passed Dodd-Frank, which makes it clearly and explicitly illegal to save AIG in the future, as I understand it, unless we again go through a stop sign and are willing to draw down on the resolution authority. Government is not good about making choices and putting people to sleep, which is what the resolution authority is all about.

So historically, our institutions served us and served us fairly well. It looks like we're going to lose $30, maybe $40 billion of TARP money, out of the hundreds of billions that were expended. I think that's a win-win. ...

Professor Baxter: I was both amused and delighted about the prescience of [the 2008 *Duke Law Magazine* story]. It was right in the middle of the catastrophe before people understood how big the catastrophe was.

WHERE WE WERE:
A FEW "HIGHLIGHTS" OF THE FINANCIAL MELTDOWN



... Remember what happened in 2008: Countrywide, Northern Rock, Bear Stearns, IndyMac, Fannie and Freddie into conservatorship. On one day — Sept. 15, 2008 — Lehman and Merrill. These were quickly followed by the failure of WaMu, the money-market mutual fund RMC "breaking the buck," or putting a freeze on redemptions — it was about to be a catastrophe outside of the banking system — and Wachovia was taken over by the Bank of America.

Then came the bailout legislation. ... You had the TARP injections ... the AIG bailout, which was massive. ... [I]t would have been a catastrophe if we hadn't done that. And then you've got the Fed emergency lending, which we've only recently learned about because it was all secret and took the courts to disclose it — an influx of billions and billions of dollars to the U.S. and foreign institutions. And then 11 of the largest banks were downgraded by the S&P on Dec. 20. So we were in one hell of a black maelstrom.

If you go back to that you realize that quite a lot of good stuff was done.

... [W]e are really only now starting to get a feel for what really happened and what we've done to get on top of this crazy situation which, in hindsight, is probably quite good. So we've moved into focusing on systemic risk — all central banks around the world are dealing with that; the Dodd-Frank Act creating the Financial Stability Oversight Council; and on the international side the Basel Committee on Banking Supervision and the Financial Stability Board focusing on this macro-economic picture and the systemic risks created by large financial institutions. I think that's a huge advance.

"We have claimed that we have put an end to such bailouts as AIG and the banks, but I think if you read the conditions under which they can be approved, again, those conditions will always be satisfied in the middle of a maelstrom such as the one we were in."

— Professor Lawrence Baxter

We've enhanced consumer protection. ... The jury's out on that — we don't even know whether that agency will survive. But we've sort of flailed around all over the rest of the place. We've given the SEC more funds and then we took them away, and we've got some fairly innocuous rules. But then we've got others — which in my mind is just a hopeless overextension of regulation in the form of, for example, the Volcker rule, where there are attempts to structure a market that will not be structured in the way that it has been.

We also have banks that are bigger than ever before. We have claimed that we have put an end to such bailouts as AIG and the banks, but I think if you read the conditions under which they can be approved, again, those conditions will always be satisfied in the middle of a maelstrom such as the one we were in: the president has to authorize it and there has to be joint agreement between the Treasury and the Fed. Of course they're going to agree if they're faced with another AIG and if they think another Lehman is going to happen.

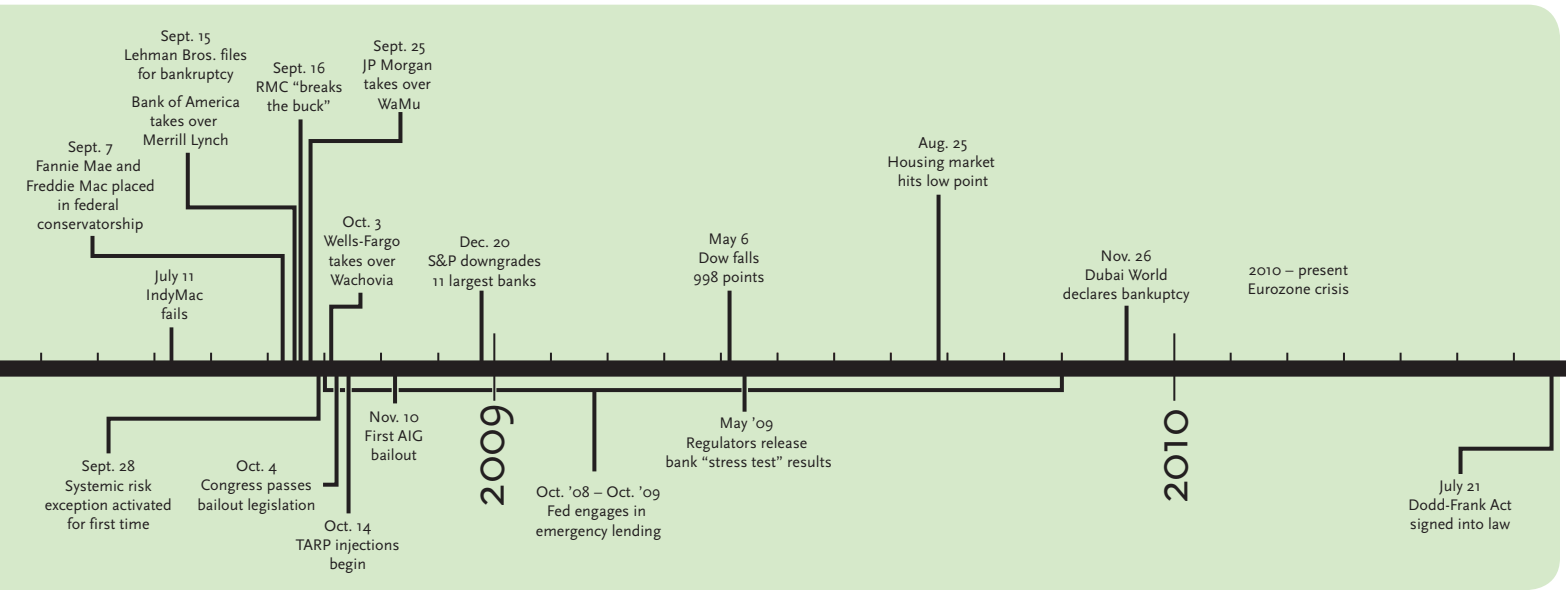
... But if you step back and look at the big picture over, say, decades, we are really going through a very predictable event with a predictable cost. All crises have something running between 165 percent and 450 percent of GDP cost to them. In other words, these crises are far bigger in their costs than they look. TARP funds may have been paid back, but the cost in terms of unemployment, for example, is catastrophic. It has slowed GDP growth and so on.

Professor Brown: ... [W]e've just shifted the hubris from the banking sector to the government sector. At one point we thought that the banks could regulate themselves. We thought they had the *incentive* to regulate themselves, and what we didn't fully appreciate is that they didn't have the built-in incentives to regulate themselves. And now we've shifted it to the government.

I don't believe that we can presciently regulate these markets in real time, and we purport to think that we can. ...[W]e will always be coming up with new types of derivatives that will reach beyond any sort of regulatory oversight. I think we've gone into an even worse crisis.

It's like this: In 1987, it was yelling "fire" in a crowded theatre. In 1998 during the Russian debt and Long Term Capital Management crises, it was the same theatre, except there were 10 people in every seat because of leverage. In 2008 it was the same theatre, but there were 100 people in every seat. This time, the leverage effects were compounded by complex financial derivatives. We keep allowing leverage to creep into the system. It doesn't matter if it's '08, '98, or '87; the problem was leverage.

The sidekick to the leverage problem is the transparency problem. We have not forced transparency to the level that we should have forced it. In fact, we blinked back in the middle of the crisis; the accounting profession pulled back on that. And when the accounting profession pulled back on its enforcement of the transparency rules late in the first quarter of 2009, the stock market actually found its bottom within a week.



Professor Schwarcz: I agree that leverage can be very problematic if it's excessive. But a very fundamental question is, why can't banks and other financial institutions regulate themselves in a way that makes sense? If it is not sensible for these institutions to have so much leverage, why do they have it, and why does government have to be paternalistic?

I think there are at least two explanations. One explanation is conflicts of interest — not only conflicts between owners and managers of financial institutions but, I believe more importantly, intra-firm conflicts between senior managers and middle managers. The problem is that middle managers, such as vice presidents and senior analysts, are almost always paid under short-term compensation schemes, misaligning their interests with the long-term interests of the firm.

Complexity is greatly exacerbating this conflict. Financial markets and products have become so complex, for example, that senior managers don't always fully understand what technically sophisticated middle managers are doing. Thus, as the value-at-risk (VaR) model for measuring investment-portfolio risk became more accepted, financial firms began compensating middle managers not only for generating profits but also for generating profits with low risks, as measured by VaR. Secondary managers turned to investment products with low VaR risk profile, like credit default swaps that generate small gains but only rarely have losses. They knew, but did not always explain to their superiors, that any losses that might eventually occur would be huge.

Another explanation is an externality problem. Financial institutions individually may well decide to engage in profitable financial transactions even though doing so could increase risk to third parties and the financial system itself, because much of the harm from a possible systemic collapse would be externalized onto other market participants as well as onto ordinary citizens impacted by the collapse. Thus, a financial institution that books a deal and engages in a transaction is going to get a fee; it's going to get an immediate gratification, 100 percent, for closing the transaction. Most likely the systemic impact won't occur, and even if it does, a good chunk of the cost is going to be externalized outside the firm.

I also want to tie into what Jim was saying before. I think the most *disastrous* thing that Dodd-Frank does is to modify Section 13(3) of the Federal Reserve Act so that the Fed cannot save failing financial firms. The rationale for that modification was to avoid moral hazard (that is, risky behavior motivated by the Section 13(3) safety net) on the part of financial institutions that considered themselves too big to fail. What is unfortunate about this, however, is that we sometimes need a safety net.

A better approach, I think, would be to try to internalize the cost of the safety net — such as by creating a systemic risk fund and internalizing its cost by requiring systemically risky firms to contribute to the fund, much like the FDIC requires banks to contribute to the deposit insurance fund. That not only would internalize those externalities but also would remove the incentive of large firms to externalize these types of systemic costs. You might even be able to trigger a degree of cross-monitoring among financial institutions, so the institutions responsible for contributing money to the fund would monitor each other. That would be something that I think would be very, very good.

Levi: Leverage and the other problems we experienced in 2008 — maybe too big to fail — are these susceptible to regulatory solutions?

Cox: My feeling is that we would be reluctant to do that, because it gets into operations and we like to let business have its head. So we tend to chip around it and worry about things like transparency and incentives instead of trying to put limitations on leverage.

Moreover, as Bill points out, the pressure that Congress brought to bear, in response to lobbying forces, on the accounting standard setters who were trying to introduce more discipline into the valuation of the assets and the transparency issues again, I think, reflected that our political process is amenable to inputs and pressure and that we're not going to be very good about setting leverage levels and such. So we'll just chip away at the edges. And that's what we've done.

Brown: Leverage happens through borrowing. Most people don't fully appreciate that leverage also happens naturally through derivatives. It's part of them. If someone buys an option for $10 million that actually controls $100 million of securities, leverage is happening. ... And the more complex [derivatives] are, the more leverage actually arises. We have an area right now where

"What the recent crisis has clearly shown is that it's not enough to protect banks or even financial institutions; we also need to protect financial markets because markets can be the triggers and transmitters of systemic collapse." — Professor Steven Schwarcz

you actually have infinite leverage and we routinely tolerate that every day — and that is the futures exchanges in Chicago.

I can start a day with no position. Then, at a later point in the day, I can have a $10 billion position in the market, and as long as I close it out by the end of the day, I do not have to post any margin. While I get to receive gains and pay losses, I do not have to post margin. That is infinite leverage. There are major participants in the market who do this. And while we might have heard of some of these participants, most are virtually unknown. Think about it. Unknown participants are controlling large positions and posting no margins.

A thinly capitalized high-frequency trading firm might have have intra-day positions open with several different Wall Street brokers. If all of a sudden a major market disruption occurred, as it did on 9/11, and the markets were closed down, we'd be in bad shape — especially if there were several of these trading ghosts in the same boat. And then we'd be focused on rescuing these firms and all the people to whom they owed their margin. Instead, we should be fixing the problem today.

We allow this stuff to happen. This is beyond the SEC's purview right now. I'm predicting that the next crisis will involve high-frequency trading, and it will bring this country to its knees such that we will think that what we just went through was a picnic.

Levi: I'm trying to get a sense of where the four of you are on the optimism/pessimism scale. Jim, you're feeling that we came through something and we came through in OK shape perhaps?

Cox: OK shape, but the question is, did we learn enough lessons from the past that we can go forward and do what we need to so this doesn't happen again? ... The little I've read about Dodd-Frank makes me think we've only made *modest* steps in that direction. We've been able to increase the fees that go into the FDIC so we can protect depositors a little bit more going forward, but at the same time, the real risks that are out there are what Bill was talking about — it's in the futures markets, the options, and most importantly the swap markets. My understanding about what's happened there is that the Volcker rule notwithstanding, we've not made many changes and there's still a huge amount of risk in the marketplace.

"The best regulation that you could ever have for financial institutions is to turn them back into partnerships."

— Professor Bill Brown '80

Brown: Let's be really clear here. The best regulation that you could ever have for financial institutions is to turn them back into partnerships.

Cox: Absolutely.

Baxter: That's a powerful point. One of the big problems is other people's money. Financing the operation through debt is a major problem.

But the problem goes even deeper. And that's why, rather than saying I'm optimistic or pessimistic, I'm *fatalistic*. These problems are now being driven by very big macro events, one of which is the massive rise in sovereign debt.

As long as you've got these funding means, you have to have very large financial institutions to make the markets in sovereign debt — to invest in that government debt. And that means that you'll never get rid of very big, zombie, inefficient financial institutions, as long as you've got very big, zombie, inefficient governments that simply are spending more than we are generating by way of income. So that's the first macro element that's going to continue driving this problem. And we see it in full color in Europe right now, but it's only a matter of time until it catches up with us.

You've got a split in the world between debtor nations and creditor nations. The U.S. used to be a creditor nation but it's now a debtor nation. And then you've got a further split between debtor nations that can print money, such as the U.S. and the U.K. and those that can't, such as the Eurozone. And that's why we're seeing the problem emerging first there.

David F. Levi
Dean and Professor of Law
Prior to his appointment as dean of Duke Law School in July 2007, Levi was the Chief United States District Judge for the Eastern District of California, with chambers in Sacramento. By appointment of the chief justice of the United States, he was chair of the Civil Rules Advisory Committee (2000-2003) and chair of the Standing Committee on the Rules of Practice and Procedure (2003-2007). He currently serves as a member of that committee.

Lawrence Baxter
Professor of the Practice of Law
Baxter focuses his teaching and scholarly research on the evolving regulatory environment, domestically and internationally, for financial services and beyond. A member of the Duke Law faculty from 1986 to 1995, Baxter returned in 2009 after more than a decade with Wachovia Corp., where he most recently led the bank's eCommerce initiatives.

Bill Brown '80
Professor of the Practice of Law
Brown is cofounder of Palmer Labs, LLC, and 8 Rivers Capital, LLC, which focus on financing and commercializing technologies in a range of areas. He joined the faculty in 2009 after holding leadership positions at Goldman Sachs & Co., AIG International, and Morgan Stanley. His teaching focuses on entrepreneurship, business law, business planning, capital markets, and corporate finance.

James Cox
Brainerd Currie Professor of Law
A leading expert in corporate and securities law, Cox's classes include Corporate Finance, Securities Regulation, Current Issues in Law & Markets, and Strategies in Business Transactions. He has published extensively in the areas of market regulation, corporate governance, and securities class actions, and testified before the U.S. House and Senate on insider trading, class actions, and market reform issues.

Steven Schwarcz
Stanley A. Star Professor of Law and Business
Schwarcz is a top scholar in the areas of insolvency and bankruptcy law; international finance, capital markets, and systemic risk; and commercial law. Before entering the academy he represented top banks and financial institutions in structuring innovative capital market financing transactions and helped to pioneer the field of asset securitization. He has testified in Congress and written extensively on matters relating to the financial crisis and systemic risk.

The other big force is an expectation that's become cultural in business, which is a return on equity. So the expectation is a return on equity of 15 to 20 percent. That's what's causing the kind of action that Bill talks about. It's a desperation in businesses to reach those levels. ... The institutions have to keep [returns] coming in at that level or they will go down. There will be a withdrawal of capital from them.

Brown: I think we will all be surprised that when this book is written five years from now, it is the private sector that will have bailed us out. ... I think the private sector has cash balances unlike any government.

Schwarcz: Lawrence has identified a very important collective action problem among firms. ... You have firms that are engaging in very risky behavior to get a return, because if they don't, other firms will get the return and investors will withdraw their money. But aren't collective action problems exactly the types of problems that governments can solve and should be solving? So how can we structure legislation to achieve that?

Baxter: We start with transparency. We pretend we have transparency but, for example, it's very hard to get to the truth on the leverage ratio of any institution. Why? Because of all the monkey business that goes on with weighting the assets. What gets a zero-risk weighting? Sovereign debt. Why? We've just seen sovereign debt cause problems everywhere. And when a sovereign defaults, the default is a disguised one, like devaluation of the currency, but the result is ultimately the same thing. And we give sovereign debt a zero weighting. Well, there's a co-dependency, I think, that exists. And so it's very hard for the market to tell what's going on and to distinguish accurately between one institution as opposed to another. Until you do that, you continue to have this debate.

Schwarcz: Another part of the problem is that we've tranched everything and split up all the risk so finely that we've created what I refer to as a marginalization of risk. Any given financial market participant, even financial institutions, may have so little at stake in any given deal that it doesn't take the time to engage in sufficient due diligence.

Brown: Let's face it, it wouldn't be a problem except for leverage.

Schwarcz: ... But leverage is a two-edged sword. Limiting leverage is great in terms of being conservative. On the other hand, a firm is less competitive if its leverage is too limited. We don't know what should be appropriate for any given firm, and we're competing in a global economy.

Baxter: I agree. I think it's better to go with the risk, but then create a system that is resilient when it runs into trouble. The problem is that we've developed a system where we can't stand failure because [the banks are] too big to liquidate in a manageable fashion. But I agree with you. I don't think we can stop bubbles up front.

Schwarcz: A piece I did a couple of years ago that was published in the *Washington University Law Review* uses chaos theory to analyze regulation of complex financial markets and products. Usually associated with very complex engineering systems, chaos theory posits the system inevitably will break down. You therefore have to manage for the breakdown to mitigate its consequences. There are ways to do that in the financial system. One of the ways was Section 13(3) of the Federal Reserve Act, which Dodd-Frank modified. ... That was probably the most important way to mitigate consequences, and yet it was effectively deleted.

Also, we've never had that kind of protection — mitigating systemic consequences — for financial markets. What the recent crisis has clearly shown

is that it's not enough to protect banks or even financial institutions; we also need to protect financial markets because markets can be the triggers and transmitters of systemic collapse.

For example, although the recent financial crisis is often associated with Lehman's collapse, the problem wasn't that collapse per se. The problem was that Lehman had a lot of very highly leveraged mortgage-backed securities, which had a relatively small component of subprime risk. Once the mortgage-backed securities market collapsed, parties lost faith in Lehman's ability to repay them. Furthermore, the investor community lost confidence in credit ratings and debt markets, effectively cutting off lending and impacting the real economy.

Brown: ... I remember something the Reserve Bank of New Zealand published in the spring of 2007, which told me we were getting ready to go for a tumble. In a nutshell, it showed that we had five times more in derivatives on debt than we had in all underlying debt itself. This is leverage on leverage. It was nuts!

Levi: So it's January 2013. You get a call and the president — whoever it is — asks you for two recommendations. What would those two things be?

Brown: You impose margin and capital requirements *not* on the basis of what's on the books at 5 p.m. You put it on the maximum position of what's on the books during the entire trading day. That's the futures market *and* proprietary trades. It hits prop trading right square in the nose, because it says, "We don't care what you're doing as much as we care about the extent to which you're doing it."

And put all investment banks back into partnerships. Put all this stuff back into partnerships and determine what risk actually can be taken. Make commercial banks inviolate, and anything else has to be in some form of partnership.

I do think that on the innovation side, there is demand for bullet-proof institutions. I think there's demand for trading structures that are bullet proof. I think there's demand for a lot of it. So I look at it and say, "Hey, this could very well be a market opportunity." And if you can innovate and pull together a group of people who will innovate to solve some of these problems, you will have a product that people want.

Baxter: I'm with Bill. Reduce leverage in the system as fast as possible — but I am skeptical whether you can pull it off. The other solution would be adjusting expectations of the public to the prospective debts we are continuing to incur, in the form of escalating retirement benefits, medical benefits, etc. ... You'd have to be prepared to be thrown out at the end of it. But I think that's where the fundamental priorities are — we've gotten way ahead of ourselves.

Obviously I like innovation, too. Because if you can grow the real economy, and you can grow productivity, you've solved the problem. But you have to grow it really fast to catch up with what we're incurring.

Brown: We've seen the ability, though, of innovation not to need government intervention.

Levi: You like Bill's two suggestions but you don't think they're very practical. You would like the president to downwardly adjust people's expectations for the return on their savings for their retirement and their pensions. And you want to stimulate innovation.

Cox: We have to grow the pie.

"... Many of these answers come back to not the political will, but the political ability to accomplish things. If there's not a lot of hope there for political change, there's not a lot of hope for the financial system." — Professor James Cox

Baxter: And I can't see any other way than innovation and corporate revival.

Schwarcz: I don't think we're going to be able to prevent problems *ex ante*. I think we have to try to muddle through, letting the private sector do what it can. If there's a real screw-up, let's provide some safety nets that do not create moral hazard. As mentioned, I think we can begin to do that through a privatized systemic risk fund.

Cox: My two wishes are structural: To return that part of Glass-Steagall that separated the depository institutions from the rest of them, and then to selectively bust [certain financial institutions] up into much smaller groups. If we're going to continue to buy the implicit guarantee of home ownership for loans, then we'd better make sure it's happening through organizations that compete against each other on quality and performance.

So I would continue to have that implicit guarantee, but I would have a much smaller Freddie and Fannie, and then I would like to have the depository institutions smaller too. ... It doesn't seem to make any sense to me why we would want to have depository institutions have any relationship to either underwriting or trading desks. Period. I think that change could be made fairly easily and not create a lot of disruption.

Levi: Final thoughts?

Cox: It's interesting how many of these answers come back to not the political will, but the political ability to accomplish things. If there's not a lot of hope there for political change, there's not a lot of hope for the financial system.

Baxter: Maybe the election helps. Maybe it's time for a showdown with the election.

Schwarcz: We've talked a lot about transparency. I think things have gotten so complex in the financial system that transparency — at least complete transparency — is just not going to happen. ... We're far beyond the realm of what we as individual human beings can fully assimilate. We may even be beyond the realm of what financial institutions, at least on a cost-benefit basis, can feasibly understand.

Baxter: We've gone way beyond a lapse of due diligence into an impossibility of due diligence.

Schwarcz: But the silver lining is that it's a really interesting time for us to be academics in this area.

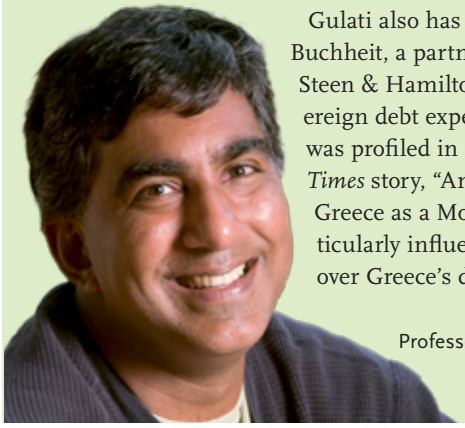
Tackling the European debt crisis

On June 6, the influential *Financial Times'* blog "Alphaville" gave consideration to a novel proposal developed by four Duke Law students for addressing Italy's liquidity crisis. Using a creative interpretation of an Italian decree, the students proposed that Italy extend the maturities of existing debt that had been borrowed at low rates. Doing that, instead of borrowing on the markets at high rates, could help it weather the current crisis, the students suggested.

"We recommend that Italy reprofile its debt by extending the maturities on the medium to long-term debt governed by Italian law," wrote Andrew Edelen, Paige Gentry, Jessalee Landfried, and Theresa Monteleone, all of the Class of 2013. "By extending the maturities, Italy can lock in lower interest rates, which will give it the stability it needs to weather shocks to the market and demonstrate its fiscal responsibility. Italy's debt stock is ideal for a reprofiling as a majority of its debt consists of instruments that can easily be changed and because Italian banks own a large percentage of the debt ... a majority of its bonds have low coupon rates, are governed by Italian law, and have no contract terms."

The students developed the idea of maturity extension in their International Debt Finance class this spring. Taught by Professor Mitu Gulati (and frequently joined by Professor Michael Bradley of Duke's Fuqua School of Business and other scholars and lawyers working on debt issues), the course focused on solutions to the ongoing Eurozone sovereign debt crisis. Bradley and Gulati are currently involved in empirical work aimed at evaluating solutions to the crisis; they were drafted to teach the course by Associate Dean Elizabeth Gustafson '86, who saw the unfolding crisis as a rare teaching and learning opportunity — and one that fit well with the Law School's integrated learning model, which blends substantive law with hands-on learning.

Gulati also has collaborated with Lee Buchheit, a partner at Cleary Gottlieb Steen & Hamilton and a prominent sovereign debt expert. Their recent work was profiled in a March 6 *New York Times* story, "An Architect of a Deal Sees Greece as a Model," and has been particularly influential in the negotiations over Greece's debt.



Professor Mitu Gulati

As he has presented ideas for addressing the various Eurozone debt problems to scholars and lawmakers, Gulati frequently draws from the work of his students, noting that they have developed a range of creative and impressive ideas relevant to the debt crisis. "It was fun to teach students who were willing to think outside the box," he said. "I learned a lot from them."

Some examples: Melissa Boudreau '13 explored the legality of a mandate to retrofit certain contract provisions (specifically collective action clauses) into local law bonds, which constituted the vast majority of Greece's debt prior to its restructuring in March 2012. In her paper "Restructuring Sovereign Debt Under Local Law: Are Retrofit Collective Action Clauses Expropriatory?," 2 *Harvard Business Law Review Online* 164 (May 8, 2012), she drew on international and domestic materials to evaluate whether passage of the mandate would create an opportunity for disgruntled creditors to bring successful lawsuits in American courts. Her paper has implications for litigation that is the likely fallout of the March restructuring of Greek debt, Gulati said.

Keegan Drake JD/MBA '14 studied the implementation of collective action clauses (CACs) in existing sovereign bond contracts. For his paper "Disenfranchisement in Sovereign Bonds," Drake analyzed hundreds of foreign-law sovereign bond contracts and found that some sovereign debt instruments allow a government to vote to modify its own contract terms and reduce its obligations to private creditors. Gulati said that Drake's findings have direct relevance for the ongoing attempts to draft new sovereign bond contracts that ensure more orderly resolutions for future crises.

Yet another team of second-year students, including Boudreau, Matt McGuire, Logan Starr, and Andrew Yates, developed a paper encouraging Italy to lessen its debt load through a voluntary bond exchange in which Italy issues new Italian-law bonds with reduced principal in exchange for increased investor protections against further restructuring.

Gulati credits his students with contributing notable scholarship and useful proposals for resolving the European debt crisis. "They worked extremely hard on difficult and contentious questions and did much more work than I could reasonably have asked of them," he said. "It is superb work."

» To view faculty and student scholarship related to financial regulation, systemic risk, and the European debt crisis, visit **www.law.duke.edu/magazine**.

More conversations:

» PAGE 18 Former FDIC General Counsel Michael Krimminger '82

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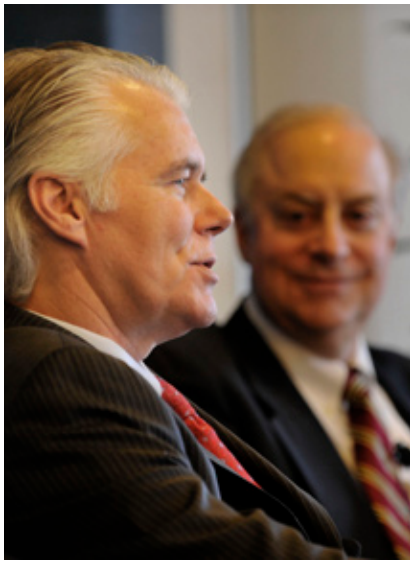
PAGE 22 Professor Kimberly Krawiec on the Volcker rule

The regulator's view:

A conversation with Michael Krimminger '82, partner, Cleary Gottlieb Steen & Hamilton, former general counsel, FDIC



As deputy to the chairman for policy and, from November 2010 to May 2012, as general counsel of the Federal Deposit Insurance Corp., Michael Krimminger helped the agency address domestic and international banking issues and develop regulatory changes and policy initiatives in response to the financial crisis. In a nutshell, Krimminger describes the financial meltdown of 2008 as a "perfect storm" of opaque transactions; the evaporation of investor confidence in the markets; a highly-leveraged system in which risk was grossly underestimated; and an inadequate statutory infrastructure. The long period of unusually favorable market conditions also led regulators themselves to ignore danger signals and fail to take action to stem excessive risk-taking by regulated financial companies, he says. In combination, this led to both the markets and regulators failing to take action against a growing shadow banking and mortgage-origination system until the bubble burst and the crisis spiraled out of control. As Krimminger describes it, the inadequacies of the statutory frameworks to deal with such a broad market disruption led to necessary, but unfortunate, actions to prevent an even greater destabilization of the financial system.

In late March, Krimminger, now a partner at Cleary Gottlieb in Washington, talked to *Duke Law Magazine* about the regulatory reforms that have emerged in the wake of the meltdown. An excerpt of the conversation follows. »

Duke Law Magazine: What have been the most significant regulatory improvements since 2008?

Michael Krimminger: I would point to four things. First, there is now a framework in place to provide for an additional level of advance planning — resolution planning — and prudential and market oversight by the Financial Stability Oversight Council. This is provided by Title I of Dodd-Frank [the Dodd–Frank Wall Street Reform and Consumer Protection Act]. That's something you didn't have before. Bank holding companies over $50 billion, of course, were always subject to oversight, but now you also have a framework that can subject designated non-banks, so-called SIFIs [systemically important financial institutions] to an additional level of oversight.

The caveat to Title I is that it is very much dependent upon what the regulators actually do with it — whether or not they take action to make it work. ... In short, it remains to be seen whether regulators will be able and willing to take timely action in the future.

The resolution-planning element is a significant development. Under Section 165(d) of Title I, the FDIC and the Federal Reserve have adopted a joint regulation requiring the largest financial companies to prepare detailed resolution plans demonstrating how they could be wound down under the Bankruptcy Code. This will require the companies to take a hard look at how they do business and whether they need to take action to simplify their operations to provide a credible plan for their resolution under the Bankruptcy Code. That's a tough standard. And I think we need to make sure that's implemented in a very aggressive way.

The second major thing is that there are now a series of steps being taken to improve the resiliency of the financial system. It includes things like moving derivatives over to central counter-party systems where possible, trying to reduce dramatically the use of over-the-counter derivative transactions — you can't eliminate them entirely — and reforms such as the Volcker rule, which can have some impact on de-risking parts of the system. These reforms remain under development through rulemakings — and as with many other parts of Dodd-Frank it all depends on how those rules are finally adopted and how they are actually implemented. The best rules in the world are useless unless they are actually enforced.

The third major area that's really vital for change is the Title II resolution authority. Under Title II of Dodd-Frank, if the Bankruptcy Code is viewed as creating too great a risk of contagion effects across the market if it is used to wind down a financial company, the FDIC can be appointed as a receiver and resolve the company in a way to minimize the disruption from the failure while making sure that shareholders and creditors bear the losses. It's done in a way that would support the market's overall liquidity and keep the market functioning. That's something we didn't have in 2008 and that's why Treasury chose to propose TARP and why the FDIC participated in providing support to certain companies. That cannot be repeated. If the market understands there is a viable and credible process for closing down these firms, then investors and the market will be more likely to internalize a new reality that these firms are no longer too big to fail and to actually make them pay the freight for the risk they pose to the system. Market participants must come to view the largest, and most complex, financial companies as potentially subject to failure and, therefore, to look at their credit quality on a true market basis, rather than with the expectation of government support. This is critical if we truly believe in free markets.

And that relates to the fourth element — addressing the cross-border operations of the largest financial companies. I'm pleased to say that the level of cooperation and the working relationships on the international stage — often behind the scenes — between the regulators and resolution authorities around the globe have shown tremendous improvement and development. These developments are particularly critical in the key jurisdictions where U.S. com-

panies have the vast bulk of their cross-border operations and exposures. Of course, some people still say, "You can't deal with these international [problems] because U.S. firms have operations in 100 different countries." ... While true on its face, the fact is virtually all U.S. firms, no matter how involved they are internationally, have more than 95 percent of their exposures and operations in fewer than 10 countries. And 80 percent, roughly, consist of operations in the U.K. or through the U.K. So we have been focused specifically on developing relationships and developing joint planning and parallel reviews for resolution planning for British firms and U.S. firms with U.K. authorities. There has been a tremendous amount of progress. ... It's an effort closely coordinated with the Federal Reserve and the OCC [Office of Comptroller of the Currency] and other regulators.

The key thing from a U.S. perspective is that the key reforms very much reflect the resolution regime that was adopted in Dodd-Frank and it is built very fundamentally on the FDIC's resolution process for banks that's been in place for 70-plus years. In effect, the Dodd-Frank and FDIC resolution process *is* the international model.

I [was] a member of the Resolution Steering Group for the FSB and the Cross-border Crisis Management Working Group, and a number of other multilateral efforts. These efforts, in my view, have made a big difference. Europe is moving ahead with reforms that will help implement these things. The British are very aggressive in moving ahead with planning and reforms. And this is something that is going to be a major effort over the next few years. It's going to make the likelihood of a cooperative resolution of a major financial firm, if one gets in trouble, exceedingly more likely than it's ever been in the past.

"I don't believe that we necessarily need to break up the large banks or companies, but I believe that we need to make sure that they pay the actual social cost of their size and complexity." — Michael Krimminger '82

DLM: How has Dodd-Frank changed the prospects for future bailouts of troubled financial firms?

Krimminger: Dodd-Frank modified Section 13(3) of the Federal Reserve Act in one significant way, but mostly in fairly benign ways.

The significant way is that you can't provide liquidity support or bailout support for a *specific* company. That's a good thing. Look at it this way: At the end of 2008 and in 2009 as the smoke was clearing from the rubble, we had maximized moral hazard and minimized market discipline because we essentially guaranteed the capital structure of the 19 largest financial firms in the United States. To address that, we needed to put market discipline back in and minimize moral hazard. Really, the only way to do that is to say "We're not going to be doing bailouts in the future." So Section 13(3) needed to have a restriction put into it so that you couldn't do an individual firm bailout.

But 13(3) continues to give very broad terms for the Fed to provide system-wide liquidity support. And that can be done in a variety of ways as has happened in the past. It just can't be targeted on a single company.

This all has to be viewed as part of a reform package that includes a new resolution regime. My view is this: If you believe in a free market, you have to believe in the freedom, so to speak, to fail. And financial companies should not be put on any kind of golden pedestal any more than any other company. We have to make sure that we have the ability to provide liquidity to the system — which is what 13(3) does and what the provisions for the debt guarantee program that the FDIC can offer under Dodd-Frank does. And if you can't survive based on overall liquidity to the system, then you need to be closed and resolved. We just need to make sure you can be closed and resolved in a way that doesn't create a catastrophe for the system itself. That's what Title II is about.

DLM: It's January 2013 and the president, whoever it is, asks you to make two recommendations for improving the overall system further. What still needs to be done?

Krimminger: I think I would want to make sure that there is complete administration support and aggressive advocacy for implementing the additional capital and systemic stabilization efforts that we put into place as a result of the crisis. There should not be a backing off of that. That includes things like making sure that the Basel III capital standards are put in place; making sure that liquidity standards are put in place; making sure that you put in place a more realistic structure for money-market mutual funds, commercial paper and other things. That would be one of the key areas that I would say [needs improvement]. Some of that involves making companies pay the cost they would impose upon the system if they were to crash, and therefore would lead to some simplification of financial companies.

I don't believe that we necessarily need to break up the large banks or companies, but I believe that we need to make sure that they pay the actual social cost of their size and complexity. And if they can operate efficiently after paying the social costs, then that's fine. If they can't, they need to de-risk or reduce themselves in size so they can be a more functioning part of the normal financial system. ...

The second thing I would suggest is a real drive by the administration at the highest level to ensure that there is a cooperative effort brought to bear on cross-border issues with other countries across the globe. This should entail taking a real hard, fresh look at the global financial system and identifying how we can make sure that it is more resilient in a way that promotes economic growth but doesn't do that at the cost of creating a boom-bust cycle internationally. ... Right now the international infrastructure is very much focused on a North American and European framework, with the addition of Japan and some other countries. We need to bring into the international/global financial system, in a very clear, cooperative way, countries like India and China that are becoming more involved, but we need to make sure that they see the current international infrastructure and framework as being very much in their interests. I don't rely upon people's good faith or countries' good faith, but I think that if you make something in someone's interest, they will be more predictable in their reactions to it than they would be if it wasn't.

DLM: Are there limits to the ways regulation can address problems with transparency that may be due to complexity?

Krimminger: There are definitely limits to regulation. That's why I've always been a big advocate of a supportive infrastructure that does two things. First, it has regulation in place that requires certain standards to be met. Of course,

regulations can be gamed and you have to understand that this is just part of life, because people are very smart in the financial markets.

The other thing you need to do is make sure the market infrastructure supports the regulatory goals. An example would be that you need to have certain requirements regarding risk retention and securitization so that people have skin in the game and also requirements that transaction structures and reporting are sufficiently transparent so that the risks can be understood by investors. And then you ensure that the market infrastructure puts in place a sort of risk/reward incentive for that. So you make sure there's transparency. And if there's transparency the market will — if you believe in markets — be more likely to reward the "smart money" than the "dumb money," because people will have an advantage if they can actually understand what's underlying the transaction. I think transparency will help lead to a somewhat reduced level of complexity. I would even go so far as to have some limitations upon the level of complexity you can have in securitization deals. There are a lot of other types of transactions, of course — credit default swaps and collateralized debt obligations and others can be incredibly complex, but I think you can't do it just by regulation. That just creates other opportunities. You have to make sure the market structure itself supports the regulatory goal.

Sometimes it's very easy to be cynical and dismissive of reforms or say that they should have waited for further studies of why a particular crisis occurred, or that the reforms didn't go far enough. But I think we've got to look at the broad picture. We had a tremendous crisis, and many of the people around Washington and New York, particularly, want to forget we had the crisis. We need to push ahead with reforms that will make a difference in the areas that are most significant to that particular crisis. It may not prevent the next crisis, but it will probably mean that we have a more resilient system going forward. And that's all to the good and is certainly something we should support as opposed to saying it didn't go far enough or, as some people would argue, it went too far.

» Photo, page 18: Michael Krimminger '82 discussed legal education and practice in a new era of regulation with Dean David F. Levi in a "Dialogue with the Dean" on Feb. 22 at the National Press Club in Washington, D.C.

Staying Vigilant:

A conversation with **Senator Ted Kaufman,** visiting professor of the practice

Ted Kaufman represented Delaware in the United States Senate from Jan. 16, 2009 to Nov. 15, 2010, after which he chaired the Congressional Oversight Panel for the Troubled Asset Relief Program (TARP) until its completion in April 2011. On the Senate floor, in committee, in his frequent public commentary, and in Duke Law's Duke in D.C. program where he teaches Federal Policymaking and oversees externships as a visiting professor of the practice, Kaufman has called for financial regulation that would, among other things, separate commercial and investment banking activities, pare down the size of too-big-to-fail banks, and track the market impact of high-frequency trading. In spite of such positive developments as the formation of the Consumer Finance Protection Board and moves by the Financial Stability Oversight Counsel to begin addressing systemic risk, he expresses frustration with regulatory progress to date.

Kaufman talked with *Duke Law Magazine* about his ongoing concerns in mid-May, shortly after the announcement by JPMorgan Chase of a $2 billion (now estimated at more than $3 billion) loss attributed, by the bank, to "hedges." »

Duke Law Magazine: What does this news from JPMorgan Chase tell you about what banks, policymakers, and regulators have learned since the 2008 financial meltdown?

Senator Kaufman: There hasn't been very much done, in fact, to alter what caused the great financial meltdown. I think the multibillion dollar loss is the latest example of the fact that it's still easy for financial institutions to make the same type of bad bets that caused the taxpayer bank bailout and could lead to one in the future.

DLM: What are your biggest concerns?

Kaufman: The same concerns I talked about on the Senate floor. The same things I talked about in the Senate committees. First, you have to decide what caused the meltdown — what you believe the problem was. For example, many oppose any real financial regulation because they don't believe that Wall Street had *anything* to do with the problem.

I think the repeal of Glass-Steagall in 1999 [the 1930s-era legislation that separated commercial and investment banking activities] and our failure to regulate derivatives by enacting the Commodity Futures Modernization Act (CFMA) of 2000 were two of the very big problems.

I was in the debates and I urged my Senate colleagues to be sure that Dodd-Frank ended too-big-to-fail banks. If you read what independent economists say, what financial people say, if you read what people on Wall Street say in their newsletters to their customers, none of them believes that our major banks are not *still* too big to fail. The biggest problem is that there is no way to have resolution authority of these gigantic banks across national lines. After three years, we are still trying to work out Lehman Brothers' bankruptcy, which was relatively simple compared to what would happen if one of our five or six major banks went down. We're still three years working on it because it's very difficult to deal with the creditors in England in a bankruptcy action in the United States. And when you start thinking about Bank of America, and JPMorgan Chase, and Citibank with their hundreds of offices and investments around the world, there is no way that if they had a financial problem that we could rapidly — and it would have to be rapidly — deal with them other than to bail them out. I just don't think there's any data or information to support anything else.

DLM: Do you anticipate future bank bailouts?

Kaufman: One of two things is going to happen if the president and Congress face a crisis like we had in 2008: Either we're going to have a bailout, or we're going to watch the financial system disintegrate. No one involved in the negotiations around TARP who I've talked to believes that we could afford to not bail the banks out. When faced with the prospect of Citigroup going under without any real way to resolve it in the short term, I don't know what else the government's going to do. And as far as I'm concerned, we really haven't implemented anything to materially alter that no-win choice at some point down the road.

DLM: Should the biggest banks be broken up?

Kaufman: Breaking up is a strong term. I favor "skinnying" some of the major banks. ... Sen. Sherrod Brown of Ohio just reintroduced what was, originally, the Brown-Kaufman bill. There's nothing draconian in that; it just begins to slim down the banks. If we don't slim down the banks, they are too big to fail.

I also understand members of the Senate will introduce a kind of revised Glass-Steagall bill, which basically says that if you're in the commercial banking business you're in the commercial banking business, if you're in the investment banking business you're in the investment banking business. It worked for us for over 60 years. We have to go back to something like that. My feeling is that we're going to go back to something like that; it's just a matter of how much hardship we have to go through first.

Look at the multibillion dollar loss by JPMorgan Chase. Jamie Dimon (the bank's CEO) says that's not proprietary trading. What is a bank that has major assets guaranteed by the United States government doing in a situation where some guy in London can lose billions on what the knowledgeable observers keep referring to as a bet? That's not why we designed the Federal Deposit Insurance Corporation (FDIC) — to make banks feel more comfortable in investing in what they call hedges against potential activity down the road. Hedges by definition are designed to reduce risk not to create gambles.

The Volcker rule in Dodd-Frank wasn't half a loaf, it was like a tenth of a loaf. I wanted to put Glass-Steagall back. But when faced with *nothing* — you couldn't pass that financial reform bill without saying that large FDIC-insured banks should not be engaged in incredibly risky behavior. And the Volcker rule was the way to do it. But I said on the Senate floor, again and again, that trying to define proprietary trading is like the Middle Ages when they were trying to define how many angels could dance on the head of a pin. Trying to define proprietary trading is, I believe, almost impossible.

"There still is alive and well on Wall Street the idea that we can operate without regulations. That it is like running a city without any police."

— Senator Ted Kaufman

DLM: To what extent have you seen a change in the resolve of rule makers — the regulators?

Kaufman: One of the biggest problems you have when you legislate is unintended consequences — where the law creates a situation that was unintended. I think that what's gone on with the rule makers now was "intended consequences" by those who opposed any new real bank regulation. I said at the time that in Dodd-Frank we didn't make some tough decisions. After the Great Depression, the Pecora Commission came in and said, "We're going to make some real laws here," and created the FDIC and implemented the Glass-Steagall Act. ... What happened in Dodd-Frank — with me complaining the whole time, without much success — was to avoid tough laws and a constant march to kick these things back to the regulators. I had a number of concerns with that. One was that regulators change with every new president, so we should put something in that's more permanent. But the bigger problem is that when you put all of this back to the regulators then you have a situation where the vast majority of people contacting the regulators are those with money and influence. Professor Kimberly Krawiecs's excellent analysis of Volcker rule contacts shows that over 90 percent of those contacting the FDIC, SEC, Commodity Futures Trading Commission (CFTC), and the Federal Reserve were from Wall Street banks, financial trade associations, lawyers, and accountants. (Read more, Page 22.) Wall Street has completely stopped Volcker rule implementation.

DLM: What are other major threats to the financial system that we haven't even begun to address as yet?

Kaufman: My major concern is that we do not know what's happening with the changes in our financial markets and their structure. The major change is the development of high-frequency trading. The regulators do not collect enough data right now to determine the effect of high-frequency trading on our markets. A number of years ago, I called for a consolidated audit trail, which would give us a contemporaneous record of what is happening in our markets. Over 50 percent of our trades are now high-frequency trading. We cannot answer simple questions like why over 90 percent of the trades are cancelled by high-frequency traders. What's going on there? Chairman Mary Schapiro has said the SEC is going to develop a consolidated audit trail. The head of the CFTC, Gary Gensler, said he wants to have a consolidated audit trail. But years have gone by without one, and once we decide we're going to do it, it's going to take years to implement.

Just as happened in the derivatives market, there has been an *explosion* of money in high-frequency trading, without any real transparency. Congress outlawed the regulation of derivatives in the CFMA, so we had no idea what was going on in the derivatives market throughout this incredible explosion. Without transparency you can't have regulation. And when you have lots of money, no transparency, and no regulation ... we saw what happened in the derivatives markets and I think it's just a matter of time before, unfortunately, we will see the same thing happen in the high-frequency trading on our markets.

Our free markets are one of the things that made this country great. Free markets are incredibly important to this country. *Credible* markets are incredibly important to this country. ... What do we do if we lose the credibility of our financial markets? ... We now have 15 different exchanges, and a lot of them have no regulatory responsibility, and 50 other trading venues including "dark pools." There still is alive and well on Wall Street the idea that we can operate without regulations. That it is like running a city without any police. Essentially there are going to be problems. There are bad things going on and the police are there. That doesn't mean you're going to stop all the bad things, but at least you have a handle on it and you're trying to deal with it.

DLM: What are your final thoughts on TARP, given that you chaired the congressional oversight committee?

Kaufman: When I first showed up in the Senate in 2009, in the first couple of weeks the freshman members met in small groups with [Federal Reserve Chairman] Ben Bernanke and [Treasury Secretary] Timothy Geithner. And there was no doubt in my mind that at that point, they were very, very, very concerned about the potential for a financial meltdown even *after* TARP was put in place. So I think that in terms of "Did we need to put something like TARP in place?" Absolutely. It had to be done.

I would have leaned towards doing it differently. I would have leaned towards doing what the British did with the Royal Bank of Scotland, where they essentially went in and took it over. I wish they had done a lot more with regard to housing. Neither the Fed nor the Treasury really concentrated on the housing problem like they did on helping the big banks.

But in the end, it started out with estimates that it would cost over $700 billion and the last time I looked, the projections were that it would cost $25 billion. It's like the saving of General Motors and Chrysler. It's turning out to have been an incredibly courageous move by a bunch of people in the Bush administration and then in the Obama administration to take. And we're still having the political fallout; one of the big issues being used against a number of members of Congress in the 2010 election, and it looks to continue in the 2012 election, is that they voted for TARP.

It was *such* a horrendous thing that I just keep focused on how do we make sure that this never, ever, ever happens again. And I just don't see nearly enough in changes in the way we operate our financial system — our market structure, the size of our financial institutions, the risks that our financial institutions that have major pieces of FDIC insurance, or just the financial institutions, period — I just don't see steps being taken to avoid this situation happening again.

And the final thing is that I just don't think there is enough awareness or concern out there in places of power. "Financial amnesia" has set in. Average people have lost their homes and their jobs — there should be major changes implemented to reduce the possibility that this could ever happen again. But I just don't see a sense of urgency on Wall Street to take into account what happened and who was hurt, and how bad it was for so many. Even worse, I do not see the efforts being made at all levels of government to enforce the changes required to protect us from the pain inflicted on so many Americans by the financial meltdown.

Shaping the Volcker Rule:

A conversation with Professor Kimberly Krawiec

PROFESSOR KIMBERLY KRAWIEC's latest work delves into input received by regulators charged by Congress with crafting guidelines for implementation of the "Volcker rule" in the Dodd-Frank Wall Street Reform and Consumer Protection Act. One of Dodd-Frank's most controversial provisions, the rule named for former Federal Reserve Chairman Paul Volcker is intended to prohibit financial institutions from making certain speculative investments that do not benefit their customers and depositors. These are generally known as "proprietary trades," although the exact nature of the prohibited trades is not defined in the statute.

Krawiec, the Kathrine Robinson Everett Professor of Law whose research agenda includes corporate compliance systems, insider trading, derivatives hedging practices, and "rogue" trading, was certain that banks and traders would be concerned with how the Volcker rule would be interpreted. She decided to find out what the "open issues" were by examining public comment letters submitted to the Financial Services Oversight Council. Expecting to find just 20 or 30 "because it's an important rule," she read approximately 8,000. She also reviewed the meeting logs of the Treasury Department, Federal Reserve, Commodities Futures Trading Commission, Securities and Exchange Commission, and Federal Deposit Insurance Corporation.

Krawiec talked to *Duke Law Magazine* about her research and her forthcoming paper, "Don't 'Screw Joe the Plummer:' The Sausage-Making of Financial Reform," the title of which is derived from one of the comment letters she read. »

Duke Law Magazine: Who submitted comments? Press reports on your work have indicated a huge disparity in the numbers of comments from financial industry insiders as opposed to members of the public.

Professor Krawiec: That's not the full picture. Anybody who wanted a meeting with regulators could get one. Public interest groups simply didn't have the same resources to dedicate to this issue as financial groups.

Private citizens, often at the behest of public interest groups, submitted thousands of letters, but their comments almost never addressed the specifics of the regulatory issues. Unsurprisingly, financial industry representatives had very detailed, very specific comments. That doesn't mean that the public is dumb, or that financial institutions are evil. But it does speak to how the process works, and maybe says something about *whether* it works for the public.

DLM: Is it possible to get informed commentary from the public on an issue like this?

Krawiec: It will be an uphill battle. This, to me, is what makes financial reform potentially different from some other areas of the law. When you look at something like the consumer protection provisions of Dodd-Frank, consumers know what credit cards and ATM cards are, and they understand basically how that affects their lives. That's just not true with proprietary trading. You get a sense from most of the letters that people don't really know what it is, much less why they should be concerned by it. They understand even less why we have to balance any danger from proprietary trading against the positive things that banks do, like market making and underwriting.

It quite clearly became a place for people to vent their frustration in a general way. Out of all the provisions, this seemed to be the one that the public interest groups used to get the public engaged. You can't go to the public and say "So, there's this rule that tries to distinguish proprietary trading from market making and we want you to write a letter about that." Instead, you have to say something like, "We had to bail out the banks because of their greed and risk taking, and now there's a rule that would stop that, but the banks are trying to gut it. We need your help." People were already looking for a place to put their outrage, and they really were able to tap into that for this particular rule in a way that sort of gave people an outlet, which I think is useful. I think it is a useful reminder to the government that people are really upset about the financial crisis and that we haven't, in the eyes of many people, really dealt with the shakeout from that. That, to me, is a good thing, but at the same time, that's one of the reasons the public comment letters look so goofy. It's not entirely their fault they're focused on the wrong point.

"It's as the crisis is fading from memory and the legislative process is behind us that all the work is being done. And as the rest of us stop paying attention, that's when the real industry investment comes in."

— Professor Kimberly Krawiec

DLM: Much of the public conversation on financial reform has been focused on ideology. What's the value in focusing on process instead?

Krawiec: I think process is incredibly important, and Dodd-Frank was, I think, notable in that it left all the meat to regulators. So much depends on implementation.

On the one hand, that's good and understandable. They have the time and expertise to devote to this when Congress just clearly doesn't. But at the same time, it's not as visible. What was astonishing to me while watching Dodd-Frank go through the process in the legislature was that lots of people were really paying a lot of attention. There was a fair amount of outrage in the papers, and on blogs and social media, whenever it was reported that something people thought should "stick it" to the banks wasn't happening. But it's as the crisis is fading from memory and the legislative process is behind us that all the work is being done. And as the rest of us stop paying attention, that's when the real industry investment comes in. They invested a lot in lobbying Congress and they're investing a lot right now. They can't take their eyes off this. It's too important for their bottom line, and it's not that way for most people, which makes it hard to have any sort of meaningful counterbalance.

» To read faculty and student scholarship related to financial regulation, systemic risk, and the European debt crisis, visit **www.law.duke.edu/magazine**.

Faculty Focus

A banner year

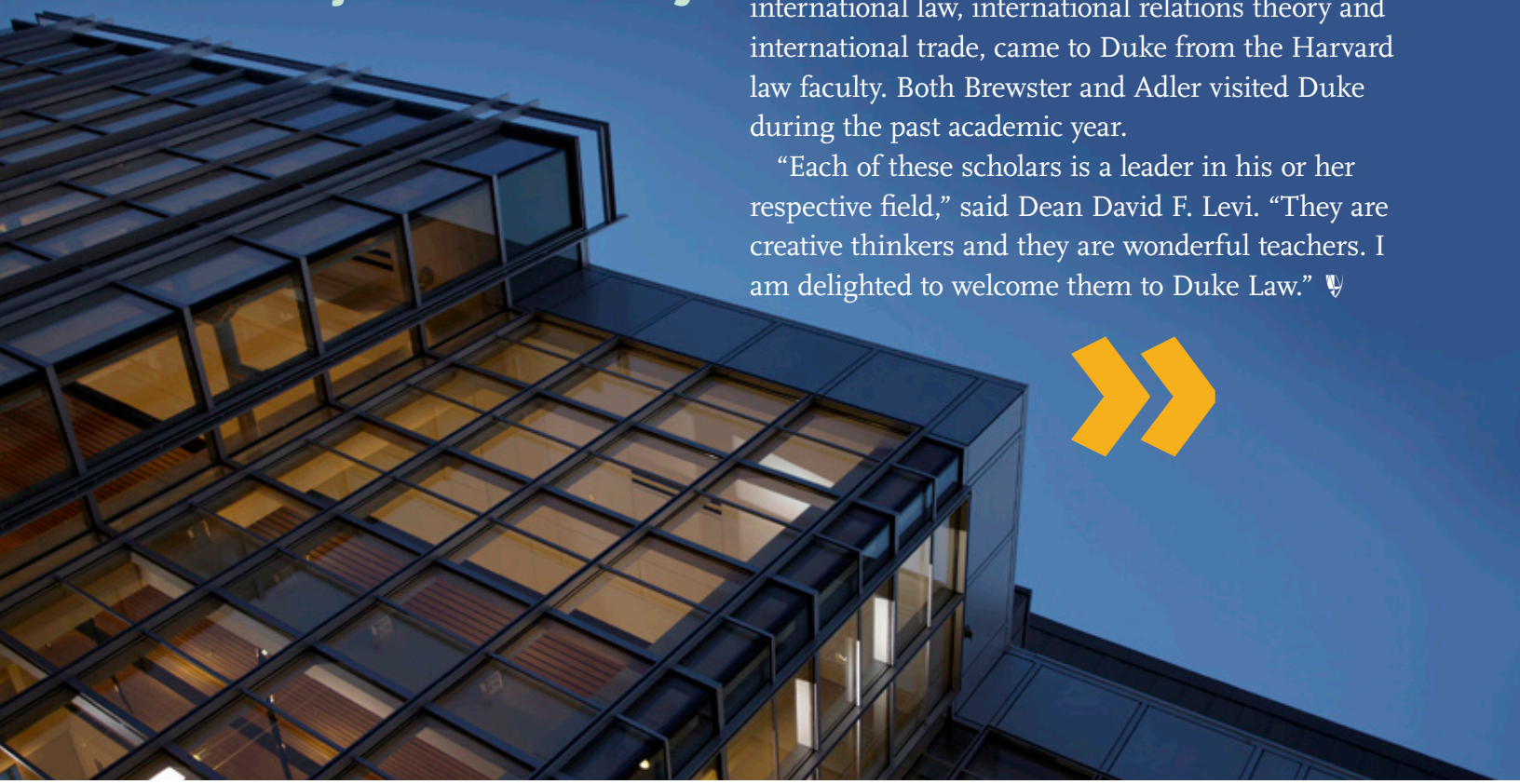
Four top scholars join — or rejoin — the faculty

FOUR highly interdisciplinary scholars, H. Jefferson Powell, Matthew D. Adler, Rachel Brewster, and Nita A. Farahany, have recently joined the governing faculty. Two have made homecomings of sorts: Powell, a distinguished constitutional scholar and advocate, previously served on the faculty from 1989 to 2010; and Farahany JD/MA '04, a scholar at the intersection of law, biosciences, and philosophy who also holds a PhD in philosophy from Duke University, returned after serving on the faculties of law and philosophy at Vanderbilt University.

Adler, whose scholarship focuses on policy analysis, risk regulation, and constitutional theory, joined the faculty as the Richard A. Horvitz Professor of Law. He previously was the Leon Meltzer Professor of Law at the University of Pennsylvania.

Brewster, whose scholarship focuses on international law, international relations theory and international trade, came to Duke from the Harvard law faculty. Both Brewster and Adler visited Duke during the past academic year.

"Each of these scholars is a leader in his or her respective field," said Dean David F. Levi. "They are creative thinkers and they are wonderful teachers. I am delighted to welcome them to Duke Law."



> *"I am simply delighted to be home. Duke Law School has a commitment — one that is unparalleled in contemporary legal education — to provide an outstanding professional education in the context of one of the leading centers of academic legal research and writing in the country."* — Professor Jeff Powell

H. JEFFERSON POWELL

Scholar of constitutional theory and history has long record of public service

JEFF POWELL most recently served as deputy assistant attorney general in the Office of Legal Counsel at the U.S. Department of Justice and as a professor at George Washington University Law School.

"Jeff Powell is one of the leading thinkers and writers in constitutional theory and history," said Dean David F. Levi. "His work is careful, original, and impressive in its reach and volume. He has written numerous books and articles of great interest not just to law professors but to a large audience outside of the law schools as well. He is also a beloved teacher. Add to this that he is a skilled advocate and experienced, first-rate government lawyer, and one gets a sense of just how multifaceted and talented Jeff is. It is wonderful to have him back home at Duke."

Over more than two decades, Powell has served in a variety of positions in federal and state government. In addition to his recent tenure as deputy assistant attorney general in the Office of Legal Counsel (OLC), which provides legal advice to the president, the attorney general, and other high-level executive branch officials, he served in the U.S. Department of Justice in various capacities from 1993 to 2000, and in 1996, he was the principal deputy solicitor general. In much of his earlier civic service, he worked alongside Walter Dellinger III, the Douglas B. Maggs Professor Emeritus of Law, who headed OLC in the early 1990s and served as acting solicitor general during the 1996-1997 term of the Supreme Court.

Powell has briefed and argued cases in both federal and state courts, including the Supreme Court of the United States. Last year he and Dellinger wrote the amicus brief that the congressional Democratic leadership filed in the U.S. courts of appeals considering the constitutionality of the Patient Protection and Affordable Care Act.

Described by the late Professor David P. Currie of the University of Chicago as "one of our foremost scholars of constitutional history" and "surely our leading academic expert on executive interpretation of the Constitution," Powell is a prolific scholar; he has published many influential articles, essays, and books examining the moral tradition of American constitutionalism, the powers of the executive branch, and legislative and judicial decision-making, among other subjects.

His book *No Law: Intellectual Property in the Image of An Absolute First Amendment* (Stanford University Press, 2009), which he coauthored with David Lange, the Melvin S. Shimm Professor of Law, was hailed as a "thorough rethinking" of the First Amendment as an absolute prohibition of government interference in expression and speech.

One of Powell's forthcoming works is a book entitled *The Constitution and the Commander in Chief,* which argues that our constitutional tradition provides principled guidelines for the lawyers who advise the president on legal issues involving national security. Another project examines how three great legal figures of the early Republic — Chief Justice John Marshall, his colleague Justice Joseph Story, and their mutual friend Attorney General William Wirt — understood the task of resolving difficult issues in public law; he hopes to illuminate the role of distinctively legal reasoning in their decisions.

Powell holds a bachelor's degree from St. David's University College (now Trinity St. David) of the University of Wales; a master's degree and PhD from Duke University; and a Master's of Divinity and JD from Yale University. He was a law clerk to Judge Sam J. Ervin III of the U.S. Court of Appeals for the Fourth Circuit. He has received numerous awards and honors including, in 2002, Duke University's Scholar/Teacher Award. "The Contracts Experience," a video teaching tool he developed in 2002 (in collaboration with Duke Law Professor John Weistart and Georgetown Law Professor Girardeau A. Spann) received a Telly Award and an Aegis Award of Excellence. Powell currently serves as series editor of the Carolina Academic Press Legal History Series.

"I am simply delighted to be home," Powell said. "Duke Law School has a commitment — one that is unparalleled in contemporary legal education — to provide an outstanding professional education in the context of one of the leading centers of academic legal research and writing in the country. I am excited at the prospect of being a contributor, once again, to the Duke vision of law as a form of public service."

> *"In addition to being a great scholar, Matt is a wonderful colleague who has insights on a vast range of topics and is generous with his time — he is the type of person who makes everyone around him better."* — Professor Curtis Bradley

MATTHEW D. ADLER

Leading scholar of administrative and constitutional law blends policy analysis, risk regulation, and constitutional theory

MATTHEW ADLER'S work integrates law, welfare economics, and moral philosophy in studying policy analysis, risk regulation, and constitutional theory. A creative and prolific scholar, Adler also has been honored for excellence in teaching.

"Matt Adler is a terrific scholar, colleague, and teacher," said Dean David F. Levi. "He is the kind of thinker who can change a field. He is the kind of colleague who generates new ideas and intellectual excitement in others. And he is the kind of teacher and mentor who can inspire students and bring them to a new level of attainment."

The author of numerous articles and several books, Adler recently published *Well-Being and Fair Distribution: Beyond Cost-Benefit Analysis* (Oxford University Press, 2012), which provides a comprehensive, philosophically grounded argument for using social welfare functions as a framework for evaluating governmental policies. His edited volume, *The Rule of Recognition and the U.S. Constitution* (Oxford University Press, 2009; edited with Ken Himma), explores the intersection of jurisprudence and constitutional theory in discussing the applicability of legal philosopher H.L.A. Hart's notion of a "rule of recognition" to the U.S. legal system. Adler currently serves as an editor of *Legal Theory*, the leading journal in the area of law and philosophy.

"My scholarly approach, throughout my career, has been to use the rigorous tools of philosophical analysis to address problems of public law, such as risk regulation, constitutional theory, and cost-benefit analysis," Adler said. "Many of those problems also implicate welfare economics, and so much of my work lies at the intersection of law, philosophy, and economics."

His current research concerns happiness and public policy. In a series of articles, he is critically evaluating "subjective well-being" surveys that correlate an individual's happiness with income, employment, or health and the use of such measures in the development of public policy.

"This is a stellar hire for Duke," said Curtis A. Bradley, the William W. Van Alstyne Professor of Law. "Matt has done groundbreaking work on risk and policy analysis, especially concerning the use of cost-benefit methodology and the evaluation of well-being. He is also a leading expert on constitutional theory and jurisprudence, having written important articles on topics such as the rule of recognition and popular constitutionalism. In addition to being a great scholar, he is a wonderful colleague who has insights on a vast range of topics and is generous with his time — he is the type of person who makes everyone around him better."

Adler joined the University of Pennsylvania in 1995 after serving as an associate at Paul, Weiss, Rifkind, Wharton & Garrison in New York. He also served as a law clerk to Justice Sandra Day O'Connor of the U.S. Supreme Court and to Judge Harry Edwards of the U.S. Court of Appeals for the D.C. Circuit. He has been a visiting professor at Columbia University, the University of Chicago, the University of Virginia, and Bar-Ilan University Law Faculty in Tel Aviv, and he was a visiting professor at Duke University during the 2011-12 academic year.

University of Pennsylvania law students honored Adler in 2001 and 2006 with the Harvey Levin Memorial Award for Excellence in Teaching. In 2007, he received the University of Pennsylvania's Lindback Award for Distinguished Teaching and in 2010 the A. Leo Levin Award for Excellence in an Introductory Course.

Adler holds a BA and JD from Yale University, where he was a member of the *Yale Law Journal*. He was a Marshall Scholar at Oxford University, where he completed an M.Litt. in Modern History.

Adler, who will teach constitutional law and administrative law at Duke, said he is particularly excited to become part of Duke Law's "vibrant" public law faculty and to engage with faculty in other fields and disciplines across campus. "Duke Law is a marvelous, tight-knit intellectual community," he said. "As an interdisciplinary scholar, I also look forward to interacting with the philosophy and economics departments, public policy school, and other schools and departments at Duke."

RACHEL BREWSTER

Scholar brings deep knowledge of international trade and international economic law

RACHEL BREWSTER'S scholarly interests include international trade, international relations theory, and global economic integration. Previously an assistant professor of law and affiliate faculty member of the Weatherford Center for International Affairs at Harvard University, she publishes on issues of international economic law, including carbon tariffs, trade law enforcement, and dispute resolution in international trade law. She also will serve as co-director of Duke's Center for International and Comparative Law.

"We have been looking for some time now for an exciting trade law scholar who also is interested in international economic law and regulation more generally," said Dean David F. Levi. "Professor Brewster fits the bill perfectly. She is a creative legal scholar who will extend our ties to other schools and scholars on campus. She is a wonderful addition to Duke Law."

Brewster was a visiting faculty member at Duke Law during the fall 2011 semester, when she taught International Trade and a seminar on International Law and International Relations Theory. She joined the Harvard law faculty in 2006 and earlier was a Bigelow Fellow at the University of Chicago Law School. In 2008, she served as legal counsel in the Office of the United States Trade Representative, where she worked on legal issues relating to U.S. agriculture subsidies and domestic cap-and-trade proposals.

Brewster holds a PhD in political science from the University of North Carolina at Chapel Hill, where she received the John Patrick Hagan Award for Excellence in Undergraduate Teaching. She earned her JD at the University of Virginia School of Law and while there served as articles editor of the *Virginia Law Review* and as an Olin Law & Economics Student Fellow. She holds a BA in Interdisciplinary Studies from the University of Virginia.

"I am thrilled to be coming to Duke," Brewster said. "It is a fantastic and collegial community. There's a phenomenal law faculty, and I also liked that I could talk to people across disciplines. There are no walls. Duke delivers on its interdisciplinary vision."

> *"Her scholarship has made bold and original contributions to the study of the World Trade Organization, U.S. trade policy, and the interdisciplinary analysis of international law. She also understands how the trade regime functions in practice."* — Professor Laurence Helfer

In studying international economic and trade issues, Brewster draws from a range of disciplines, from law to public policy, economics to international relations. She has studied conflict of laws governing international economic activity, compliance with international trade law and anti-bribery regimes, and the benefits of linking international trade and intellectual property.

Her recent publications include "The Remedy Gap: Institutional Design, Retaliation, and Trade Law Enforcement" in the *George Washington Law Review* (2012); "The Surprising Benefits to Developing Countries of Linking International Trade and Intellectual Property" in the *Chicago Journal of International Law* (2011); and "Unpacking the State's Reputation" in the *Harvard International Law Journal* (2009).

"Rachel Brewster brings to Duke Law a deep knowledge of international economic law and policy," said Laurence R. Helfer, the Harry R. Chadwick, Sr. Professor of Law and co-director of the Center for International and Comparative Law. "Her scholarship has made bold and original contributions to the study of the World Trade Organization, U.S. trade policy, and the interdisciplinary analysis of international law. She also understands how the trade regime functions in practice and will bring those insights to her scholarship and teaching at Duke."

Brewster said she looks forward to collaborating with faculty at Duke Law and around the university. "People at Duke are interested and engaged with each other in a way that you don't often find," she said. "Duke faculty are willing to be playful with ideas; they are not only interested in what their colleagues are doing but also in how they might contribute to each other's work. I think it is partly because of Duke's geography — it is small and everyone is close together on campus — but also because of its energy and sense of community."

She also noted that, having lived in Carrboro several years ago while completing her doctoral degree, she is looking forward to returning to the Triangle area. "I love Durham," she said. "It has changed a lot since I lived there, but it is an incredibly vibrant community with a lot of really great restaurants!"

"Duke is at the cutting edge of interdisciplinary research. Duke enabled me, as a graduate student, to combine my interests in law, philosophy, and the biosciences, which was made possible by the many individuals across campus who share an interest in those fields, and who believe in fostering collaborations across disciplines." — Professor Nita Farahany

NITA A. FARAHANY

Multidisciplinary scholar uses expertise in law, biosciences, and philosophy to rethink legal norms

NITA FARAHANY, whose scholarship focuses on the intersection of criminal law, biosciences, and philosophy, holds a joint appointment at Duke University's Institute for Genome Sciences & Policy (IGSP). Her research examines the legal, social, and ethical implications arising from developments in the biosciences, particularly from the fields of neuroscience and behavioral genetics.

"I use the biosciences as a lens and a tool to understand legal doctrines and normative commitments that we hold in social institutions such as criminal law," said Farahany, whose recent scholarship focuses on criminal procedure and how it may evolve in light of developments in neuroscience and behavioral genetics. "More broadly, I am interested in bioethics and neuroethics."

"Professor Farahany is a dynamic scholar who is working at the leading edge of law, philosophy, and science," said Dean David F. Levi. "As a mark of her extraordinary reach, she is joining both the Law and IGSP faculties. We are delighted to welcome her back to Duke where she was trained and already has many friends and collaborators."

Farahany's recent works include "Searching Secrets," 160 *U. Penn. L. Rev.* 1239 (2012) which explores the descriptive potential of intellectual property law as a metaphor to describe current Fourth Amendment search and seizure law and predict how the Fourth Amendment will apply to emerging technology. A companion article, "Incriminating Thoughts," 64 *Stanford Law Review* 351 (2012) demonstrates through modern applications from neuroscience the need to redefine the taxonomy of evidence subject to the privilege against self-incrimination. She also is the editor of *The Impact of Behavioral Sciences on Criminal Law* (Oxford University Press, 2009), a book of essays from experts in science, law, philosophy, and policy.

In 2010, Farahany was appointed by President Obama to serve on the Presidential Commission for the Study of Bioethical Issues. She teaches classes and seminars relating to criminal law, criminal procedure, and other subjects at the intersection of law, science, and philosophy. In the spring 2013 semester she will teach a seminar on Genetics and Reproductive Technology.

Farahany received her AB in genetics, cell, and developmental biology at Dartmouth College. She received her JD/MA (in philosophy) at Duke University, and continued on to receive her PhD in philosophy at Duke, where her dissertation was entitled "Rediscovering Criminal Responsibility through Behavioral Genetics." She also holds an ALM in biology from Harvard University. She clerked for Judge Judith W. Rogers of the U.S. Court of Appeals for the D.C. Circuit in 2004-2005, after which she joined the Vanderbilt University faculty as a Vanderbilt Fellow and instructor in law. She became an assistant professor in 2006. In 2011 Farahany taught at Stanford Law School as a visiting associate professor of law and the Leah Kaplan Visiting Professor of Human Rights.

Farahany said she looks forward to continuing her academic career at Duke, where she has maintained close connections with faculty scholars in law and in philosophy, such as James E. Coleman Jr., the John S. Bradway Professor of Law, with whom she first worked as a research assistant during her student days.

"Both when I was a graduate student and now, Duke is at the cutting edge of interdisciplinary research," said Farahany. "Duke enabled me, as a graduate student, to combine my interests in law, philosophy, and the biosciences, which was made possible by the many individuals across campus who share an interest in those fields, and who believe in fostering collaborations across disciplines. The collaborative spirit at Duke has grown even stronger since I graduated. And Duke remains a leader in the social, ethical, and legal implications of the biosciences."

For his part, Coleman is delighted about her faculty appointment.

"It is exciting to have Nita back at Duke," he said. "From her first day at law school, as a summer starter, Nita sought insight into not just the *what* of law, but also the *how* and *why*. In her last year at Duke she hosted a symposium on behavioral genetics and criminal law and never looked back. At Vanderbilt, she became one of the most prominent young scholars thinking about the impact of behavioral genetics and neuroscience on criminal law and criminal procedure, an important emerging field in which she is a pioneer. Her creativity is infectious."

Farahany, Coleman, and Neil Vidmar, the Russell Robinson II Professor of Law and Psychology, are planning to build on Farahany's empirical analysis of the use of neuroscience and behavioral genetics in the criminal context with a pilot study of North Carolina prosecutors', judges', and defense attorneys' experiences and attitudes towards neuroscience and behavioral genetics.

"Nita's projects and expertise bring a lot of substance to the Law School," said Vidmar. "She is in a unique position because she understands the science and understands where the science fits into law."

Dunlap and Longest join governing faculty

MAJ. GEN. CHARLES J. DUNLAP JR., executive director of Duke's Center on Law, Ethics and National Security, and Ryke Longest, director of Duke's Environmental Law and Policy Clinic, have joined the governing faculty as, respectively, professor of the practice of law and clinical professor of law.

Dunlap, the former deputy judge advocate general of the United States Air force, has been visiting as a professor of the practice since 2010. His scholarship and teaching focus on national security, international law, civil-military relations, cyberwar, and military justice. His classes include National Security Law, Use of Force in International Law, and Criminal Law in the Armed Forces. A prolific writer and frequent public commentator on such matters as cyber security and the use of drone aircraft, his 2001 essay written for Harvard University's Carr Center on "lawfare," a concept he defines as "the use or misuse of law as a substitute for traditional military means to accomplish an operational objective," has been highly influential among military scholars and in the broader legal academy.

Longest joined the faculty in 2007 with the launch of the Environmental Law and Policy Clinic, a collaboration between the Law School and Duke's Nicholas School of the Environment. He came to Duke after 14 years in the Environmental Division of the North Carolina Department of Justice, where he served as lead counsel to state level environmental agencies, boards and commissions. Longest litigated cases before administrative agencies, state courts, federal courts, and appellate courts at all levels. He also drafted legislation and advised agencies on rulemaking. In addition, Longest represented the State of North Carolina in complex criminal appeals.

He teaches Water Resources Law and Advanced Environmental Law and Policy, in addition to teaching and supervising clinic students.

JOHNSON '94 JOINS FACULTY AS DIRECTOR OF START-UP VENTURES CLINIC

W.H. "KIP" JOHNSON III '94 has joined the Duke Law faculty as a senior lecturing fellow and director of the Start-Up Ventures Clinic. As clinic director, he will supervise students representing early-stage ventures on matters related to the start-up process.

Johnson, who also holds an MBA from Duke's Fuqua School of Business, is a founding member of Morningstar Law Group, a new Triangle-area firm, where he focuses on representing clients in start-up ventures, angel investing, venture capital, and private equity. Until June 2012 he was a member in the corporate and securities practice group of Womble Carlyle Sandridge & Rice's Research Triangle Park office, which he co-founded in 1997; he joined Womble Carlyle in 1994. He also is an active angel investor locally and in Silicon Valley.

Johnson co-taught the Start-Up Ventures Clinic with Clinical Professor Andrew Foster in its spring 2011 pilot phase.

"I really enjoyed working with the students as they tried to figure out what the start-up space looks like," he said. "It was really a lot of fun for me to help them understand how the business angles worked with the legal issues, and how to take all of the substantive law that they had learned and help them understand how that worked in the business world."

In the clinic's pilot phase, students have provided legal counsel to early-stage businesses and social entrepreneurship ventures. Many are led by student teams associated with the Duke Start-Up Challenge, the Fuqua School of Business's Program for Entrepreneurs, and entrepreneurship programs at the Pratt School of Engineering.

Providing supervised legal assistance to Duke student-based start-ups will continue to

> *"[Kip] brings a unique combination of professional experience, connections to the region's entrepreneurial community, and commitment to teaching that will position the Start-Up Ventures Clinic to provide both important educational opportunities for students and high quality services to new ventures in the community."*
>
> — Clinical Professor Andrew Foster

be a core clinic function, said Johnson, who hopes also to gradually build the clinic's client base in Durham and Research Triangle Park in order to give students opportunities to work with entrepreneurial ventures "at different points along the growth curve." True start-ups — clients just beginning to think about the commercial possibilities of their creation or idea — face legal and business issues that differ from clients with prototypes, customers, and plans for expansion, he said. "Their needs would be employment agreements, licensing agreements, international law issues — the types of things that a company in a growth phase would need to deal with."

"Increasing the number and diversity of transactional clinical opportunities is a key element of Duke Law School's strategic plan for our clinical program," said Foster, who directs the clinical programs as well as the Community Enterprise Clinic. "Kip's appointment will allow us to move this clinic out of the pilot phase and to transform it into a more robust and continuing component of the curriculum. He brings a unique combination of professional experience, connections to the region's entrepreneurial community, and commitment to teaching that will position the Start-Up Ventures Clinic to provide both important educational opportunities for students and high quality services to new ventures in the community."

Five faculty honored with distinguished professorships

FIVE DUKE LAW FACULTY members have been honored with named professorships. Guy-Uriel Charles was named the Charles S. Rhyne Professor of Law; John M. de Figueiredo was named the Edward and Ellen Marie Schwarzman Professor of Law; Ralf Michaels was named the Arthur Larson Professor of Law; Curtis A. Bradley was named the William W. Van Alstyne Professor of Law; and Matthew Adler joined the faculty July 1 as the Richard A. Horvitz Professor of Law.

Named professorships at Duke Law recognize outstanding scholarship and teaching and are among the highest honors bestowed by the university on its faculty. Twenty-seven Duke Law faculty hold such positions.

An expert in constitutional law and election, campaign financing, and redistricting law, **Guy-Uriel Charles** is the founding director of the Duke Center on Law, Race and Politics. His chair is named for Charles S. Rhyne, a 1935 graduate of Duke Law who served as a professor of government and law at American University and George Washington University and as a trustee of Duke University and George Washington University. He argued numerous cases before the U.S. Supreme Court, including *Baker v. Carr*, the legislative reapportionment case that established the one-man, one-vote principle. In 1955, he became president of the Bar Association of the District of Columbia on a pledge to racially integrate the association. And in his role as trustee at Duke, he helped to integrate the university.

"Charles Rhyne was a distinguished public servant who committed his life and career to the causes of equality, fairness in elections, and civil rights," said Charles. "As a scholar who cares deeply about these issues, I feel privileged to accept a professorship that bears his name."

Ralf Michaels is an expert in comparative law and the conflict of laws, with particular expertise in the role of domestic courts in globalization, the potential of conflict of laws as a theory of global legal fragmentation, and the status and relevance of law beyond the state. His chair is named for Professor Arthur Larson, who joined the Duke Law faculty in 1958 after working for the Eisenhower administration. Larson taught international law and established the Rule of Law Research Center at Duke, serving as its director until his retirement in 1980. He died in 1993 at the age of 82. In addition to this professorship, he is memorialized by a student scholarship named in his honor and a special collection of permanent and course reserve materials held in the J. Michael Goodson Law Library.

"Arthur Larson laid an important foundation for Duke's focus on comparative and international law," said Michaels. "I am proud to hold a chair in his name, and to be part of the Duke Law community that keeps strengthening this international focus."

John de Figueiredo studies competitive strategy, political and legal strategy, law and economics, and the management of innovation. He was recently named a 2012-13 fellow of the Institute for Advanced Study in Princeton, N.J., which supports scholars from around the world in pursuing path-breaking theoretical research and intellectual inquiry. His creative approach to the study of law and business is complemented by the Schwarzman professorship, which was established by Stephen A. Schwarzman, founder and CEO of Blackstone, a global investment and financial advisory firm. The chair is named for Schwarzman's son and daughter-in-law, who are both 2006 Duke Law graduates. Edward (Teddy) Schwarzman is a member of the Board of Visitors and founder and owner of Black Bear Pictures, a film production and financing company. Ellen Schwarzman works in client development at Sotheby's in New York City.

"The Schwarzman name is readily associated with excellence and innovation in both business and law, so I am extremely honored to be the inaugural holder of this professorship," said de Figueiredo. "It is also a special privilege to be associated through this professorship with alumni of the Law School who care deeply about the institution and the ability of its faculty to pursue new interdisciplinary paths of research and teaching."

Matthew Adler joined the faculty as the Richard A. Horvitz Professor of Law. Previously at the University of Pennsylvania, Adler is a highly respected scholar and teacher who studies public policy, risk regulation, and constitutional theory. (Read profile, Page 26.) Richard A. Horvitz is a 1978 graduate of Duke Law and leading supporter of the school's programs in constitutional and public law. In addition to endowing a professorship, Horvitz has underwritten the Duke Program in Public Law since 1998; started the Fund for Faculty Excellence; and provided significant support for recent renovations of the Law School, among other initiatives.

"It is an honor to come to Duke and to assume the Richard A. Horvitz Professorship," said Adler. "This professorship carries a reputation for excellence in scholarship, and I am very pleased to have the opportunity to bear this prestigious title."

Curtis Bradley studies international law, U.S. foreign relations law, and constitutional law. Also senior associate dean for academic affairs, Bradley previously held the Richard A. Horvitz Professorship. In becoming the first holder of the Van Alstyne Professorship, Bradley takes the title of the eminent scholar of constitutional law who served on the faculty at Duke Law from 1965 to 2004. Through his scholarship, public testimony, and private advice to many congressional committees and members of the House and Senate, William Van Alstyne — now serving on the faculty at William and Mary Law School — is counted among the nation's leading constitutional law scholars, with particular expertise on the First Amendment. The professorship was established in Van Alstyne's honor by J. Michael Goodson '66, a member of the Board of Visitors.

"It is a great honor to be receiving the Van Alstyne Chair, just as it was a great honor to receive the Horvitz Chair when I first came to Duke," said Bradley. "Professor Van Alstyne is one of the most influential constitutional law scholars of his generation, and I have been a huge fan of his work since first reading his famous article on *Marbury v. Madison* in law school. The rigor, independence of mind, and clarity of thought that are evident in his scholarship are all qualities that I deeply admire and hope to emulate in my own work."

»FACULTY NEWS BRIEFS

SIEGEL TESTIFIES BEFORE HOUSE SUBCOMMITTEE ON CONSTITUTIONALITY OF AFFORDABLE CARE ACT

PROFESSOR NEIL S. SIEGEL testified March 29 before the House Ways and Means Health Subcommittee on the constitutionality of the minimum coverage provision in the Patient Protection and Affordable Care Act (ACA). The hearing, held days after oral argument concluded in the Supreme Court in constitutional challenges to the ACA, also focused on the constitutional questions surrounding the statute's "minimum coverage provision," which requires most non-elderly Americans to purchase a minimum amount of health insurance coverage or pay what the law calls a "penalty" each year. It also considered the economic impact of the ACA requirement that large employers provide a minimum amount of essential coverage to full-time workers or face a penalty.

Siegel, an expert in U.S. constitutional law and theory and co-director of the Program in Public Law, has focused much of his recent scholarship on the ACA debate, directly addressing four matters central to the controversy; various friend-of-court briefs filed with the U.S. Supreme Court in the ACA litigation cited his work. An excerpt of his testimony follows.

> "...[T]he minimum coverage provision is within the scope of Congress's enumerated powers in three, independently sufficient ways. The Necessary and Proper Clause, the Commerce Clause, and the Taxing Clause each support the provision. Opponents of the provision are right that examining its constitutionality involves fundamental questions of constitutional limits, but not in the way they insist. While the provision respects important limits on Congress's authority, there are no defensible limits on the limits that opponents would create to invalidate the provision. This absence of limits on judicial interference with Acts of Congress demonstrates why the Supreme Court should uphold the minimum coverage provision. Striking it down would amount to the most consequential invalidation of a federal law on federalism grounds since the constitutional crisis of the Great Depression and the New Deal."

» Read testimony at **www.law.duke.edu/magazine**.

HELFER DISCUSSES HUMAN RIGHTS AT STATE DEPT., U.N.

LAURENCE HELFER, the Harry R. Chadwick, Sr. Professor of Law, was a featured participant at a March 1 conference in Washington, D.C., along with Supreme Court Justices Samuel Alito, Stephen Breyer, Anthony Kennedy, and Sonia Sotomayor, and three judges from the European Court of Human Rights. The conference, co-sponsored by the U.S. State Department's Office of the Legal Adviser where Helfer is the inaugural Jacob L. Martin Fellow, examined the role of the judicial system in protecting human rights, including the role of courts in human rights issues, institutional challenges, freedom of expression, and extraterritoriality.

On March 7, Helfer also took part in a United Nations panel discussion on discriminatory laws and practices and acts of violence against individuals based on sexual orientation and gender identity.

Helfer, whose scholarship and research focuses on interdisciplinary analysis of international law and institutions, human rights, and international intellectual property law and policy, is co-director of Duke Law School's Center for International and Comparative Law and a member of the faculty steering committee of the Duke Center on Human Rights. His recent publications include *Human Rights and Intellectual Property: Mapping the Global Interface* (Cambridge University Press, 2011) and *Human Rights* (2d ed., Foundation Press, 2009).

DEMOTT PUBLISHES *LIABILITY OF ASSET MANAGERS*

DEBORAH A. DEMOTT, the David F. Cavers Professor of Law and a leading expert on the law of agency, has published *Liability of Asset Managers* (Oxford University Press, 2012, ed., with Danny Busch). The book offers a comparative analysis of the law of asset manager liability in the major European jurisdictions, the United States, and Canada, with chapters written by specialists from the relevant jurisdictions plus a comprehensive chapter covering the relevant European law.

"Asset management, a distinctive sector within the financial services industry, centers on an agency relationship between a client and an individual manager or firm appointed to manage the client's investment portfolio. Additionally, in many jurisdictions asset managers are subject to a technically complex set of regulatory requirements, which differ across jurisdictions," DeMott and Busch write in the introduction, situating the country-by-country materials within the broader context of questions about regulatory design and effectiveness.

DeMott discussed the book at a symposium hosted by University of Nijmegen in Amsterdam, The Netherlands, in April.

GRIFFIN ELECTED TO ALI

PROFESSOR LISA KERN GRIFFIN has been elected to the American Law Institute. A former federal prosecutor, Griffin's scholarship and teaching focus on evidence, constitutional criminal procedure, and federal criminal justice policy. Her latest article, "Stories in Adjudication" (forthcoming in *The Georgetown Law Journal*) won the AALS Criminal Justice Section's award for best paper by a junior scholar.

BRADLEY ELECTED ASIL VICE PRESIDENT

CURTIS A. BRADLEY, the William W. Van Alstyne Professor of Law and senior associate dean for academic affairs, was elected as a vice president of the American Society of International Law at the society's March annual meeting in Washington, D.C. Bradley is a leading scholar of international law, foreign relations law, and the federal courts.

BLOCHER WINS DBA DISTINGUISHED TEACHING AWARD

THE DUKE BAR ASSOCIATION honored Professor Joseph Blocher with its Distinguished Teaching Award in April. DBA president Zach Kleiman '13 said Blocher, whose classes include Constitutional Law and Capital Punishment, inspires his students with one simple message: "That progress is not inevitable. Society does not just magically improve over time. It improves because people choose to act, and more often than not, those people are lawyers. It's all of us, sitting in this room.

"It seems that this man can't go a single day without inspiring a student and leaving a lasting impression," said Kleiman.

RAI APPOINTED TO DARPA EXPERT PANEL

ARTI K. RAI, the Elvin R. Latty Professor of Law, was recently appointed to serve on the Defense Advanced Research Project Agency (DARPA) Synthetic Biology Expert Panel. An expert in patent law, administrative law, and innovation policy, Rai received the 2011 World Technology Award for Law for her work on intellectual property and synthetic biology and green technology.

Profiles

James D. Smith '86
IP leader to patent judge

IT'S PROBABLY an understatement to say that James Smith has a full schedule.

Consider the docket he oversees as chief administrative patent judge at the Board of Patent Appeals and Interferences (BPAI) at the United States Patent and Trademark Office (USPTO): almost 25,500 *ex parte* appeals from patent examiners' decisions; expanded jurisdiction under the America Invents Act to hear certain contested proceedings; and oversight of other matters delegated to him by the USPTO director. Aiming to cut the processing time of patent appeals by two-thirds, Smith, who assumed his post in May 2011 by appointment of then-Secretary of Commerce Gary Locke, also has a congressional mandate to hire 100 new BPAI judges by January 2013; by mid-February, he had presided over more than 80 candidate interviews and several dozen hires.

Yet Smith, who is in his fifth year as a member of the Law School's Board of Visitors, sounds content as he describes his busy schedule, as well as the entire course of his career since his Duke Law graduation.

"I really can't imagine having scoped out a better 25-year course of study for this job than the one I happened into," he says of a career in intellectual property law that has included a clerkship at the U.S. Court of Appeals for the Federal Circuit, private practice focused on patent litigation and licensing, oversight of global licensing for Nokia, and service as chief intellectual property counsel for Baxter International.

Having arrived at Duke Law with a degree in electrical engineering in hand and a summer at the USPTO behind him, Smith acknowledges that the "gravitational pull" of intellectual property law was strong from the start. Even as he aimed to keep his options open, he made sure to take every class taught by Professor David Lange, then a virtual one-man IP department, and clerked both summers with Washington firms that specialized in the practice. He practiced patent law with Finnigan Henderson for two years before being recommended by a Duke Law classmate for a clerkship with now Chief Judge Paul R. Michel, who then was the newest judge on the Federal Circuit.

"Those years of practice and learning about litigation, patent law, and patent litigation were a very necessary education before the clerkship," says Smith, calling his friend's good word and the clerkship itself life changing events. "The experience that I gained on the court helped frame the years of my career that followed and certainly made me much more comfortable doing this job than I would have felt otherwise." He still turns to Michel's guidance with regularity, he adds.

Smith returned to private practice following his clerkship. He was focusing on patent litigation at the district court level and serving as managing partner for a Dewey Ballentine office in Texas when he was asked to consider becoming global director of intellectual property licensing at Nokia in 2004. The mobile device manufacturer's technology and attendant legal issues aligned well with his longtime practice, he says.

"It was just a fabulous job," he says of his three-and-a-half years at Nokia. "I traveled constantly, participating in licensing and cross-licensing of technology for mobile devices, cell phones, computers — Nokia's entire product set. And I got to conduct

"I really can't imagine having scoped out a better 25-year course of study for this job than the one I happened into." — James Smith '86

negotiations in countries all over the world, and to visit and participate in companion litigation. The entire time was a highlight reel."

Smith calls his position as chief intellectual property counsel at Baxter International "equally fabulous." Significantly, it gave him exposure to biotechnology patent and licensing matters, which has proven useful in his current position, he says.

Smith credits his career satisfaction with motivating his longtime volunteer service on the Duke Law Alumni Association and now on the Board of Visitors.

"Being granted admission to Duke Law was one of the best things that ever happened to me," he says, noting that such professors as Lange, Jerome Culp, Robert Mosteller, John Weistart, and Sara Sun Beale left a lasting impression.

"It was a fabulous place to go to school — the atmosphere of learning, the simultaneously collaborative and competitive ethos of the school were remarkable. The fabulous opportunities for learning and the caring instruction I received made me feel permanently indebted to the school."

Smith also praises the efforts of Dean David F. Levi and his predecessors to encourage alumni engagement with Duke Law.

"Just the thrill of being invited back to participate in the Law Alumni Association motivated further interest to get involved." — *Frances Presma*

Chris Dusseault, center, celebrating with colleagues on Feb. 7, after a three-judge panel of the Ninth Circuit upheld the verdict in *Perry v. Schwarzenegger.*

Chris Dusseault '94
Taking on Proposition 8

CHRIS DUSSEAULT'S Blackberry lit up just as soon as he and his wife had settled in at their table in a Nantucket restaurant on an August 2010 evening. He knew the simple message — "Perry, 09-2292, release set for tomorrow" — signaled an interruption to their long-delayed holiday.

Dusseault, an antitrust and complex commercial litigator and co-partner in charge of the Los Angeles and Century City offices of Gibson Dunn, had wrapped up the trial in *Perry v. Schwarzenegger* — the constitutional challenge to California's Proposition 8 — in January 2010, with closing arguments that spring. He had hoped the District Court would provide advance notice of when the decision would be released; he knew he would have to hustle up to San Francisco for the media frenzy sure to follow.

"For weeks, I'd been driving around Los Angeles with a packed suitcase in my car, waiting for that email," says Dusseault, a member of the Duke Law Board of Visitors.

Now he had 24 hours to hustle across the country.

The unlikely duo of Gibson Dunn's Ted Olson and David Boies of Boies Schiller led the team that brought the federal court challenge after the 2008 ballot initiative recognizing only marriage between a man and a woman was upheld by the California Supreme Court. Adversaries in *Bush v. Gore* — Olson subsequently served as solicitor general under President George W. Bush — the two filed a complaint in the U.S. District Court in San Francisco, claiming the law violated rights of equal protection and due process guaranteed under the Fourteenth Amendment.

Dusseault says he was honored to be brought into the case in its earliest stage by Olson and Gibson Dunn's Ted Boutrous, with whom he worked on business cases. "I love my work, I love the business cases," he says. "But we all knew what a huge deal this was and how important this could be for thousands of people."

> *"I prepare people for depositions — it's what I do. But this was very different from a business dispute; here they were being deposed about who they are. 'Who are you, why are you this way, is it good or bad, could you change it if you wanted to, why do you love the person you love, couldn't you love someone else?'"* — Chris Dusseault '94

The team worked under the radar while drafting the complaint. "I had to keep things secret even from my wife for a few weeks, and I never keep anything secret from her," Dusseault says. "When I told her about it, I remember her just very sweetly saying, 'This is why you went to law school.'"

When the presiding judge expedited the case for a trial within six months, Dusseault became Gibson Dunn's field marshal, coordinating the handling of multiple experts and witnesses for the three firm offices involved, along with counterparts at Boies Schiller and in the San Francisco City Attorney's Office.

The expedited schedule had them working at a breakneck pace. "We had 45 days to identify and hire all of our experts and prepare and serve their reports on the other side," he says. "And then we had three to four months to take and defend the depositions of some 25 witnesses."

Though he was in his element organizing the case and running discovery, Dusseault was less familiar with the underlying civil rights law. Immersing himself in cases such as *Lawrence v. Texas* and *Loving v. Virginia* made it clear to him that his clients should win the challenge, he says. "We knew that this was a groundbreaking case because gay men and lesbians have historically been denied equal rights, but it was also fully supported by precedent. We really hammered on this at trial — that more than 14 times, the U.S. Supreme Court has recognized that the right to marry is a fundamental individual right. And there was really no question that Proposition 8 denies that right for gay and lesbian people."

He found defending two of the plaintiffs for depositions particularly compelling. "I prepare people for depositions — it's what I do," Dusseault says. "But this was very different from a business dispute; here they were being deposed about who they are. 'Who are you, why are you this way, is it good or bad, could you change it if you wanted to, why do you love the person you love, couldn't you love someone else?' These are questions that are astonishing to think about, let alone have to answer under oath.

"In the weeks before trial it hit me what a powerful story this was going to be," Dusseault adds. "I looked at the testimony of the four plaintiffs and the powerful things they had to say about discrimination, and then I turned to the experts. We had really the top scholars from throughout the world, who had spent their whole lives just studying specific fields — the study of relationships, the study of the history of marriage, the study of discrimination against gays and lesbians, the study of political power, all of which were relevant to the issues before the court — and it brought home to me what an educational moment this was."

Dusseault says he found many poignant moments during the 12-day trial, in which he examined key expert witnesses and presented evidence from the Proposition 8 campaign. "Every day as we'd walk into court, people were lined up waiting for seats and they would shake our hands, saying 'thank you for what you're doing.'"

He also reveled in the professional opportunity the case represented. "Here I was trying a case with Ted Olson, who's had just about as much experience in the U.S. Supreme Court as any lawyer of his time, and with David Boies, who I think is appropriately regarded as one of the greatest trial lawyers ever," he says. "I had moments when I'd just step back and say, 'Is this real'?

"I don't do this kind of thing, but if I'd gone to a fortune teller a year before who'd said 'in the next year I see you trying a major civil rights case, advocating marriage equality, and you'd be trying the case with Ted Olson and David Boies,' I would have said, 'You need to find a new line of work.'"

Dusseault made it from Nantucket to San Francisco in time to sit with his team and read Judge Vaughn R. Walker's 136-page opinion, finding for the plaintiffs. He says watching their clients' reaction to the news was a career highlight.

"I don't know that I'll ever have another legal experience like this. It was amazing, but it can't replicate the impact on their lives. And to watch their tears of joy and excitement — the overwhelming emotion of it was incredible."

While all involved assumed the verdict meant the plaintiffs would be able to marry promptly, that has not happened. The U.S. Court of Appeals for the Ninth Circuit stayed the District Court's injunction against enforcement of Proposition 8, and that stay remains in effect today. On Feb. 7 the Ninth Circuit affirmed the district court's judgment in favor of the plaintiffs, and on June 6 it denied the request by Proposition 8 proponents for an *en banc* review. The proponents of Proposition 8 are likely to petition for certiorari in the U.S. Supreme Court, notes Dusseault, who remains involved in all aspects of the case.

"I love the case, and I'm happy that I get to keep working on it," he says. "But the tragic part of it is, Judge Walker was right — you have fundamental rights being denied every single day that this law remains in effect. Hopefully the day will come soon that this case is concluded and our clients can finally exercise the right to marry that so many others take for granted." — *Sharon McCloskey*

David Robinson II '64
Integrating Duke was just a start

AS HE NEARED his graduation from Howard University with the highest honors in 1961, David Robinson hoped to go to the best law school he could afford, but never dreamed of going to Duke. Then he met Dean Elvin "Jack" Latty, who aimed to end segregation at Duke.

"Was I seeking integration? No," says Robinson. "In fact, my entire family was opposed to it. They were concerned for my safety." But Robinson found Latty, who came to Howard looking for potential students, to be "a most persuasive, fatherly figure. He said, 'We're gonna do this.'" In convincing Robinson to accept a scholarship, Latty, who served as dean from 1957 to 1966, also talked up Duke's intellectual caliber. "He said, 'Here's an opportunity to attend a small law school that is a true center for legal education.' For me, it was a no-brainer." Now retired from a first career at Xerox Corp., and a second one with the Miami-Dade County court system in Florida, Robinson feels he made the right choice.

Robinson, who broke the color barrier at Duke along with Walter Johnson Jr. '64, recalls feeling comfortable at Duke. "Classmates were congenial. They didn't go out of their way, but I didn't feel isolated," he says. Latty was always available as a sounding board. Although he perceived no grading bias on the part of the professors who were "thoroughly professional," Robinson admits that he and Johnson shared a "special pressure" to be prepared for being called on in class. But for the most part, politics did not intrude on the business of learning law.

"This was the early 1960s," he says. "Civil rights legislation was pending before Congress. Freedom Riders were traveling through the South. But at Duke, the law students were so busy studying, that there was not much in the way of controversial discussion. In that way, I suppose I was protected by the very walls I integrated." He recalls receiving encouragement and support from Floyd McKissick, a prominent Durham civil rights lawyer (and father of Floyd McKissick Jr. '83) who Robinson met in his second year.

Robinson joined the Federal Reserve following his 1964 graduation, opting for public sector employment at a time when many major law firms remained segregated. In 1967, he took an in-house position at Xerox in Rochester, N.Y. Two years later, he found that a company survey indicating that black employees were happy with their positions and salaries had been fudged. He helped organize the Concerned Association of Rochester, Inc., a nonprofit organization devoted to the elimination of discrimination at Xerox, and served as its executive director.

"Trained, as I was, as a lawyer, I was able to talk toe-to-toe with executives, draw conclusions from fact, and show them patterns and islands of isolation where there were no blacks and where they appeared to be pursuing a philosophy of tokenism," says Robinson. "After a couple of meetings, they acknowledged that we helped them to face a significant problem — and face it early on." Xerox became known for its progressive management, he adds. "I'm very proud of the fact that their CEO today is an African American woman."

In 1978, Robinson became senior counsel for Xerox operations on the West Coast. He loved corporate work, he says.

"Dean Latty once had in mind he wanted me to teach the law. That was not in the cards because once I got into corporate work, I was hooked. Xerox offered the opportunity to be involved not only with domestic law but transnational matters. And it's a wonderful thing to have a single client."

Robinson got another client and a second career when he was contacted by fellow Duke Law alumnus Gerald Wetherington '63, following his 1988 retirement from Xerox and return to his native Florida.

"Jerry Wetherington was the chief judge [of the Eleventh Judicial Circuit of Florida] at the time. He said, 'Dave, why don't you come help us out in the courts — we can use the skills you acquired at Xerox.'" Robinson volunteered his services for six months when Wetherington suggested he "write up a job description." Robinson became the first general counsel to the Eleventh Judicial Circuit of Florida, and served that circuit for almost a decade.

A former member of the Duke Law Board of Visitors and active as a volunteer in various community organizations, Robinson calls service his "first order of business." He remains grateful for the "unprecedented opportunities" he had at Howard, at Duke, and in his career.

"I always wanted to do my best, but never felt I had anything to prove to anyone other than myself," he says. "I just wanted to be myself and the best human being that I could be." — *Paula Edelson*

» Read more about integrating Duke Law School at **www.law.duke.edu/magazine**.

Noor Alfawzan LLM '12
Leading the way for Saudi Arabian women in law

JUST THREE YEARS AGO, it would not have been possible for Noor Alfawzan to graduate from Duke Law School with her LLM. That's because Alfawzan was part of the very first class of women to obtain law degrees in her home country of Saudi Arabia.

"I was one of seven when I graduated," says Alfawzan, who graduated first in her class from Prince Sultan University College for Women in Riyadh in 2010. "Now there are more than 100."

Alfawzan says many law firms in Saudi Arabia are eager to hire women.

"It's a huge shift," she says. "When I first went to law school people said, 'Are you serious, you really think you're going to be a lawyer in Saudi?' But people have witnessed it happening, and it's generally accepted."

Alfawzan's desire to become a lawyer began at a young age.

"My father was a lawyer, so I could have been influenced by him. It could be in my genes, I don't know," she says. "It's just something I always wanted."

Alfawzan initially began her university studies in information systems, because law wasn't an option. She immediately switched degree programs when the option became available and hasn't looked back.

"I was extremely lucky and it was the best decision I've ever made," she says.

Alfawzan says she and her law classmates in Riyadh became very close and met frequently outside of class to study.

"During finals we gathered every day at someone's house and we all studied together," Alfawzan says.

Because it was a condensed program – students were required to take around 18 credits per semester — not all students completed the program at the same time. She says all the women have since graduated and many are now working in law firms or governmental bodies.

Since receiving her degree in 2010, Alfawzan has worked at Latham & Watkins in both Dubai and Riyadh specializing in corporate law and finance, which was also the focus of her studies at Duke Law.

Alfawzan says she chose Duke Law for its reputation overseas.

"A lot of the successful people in my country are Duke graduates," she says. "The head of the Saudi Arabian Monetary Agency [Mohammed Al-Sheaibi] is an SJD alumnus and he's a great example." Al-Sheaibi received both his LLM and SJD from Duke Law in 1990 and 1993, respectively. He is now director of the local department at the Saudi Arabian Monetary Agency.

Noor Alfawzan, right, presented the LLM Award for Leadership and Community Service to classmate Ryham Ragab, left, at the 2012 Graduation Gala in May.

While at Duke Law, Alfawzan participated in several pro bono groups, including the Street Law program, through which she visited a local middle school to teach students how to perform in a mock trial.

"It was fantastic," Alfawzan says. "I love children. When I saw them on the day they were performing, I was so happy, so proud."

She also did Arabic translations for the Iraqi Refugee Assistance Project, taught Arabic to children at a local Islamic center, and was the LLM representative of the Duke Student Organization for Legal Issues in the Middle East and North Africa.

Alfawzan is staying in Durham for the summer and sitting for the New York State Bar Exam in July.

"Eventually I want to go back to Saudi and work in private practice to add value to my country," she says.

She will take with her classroom knowledge, and all she learned from her peers.

"I learned so much on a personal level," she says. "What's good about the LLM program is that we were a group of 96 students from many different countries, so you learn at least one thing from each person you meet."

Alfawzan says some of the friendships she formed were unexpected.

"It's amazing. I never thought that at this age I'd still be forming new friendships that will last forever," Alfawzan says. "I'm friends with people I never imagined I'd be friends with and I've met people from countries so far away from home — Japan, Chile, Peru. It just widens your horizon, so you go back with a different perspective." ☟

— *Valerie Marino*

As a 2L, James Gillenwater started a rugby program for youngsters at the John Avery Boys & Girls Club in Durham. The initiative, which included academic tutoring, was funded by the Albert Schweitzer Fellowship Program.

James Gillenwater '12
Rugby and academic standout, grateful "Duke fan"

ON A LOVELY DAY last spring, James Gillenwater woke up in a Pinehurst, N.C., hospital room with a fully bandaged head. "My family was there, all three of my roommates were there, and Dean Belk was there," he recalls. Jason Belk is the assistant dean for student affairs at Duke Law.

Before he woke up, the last thing Gillenwater could remember was getting sick on the sidelines of a graduate student-league rugby game in Pinehurst after another player's head accidentally "torpedoed" into his during a tackle by a third player. Gillenwater's skull was fractured. He was rushed to the nearest hospital, where he underwent emergency surgery for an epidural hematoma — bleeding between his skull and his brain.

"I didn't know if I'd be able to resume classes, finish the semester or take my exams. But the next few weeks really encapsulated my overall experience of the Law School as a tight-knit, collegial, and collaborative community," Gillenwater says. "My law school friends looked after me day and night, brought me food, gave me class notes. My professors sent me emails, telling me not to worry. Everyone here just rallied around me."

With the help of this network, Gillenwater finished the semester — he took his finals just a week late and did well. Then he spent the summer working at Williams & Connolly in Washington, D.C.

The only thing Gillenwater hasn't done since his injury is play rugby, a true sacrifice for someone who served as captain of the USA rugby team for three years prior to entering law school. While playing for the national squad he suffered multiple concussions and was told he should never play again. But the allure of Duke's graduate sports league was difficult to resist. "Somehow I convinced myself it was alright to play in some games — moderately — and not really tackle that hard," he admits.

Gillenwater has not formed a single scrum since being injured, but he has remained an advocate of the sport. He has shared his passion broadly during his time at Duke, starting a rugby program for inner-city Durham youngsters during his second year with a grant from the Albert Schweitzer Fellowship Program. He found the experience richly rewarding.

"None of them had played," he says of his pre-teen players. "And they picked it up so quickly. To go out there for a few hours a week and spend time with those kids, and to share something you know and love with them just brings out the best in you." Until his injury, he also coached the Duke undergraduate rugby team.

Gillenwater devoted an independent study project to legal and policy research on concussion prevention in organized sports; Professor Paul H. Haagen, a sports law expert, was his adviser. "What we posit is the need for an independent concussion evaluator at sporting events to work with team physicians — someone who would make the final call" regarding how serious a player's head injury may be, and when he or she can return to the game, Gillenwater says.

They also call for better diagnostic criteria — something Gillenwater says he could have benefited from following his first concussion during a 2009 World Cup tournament in Dubai. "The medical staff did the best they could, and I wasn't as candid as I could have been," he says. "I convinced them to let me get back on the field the next day. I aggravated the injury further on the first play."

All in all, Gillenwater estimates that he suffered three concussive events during a three-week period. "I couldn't read and had to sit in a dark room, as it hurt to go out in sunlight. It even hurt to take a shower," he recalls. "And I'd repeat myself every few minutes. It's completely disorienting when someone tells you 'you just told me that.' You lose all sense of grounding."

He had, happily, recovered his concentration by the time he arrived at Duke Law, where he was a notes editor on the *Duke Law Journal* and was runner up in the 2010 Jessup Cup Moot Court tournament. His classmates awarded him the 2012 Justin Miller Award for citizenship at their graduation gala in May.

"James has been a remarkable contributor," says Haagen. "In his research, he brought the analytical ability of a well-trained legal mind, the discipline of a high-level international athlete, and the passion of someone with deep personal experience of the issues he was writing about. It was one of those rare and exciting combinations.

"James was consistently one of the most insightful participants in class discussions — until he got kicked in the head. Then, coming back well before it seemed humanly possible, he was quiet during a healing process but, once healed, was every bit as intellectually ferocious as he had been before."

After a post-graduation clerkship with Judge Robert Chatigny of the U.S. District Court for the District of Connecticut, he plans to return to Williams & Connolly.

"But I'll always be a Duke fan," says Gillenwater, returning to his time in the hospital, and the efforts of the Law School to help him keep on track. "This really proves how much Duke looks after its own, and it's humbling that they thought I had done enough good for them to look after me. I'll never forget it." — *Paula Edelson*

Justice Samuel A. Alito

DUKE IN D.C. GRAND OPENING AND SUPREME COURT CLERK CELEBRATION » JUNE 12, 2012

MEMBERS of the Barrister Donor Society and Heritage Society celebrated the opening of Duke University's Washington, D.C. office where Duke in D.C. classes will be held, as well as Duke Law School's recent Supreme Court clerks. U.S. Supreme Court Justice Samuel A. Alito, Chief Judge David B. Sentelle of the United States Court of Appeals for the District of Columbia Circuit, and Dean David F. Levi offered remarks at the event.


Sarah Hawkins Warren '08, Alito clerk Ryan Newman, Meghan Ferguson '10, and Judge Richard J. Leon of the U.S. District Court for the District of Columbia


Professor Christopher Schroeder, co-founder of the Duke in D.C. program, and Julian Yap '07. Yap now is senior counsel in the Department of Justice's Office of Legal Policy, which Schroeder heads.

Garrick Sevilla '07, left, clerked for Justice Alito.

Alumni Notes

1961

Donald Dietrich has joined the Winter Park, Florida firm of Swann, Hadley, Stump, Dietrich & Spears as of counsel and adviser to its trial practice. Donald served on the U.S. District Court for the Middle District of Florida as U.S. magistrate judge for 25 years, retiring in 1996. He has since been appointed to the United States District Courts for Northern Georgia, Southern Alabama, Eastern Tennessee, and Middle North Carolina for extended periods to cover vacancies in chambers.

1963

Julian C. Juergensmeyer, professor and Ben F. Johnson Chair in Law at Georgia State University, has published *Quick Review: Property 5th* (West Publishing Co., 2012), with **Carol N. Brown '95**.

1966

Bruce H. Anderson was honored by the Oregon State Bar with its Active Pro Bono Award in October 2011. Now retired from active practice in Eugene, Bruce helps Lane County Legal Aid clients primarily with real estate and small business matters.

1967

Steven M. Roth has published *Mandarin Yellow* (Telemachus Press, 2011), a mystery novel introducing Socrates Cheng.

1968

James H. Kelly Jr., of counsel at Kilpatrick Townsend in Winston-Salem, was named to the 2012 edition of *Best Lawyers* in the areas of insurance law, and commercial, antitrust, mergers and acquisitions, securities, trusts and estates, and personal injury litigation. *Best Lawyers* also named Jim a 2012 "Lawyer of the Year" in the area of insurance law. He also was named to the list of 2012 North Carolina Super Lawyers by *North Carolina Super Lawyers* magazine in the area of business litigation, and to *Business North Carolina*'s 2012 "Legal Elite." He also was included in the publication's Hall of Fame.

1969

Wayne R. Vason was honored by the Georgia Planned Giving Council with its "Greater Good Award" on April 25 at an event at the Buckhead Club in Atlanta. Wayne, senior counsel at Troutman Sanders where he specializes in trusts and estates, was honored for his career excellence and work as a charitable adviser. He has initiated planned giving programs with numerous Atlanta nonprofits, and serves on the development committees and board of advisers of many other organizations in the state.

1971

James R. Fox, of counsel at Bell, Davis & Pitt in Winston-Salem, has been named a 2012 North Carolina Super Lawyer in the area of business litigation. Jim also has been named to the 2012 class of the state's "Legal Elite" by *Business North Carolina* magazine.

This section reflects notifications received by April 15, 2012.

BOV indicates membership on Duke Law School's Board of Visitors.

Field Note

Stephen Leckar '73 makes his case on warrantless surveillance

STEPHEN C. LECKAR'S first Supreme Court argument was a winner. In the Court's decision in *U.S. v. Jones*, handed down Jan. 23, the justices resolved a split among the Circuit Courts of Appeals and held 9-0 that the warrantless installation and use of a tracking device on a suspect's vehicle constituted a "search" and, therefore, implicated the Fourth Amendment rights of Leckar's client, respondent Antoine Jones.

The Washington, D.C., police had tracked Jones 24/7 for 28 days prior to his arrest on drug charges by hiding a GPS on his Jeep; the device generated more than 2,000 pages of data relating to his location. Leckar, who teamed up with one of the nation's top appellate advocates, Professor Walter Dellinger III, on his brief and preparation for oral argument, argued that the police had committed a trespass against Jones when they attached the GPS device to his car; that violation, he contended, resulted in an unconstitutional search and seizure of data in a way that was all-encompassing. His argument was persuasive.

"The Government's attachment of the GPS device to the vehicle, and its use of that device to monitor the vehicle's movements, constitutes a search under the Fourth Amendment," wrote Justice Antonin Scalia for the majority; Justices Samuel Alito and Sonia Sotomayor filed extensive concurring opinions.

The ruling, which affirmed a decision by the D.C. Circuit, made him feel "like I had done my duty as a foot soldier for the Fourth Amendment," said Leckar, who specializes in federal commercial litigation, criminal defense, and business counseling in his Washington practice. "I think the decision, although narrow, will have significant implications for future generations of Fourth Amendment and privacy litigants."

It's worth noting that Duke Law had another legal luminary involved in *U.S. v. Jones*; Deputy Solicitor General **Michael Dreeben '81** argued the case on behalf of the government, making his 83rd appearance before the Supreme Court.

Alumni Notes

1972

Cary A. Moomjian Jr. has established CAM OilServ Advisors LLC and Cary A. Moomjian, Jr. PC in Plano, Texas, to provide advisory, consulting, mediation and legal services to the drilling, oil service and petroleum industries. Cary spent 35 years as an executive in the oil and gas drilling industry, during which he served as vice president and general counsel to Santa Fe International Corporation and Ensco PLC.

John R. Wester, a partner with Robinson Bradshaw & Hinson in Charlotte, has been selected for the inaugural edition of *Benchmark Appellate*, a new reference guide recognizing the nation's top appellate litigation firms and their attorneys. He is one of two Charlotte attorneys and one of 10 North Carolina lawyers identified as "Local Litigation Stars" in the first annual rankings. He focuses his practice on the trials and appeals of complex civil litigation. BOV

1974

Colin Brown, president and CEO of JM Family Enterprises, received the the Sun Sentinel Co.'s 2011 Excalibur Award as Business Leader, Broward County. Colin was recognized for his corporate and community achievements on April 29 at the Boca Raton Resort & Club. BOV

Roger K. Ferland, a partner in the Phoenix office of Quarles & Brady, has been named by *Southwest Super Lawyers* magazine as among the top five percent of attorneys in Arizona for 2012. He is a member of his firm's environmental practice group and chairs its clean energy, climate change, and sustainability practice.

Edward A. Studzinski, the co-manager of the Oakmark Equity and Income Fund since 2000, stepped down from management of the fund and retired from Harris Associates, the fund's adviser, on Jan. 1, 2012.

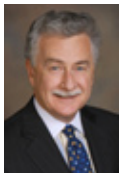
1975

Alan J. Koman has published *A Who's Who of Your Ancestral Saints* (Geneological Publishing, 2010). The book helps readers trace their genealogical links to medieval Europe and early Christianity. More information can be found at www.geneological.com. Alan is in private practice in Atlanta.

1976

Michael F. Perley, a member of the Buffalo-based firm of Hurwitz & Fine, has been named 2012 president of the Western New York Trial Lawyers Association. Michael's practice focuses on litigation defense, municipal law, and transportation negligence. He was named one of the Top 50 lawyers in New York State outside of New York City by *New York Super Lawyers Magazine — Upstate Edition* and was named to the 2012 list of *Best Lawyers in America*.

1977



C. Thomas Work, a shareholder at Stevens & Lee in Reading, Pa., received the Berks Arts Council's inaugural Pagoda Award for Community Leadership and Commitment to the Arts in May 2011. Tom was honored for his work with the Reading Musical Foundation in enhancing its music scholarship and outreach programs by expanding offerings on merit and awards on financial need.

1978

James T.R. Jones has published a memoir, *A Hidden Madness*, about his experience with bipolar disorder. He is a professor of law at the Louis D. Brandeis School of Law at the University of Louisville. He also speaks frequently on severe mental illness, stigma, and the value of treatment. His book is available on amazon.com.

Renee J. Montgomery, a partner in the Raleigh office of Parker Poe Adams & Bernstein, was honored with the 2011 Dr. Ellen B. Winston Award by the Association of Home and Hospice Care of North Carolina. The award is presented annually to an individual who has made a significant contribution to home care and hospice in North Carolina. Renee focuses her practice in the health law area and has extensive experience in regulatory and administrative law, and frequently lectures on health law and administrative law issues.

1979

G. Michael Bellinger has joined Arent Fox in New York as a litigation partner. He focuses his practice in the areas of white collar criminal defense, internal corporate investigations, complex commercial litigation, securities law litigation, and employment law litigation. He previously was with Dorsey & Whitney.

Timothy W. Mountz was awarded the 2011 Morris Harrell Professionalism Award by the Texas Center for Legal Ethics and the Dallas Bar Association (DBA). Tim is a partner at Baker Botts in Dallas, where he concentrates his practice in the areas of professional liability litigation, securities litigation, securities enforcement, and complex business litigation. He served as DBA president in 2005 and as a director of the State Bar of Texas from 2006 to 2010. He currently serves as trustee and vice chair of the Dallas Bar Foundation.

Steven G. Polard has joined Davis Wright Tremaine as a partner in the firm's Los Angeles office. A bankruptcy and commercial litigator, he primarily represents secured creditors, including banks and special servicers of commercial mortgage-backed securities. He previously was a partner at Perkins Coie.

Louis Vinay was appointed city attorney of Morganton, N.C., by the Morganton City Council on March 5. He previously practiced at Starnes Law Firm and served as town attorney for Connelly Springs and Glen Alpine, N.C.

J. William Widing III has returned to private practice with the Wyomissing, Pa., law firm of Kozloff Stoudt after four years heading the Guardianship and Special Needs Trust Unit of Pennsylvania Trust Co., as a senior vice president. Bill is a senior member of the firm's trusts and estates practice.

1980

Michael L. Hall, a partner at Burr & Forman in Birmingham, Ala., was inducted as a fellow of the American College of Bankruptcy during a ceremony at the U.S. Supreme Court. He also was named a "2012 Lawyer of the Year" in the area of litigation — bankruptcy by *Best Lawyers*, and ranked as a leading practitioner in the 2012 edition of *Chambers USA*. He chairs the firm's creditors' rights and bankruptcy practice group. Most of his practice involves representing various interests in Chapter 11 proceedings.

John H. Hickey has been elected for a third term to the Florida Bar Board of Governors. Jack is the principal of the Hickey Law Firm in Miami. In 2011 he was named to the "Legal Elite" in the areas of aviation, admiralty, and maritime by *Florida Trend* magazine, as a "Super Lawyer" by Superlawyer.com, and a "Top Lawyer" in the areas of personal injury and maritime by the *South Florida Legal Guide*.

R. Scott Toop joined Wendy's Co. as senior vice president, general counsel, and secretary, and a member of Wendy's executive leadership team in January. He previously served as general counsel at Tim Hortons, Inc.

Richard D. Willstatter, a partner at Green & Willstatter in White Plains, N.Y., was sworn in as president of the New York State Association of Criminal Defense Lawyers in January. Richard also serves as a vice chair of the Amicus Curiae Committee of the National Association of Criminal Defense Lawyers.

1981

John J. Coleman III has been ranked as a leading practitioner in the 2012 edition of *Chambers USA*. John is a partner at Burr & Forman in Birmingham, Ala., where he is a member of the firm's labor and employment law section.

Blake Watson has published *Buying America From the Indians: Johnson v. McIntosh and the History of Native Land Rights* (Oklahoma University Press, 2012). Blake is a professor of law at the University of Dayton School of Law where he teaches property, administrative law, environmental law, and natural resources law.

1982

Ruth Dukelow has joined the Cooperating Libraries in Consortium (CLIC) in St. Paul, Minn., as executive director. She previously was associate director of the Midwest Collaborative for Library Services. CLIC supports a wide range of library services, including digitization of selected library collections and access to electronic resources.

Barbara S. Esbin has been named managing partner in the Washington office of Chicago-based Cinnamon Mueller. Before retiring from public service, Barbara held a number of positions at the Federal Communications Commission, including associate media bureau chief. She has represented the American Cable Association and worked as a senior fellow and director at the Progress and Freedom Foundation.

David S. Felman, shareholder and leader of the corporate and tax practice group at Hill Ward Henderson in Tampa, has been elected as vice chairman of Florida Venture Forum, an advisory and support program for the entrepreneurial community in the state of Florida. He also has been named to the 2012 edition of *Florida Super Lawyers* and the *Super Lawyers Business Edition*.

Jeffrey L. Piemont has been elected to partnership at Nixon Peabody in New York City. He focuses his practice on the federal, state, and local income tax aspects of municipal and NGO finance. He joined Nixon Peabody as counsel in 2001.

1983

Daniel McCarthy is director of special projects for the Jacksonville-based Wounded Warrior Project, a nonprofit that helps ailing veterans of the wars in Afghanistan and Iraq.

Toshio Nakao, a partner at Taft Stettinius & Hollister in Cincinnati, has been listed as a 2012 leading lawyer for international law by *Cincy Magazine*. Toshio's practice focuses on Japanese companies doing business in the United States and American companies either doing or planning to do business in Japan.

Jeffrey S. Schloemer, a partner at Taft Stettinius & Hollister in Cincinnati, has been listed as a 2012 leading lawyer for commercial and contract law by *Cincy Magazine*. A co-chair of the firm's business and finance practice group, Jeffrey practices primarily in the areas of banking and finance, mergers and acquisitions, and commercial and corporate law.

1984

Michael Harvey has published *We All Fall Down* (Knopf, 2011), the fourth novel in a series featuring Chicago private investigator Michael Kelly. It is now available in paperback. Michael was recognized as "Chicagoan of the Year in Literature" by the *Chicago Tribune* in December. His next novel, a crime thriller set on the campus of Northwestern University, will be published in fall 2012.

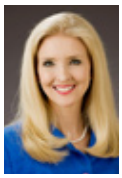
Class of 1986: Two Deans

Francis J. Mootz III became dean of the Pacific McGeorge School of Law in Sacramento on July 1. He previously was the William S. Boyd Professor of Law and associate dean for academic affairs and faculty development at the William S. Boyd School of Law at the University of Nevada, Las Vegas. Jay's scholarship focuses on insurance, contract and sales law, and the relationships between law and contemporary European philosophy.

Gary Myers has been named dean of the University of Missouri School of Law, effective Aug. 15. He currently is associate dean for research, professor of law, and the Ray & Louise Stewart Lecturer in Law at the University of Mississippi School of Law, where he focuses his scholarship and teaching on antitrust law, copyright law, entertainment/media law, torts, trial practice, and intellectual property.

R. James Robbins Jr., managing shareholder at Hill Ward Henderson in Tampa, has been named to the 2012 edition of *Florida Super Lawyers* and the *Super Lawyers Business Edition*. He focuses his practice on a wide range of commercial business and real estate matters.

1985



Janet Ward Black, principal of the Greensboro personal-injury firm Ward Black Law, was presented the Athena Award by Greensboro Partnership in January, in recognition of her professional achievements, service to the community, and leadership outreach to other women. Among her many achievements cited by the Partnership: her creation, while N.C. Bar Association president, of the "4ALL" program, now a model for providing free legal services to the poor, as well as her membership in and support of groups that foster and nurture women in business.

William W. Horton has joined Johnston Barton Proctor & Rose in Birmingham as a partner and member of the health care and business and tax practice teams. His primary focus is on the representation of health care providers, financial services organizations and other business enterprises in the areas of mergers, acquisitions, and joint ventures, securities and corporate finance law, regulatory compliance, and corporate governance matters. He also teaches health law topics at the University of Alabama School of Law as an adjunct professor.

Bruce Ruzinsky, a partner at Jackson Walker in Houston, was named to the 2012 edition of *Best Lawyers*. Bruce focuses his practice primarily on representing financial institutions, corporations, and other business entities in workout/restructure efforts as well as chapter bankruptcy proceedings.

1986

George W. Finkbohner III, a partner at Cunningham Bounds in Mobile, Ala., has been elected a fellow of the International Society of Barristers. Skip also was designated a "National Litigation Star" in the field of personal injury litigation in the 2012 (inaugural) edition of *Benchmark Plaintiff*. In March, he had a jury verdict make the list of the *National Law Journal's* annual list of the top 100 verdicts, his fourth since 2003.

Christopher M. Kelly has been named partner in charge of Jones Day in Cleveland. Chris also oversees the firm's capital markets practice for North America.

Lisa Krupicka, a member of Burch, Porter & Johnson in Memphis, was elected a Fellow of the College of Labor and Employment Lawyers in November 2011.

1987

Susanne I. Haas was honored, in April, with the Duke Law Alumni Association's International Alumni Award in recognition of her professionalism, personal integrity, and community service. She is vice president and general counsel of Environmental and Combustion Controls, a Division of Honeywell International Inc. Susi, who also holds a 1985 LLM from Duke Law, is a past president of the LAA and regularly participates in the ESQ Career Symposium and has taught in Wintersession. BOV

Robert E. Harrington, a partner and commercial litigator at Robinson, Bradshaw & Hinson in Charlotte, was honored, in April, with the Duke Law Alumni Association's 2012 Charles S. Murphy Award for his long record of community service through such organizations as the Lawyers' Committee for Civil Rights Under Law, the Levine Museum of the New South, the Charlotte-Mecklenburg Schools, the Greater Charlotte Cultural Trust, and the Mecklenburg County Bar. BOV

Bruce L. Rogers was honored, in April, with the Duke Law Alumni Association's 2012 Charles S. Rhyne Award in recognition of his professionalism, personal integrity, and commitment to community service. The co-founder and managing director of KRG Capital Partners in Denver, Bruce previously was a partner with Hogan & Hartson and Kirkland & Ellis, specializing in corporate mergers and acquisitions, leveraged buyouts, private equity and corporate finance. He also is past chairman of the board of directors of Push America, a national nonprofit serving people with disabilities.

Bart J. Patterson is serving as interim president of Nevada State College, having been appointed by unanimous vote of the Nevada Board of Regents on Nov. 1. He previously served as vice chancellor of administrative and legal affairs for the Nevada System of Higher Education.

1988

Kathleen Hamm, managing director of the securities practice group at Promontory Financial Group, has been named to the board of directors of the National Stock Exchange, Inc. She serves on the board's executive committee and chairs the regulatory oversight committee. BOV

David Schwarz, a partner and litigator at Irell & Manella in Los Angeles, has been elected vice-chairman of the Commission on California State Government Organization and Economy. Known widely as the "Little Hoover" Commission, it is the state's independent, bipartisan good government "watchdog" agency. David was first appointed to the commission by former Gov. Arnold Schwarzenegger in 2007.

1989

Deena B. Jenab has joined Seyferth Blumenthal & Harris in Kansas City where she specializes in employment litigation and employment law counseling.

Matthew W. Sawchak has joined the faculty of Campbell University's Norman Adrian Wiggins School of Law as its first practitioner in residence. He teaches in the areas of civil procedure and antitrust, among others. Matt is a partner at Ellis & Winters in Raleigh, where he specializes in business litigation, antitrust, and appeals. He was named 2012 "Lawyer of the Year — Litigation and Antitrust" in the Raleigh area by *Best Lawyers*.

1990

Karen Cashion has launched Cashion Law, LLC in Alpharetta, Ga., providing corporate and technology law services as well as in-house litigation management services. She recently was appointed as a City of Alpharetta commissioner for the Natural Resources Commission.

D. Paul Dietrich II of the Orlando office of Stump, Dietrich & Spears, together with his colleagues in the firm, have joined with the Winter Park, Florida firm of Swann & Hadley to form Swann, Hadley, Stump, Dietrich & Spears. Paul concentrates his practice in the areas of business, banking and real estate and co-manages the firm.

Kristyn Elliott of the Orlando office of Stump, Dietrich & Spears, together with her colleagues in the firm, has joined with the Winter Park, Fla., firm of Swann & Hadley to form Swann, Hadley, Stump, Dietrich & Spears. Kristyn is a commercial civil trial attorney and a member of the firm's litigation team. She focuses her practice primarily on the representation of lending institutions and creditors.

Donald M. Nielsen, a partner at Bell, Davis & Pitt in Winston-Salem, has been named to the 2012 class of North Carolina's "Legal Elite" by *Business North Carolina* magazine. Don's practice focuses on environmental and land use law, as well as the related areas of local government and administrative law, including restaurant regulation.

1991

Thomas J. Biafore, a partner at Kilpatrick Townsend in Atlanta, was named to the 2012 edition of *Best Lawyers* in the areas of real estate law and securitization and structured finance law. *Best Lawyers* also named him a 2012 "Atlanta Lawyer of the Year" in the area of securitization and structured finance law. Tom focuses his practice on structured finance and servicing matters relating to commercial mortgage-backed securities with an emphasis on federal tax and compliance issues.

1992

Andrew Jen-Guang Lin (SJD '97) became a full professor at the National Taiwan University College of Law in August 2011. He has been on the NTU faculty since 2003. His recent research focuses are corporate governance, internal control and internal audit mechanisms, investor protection law, and other topics in corporate and securities laws, and he teaches corporate law, securities law, banking law, Anglo-American contract law, financial law, comparative law, and emerging market enterprise and financial laws.

What are you doing?

Tell us at: **www.law.duke.edu/alumni**

1993

Jeffrey A. Benson, a partner at Kilpatrick Townsend in Raleigh and Winston-Salem, was named to the 2012 edition of *Best Lawyers* in the area of real estate law. He also was named to the list of 2012 North Carolina Super Lawyers by *North Carolina Super Lawyers* magazine, and to *Business North Carolina*'s 2012 "Legal Elite" in the area of real estate law. Jeff concentrates his practice on commercial real estate, including development, zoning and land use, leasing, and real estate finance.

David Lender, a partner at Weil, Gotshal & Manges in New York City, has been appointed co-chair of the firm's litigation department.

Richard Smith joined Allen & Overy in New York as senior counsel in January. Richard's practice focuses on mergers & acquisitions, capital markets, and risk management.

David Steinberg has published his debut novel, *Last Stop This Town* (Monkey Business Press, 2012), a coming-of-age novel about four friends on the eve of their high school graduation. It is available from online retailers. David's screenwriting credits include "Slackers," "National Lampoon's Barely Legal," and "American Pie 2." His directorial debut, "Miss Dial," will be released later this year. He lives in Santa Monica with his wife and two children.

1994

Russell B. Killen, a partner at Parker Poe Adams & Bernstein in Raleigh, has been named chair of the firm's 70-lawyer litigation department. In his practice, Russell represents clients in the areas of complex construction and development-related claims. He also is serving his second term as mayor of Knightdale and serves on the N.C. League of Municipalities Planning & Environment Legislative Action Committee, the executive committee of Wake Education Partnership, and is the immediate past president of the Wake County Mayor's Association.

Todd Rolapp has been elected managing partner of Bass, Berry & Sims in Nashville, effective Jan. 1, 2013. Todd currently chairs the firm's corporate and securities department and leads the executive compensation group.

Michael J. Sorrell, president of Paul Quinn College in Dallas, was honored with the Duke Law Alumni Association's 2012 A. Kenneth Pye Award for Excellence in Education in April. Michael stresses academic rigor, student services, institutional accountability, and a commitment to servant leadership at Paul Quinn, which was recognized in 2011 as the "Historically Black College of the Year." He also has overseen significant campus improvements including the transformation of the football field into a farm. In May, Michael, who holds an MPP from Duke's Sanford School of Public Policy, served as alumni speaker at that school's graduation ceremonies.

1995

Carol N. Brown, professor of law at the University of North Carolina-Chapel Hill, has published *Quick Review: Property 5th* (West Publishing Co., 2012), with **Julian C. Juergensmeyer '63**.

1996

William M. Bryner, a partner at Kilpatrick Townsend in Winston-Salem, was named to the 2012 edition of *Best Lawyers* in the area of litigation — intellectual property and trademark law. He also was named to the list of 2012 North Carolina Super Lawyers by *North Carolina Super Lawyers* magazine and to *Business North Carolina's* 2012 "Legal Elite" in the area of intellectual property. Bill focuses his practice on trademark, unfair competition, advertising, and copyright law, with an emphasis on litigating disputes in those fields.

1997

Matthew Gaudet, a partner at Duane Morris in Atlanta, has been named co-head of the firm's newly formed IP litigation division of its intellectual property practice group. Matthew practices in the area of intellectual property litigation with a focus on patent litigation as well as related complex commercial litigation and technology litigation.

Jennifer Yelton Henry and her husband, Kyle, welcomed their second daughter, Lauren Noelle, on Dec. 20, 2011, in Dallas.

Sue Kinz Maggioni has joined MassBay Community College as assistant professor of paralegal studies. She teaches intro to paralegal studies, litigation, legal research and writing, business law, family law and real estate law.

Timothy Profeta has been elected to membership in the American Law Institute. Tim is the director of Duke University's Nicholas Institute for Environmental Policy Solutions.

1998

Seth H. Jaffe, an associate general counsel at the U.S. Office of Government Ethics, is currently on detail to the White House Counsel's Office as an ethics adviser. Seth previously served in the White House Counsel's Office from 2009 to 2010.

David G. Shapiro has launched his own Philadelphia firm, Shapiro Tax Law, which specializes in international and domestic tax planning to businesses and nonprofits. He previously was a partner at Dechert.

Jocelyn E. Strauber has been named co-chief of the terrorism and international trafficking unit in the U.S. attorney's office in Manhattan. She previously was a deputy chief of the terrorism and international narcotics unit.

1999

David Bowsher, a partner at Adams and Reese, has been named partner in charge of the firm's Birmingham, Ala., office. David's practice includes mergers and acquisitions involving troubled companies, corporate restructuring and bankruptcy issues, as well as other corporate, transactional, and governmental relations matters.

Santiago Cornu Labat has become a partner at Cibils & Castro Cranwell in Buenos Aires, Argentina.

Krista Marie Enns and her husband, David Hlopak, announce the birth of their son, Landon David, on March 19, 2012, in San Francisco.

Pamela Thacker Orsak started her own law practice focusing on estate planning, probate, and guardianship in Victoria, Texas, in January 2011.

James Sammataro has joined Stroock & Stroock & Lavan as a partner in the firm's entertainment group in Miami. He previously was a partner at Kasowitz Benson Torres & Friedman. James litigates and handles transactional matters for entertainment clients such as television and radio stations, touring companies, filmmakers, distributors, and talent.

2000

Lin Chua and her husband, Evert Vink, announce the birth of their son, Kai Piet Oliver, on Feb. 10, in New York City. He joins big brother Julian.

Scott Dodson has joined the faculty of the University of California, Hastings College of the Law in San Francisco as a professor of law. He teaches civil procedure, federal courts, and comparative civil procedure.

Brett Lund, executive vice president and general counsel of Gevo, Inc., a renewable fuels and chemicals company, has received the *Denver Business Journal's* "Best Corporate Counsel" award. He was recognized for his strong business acumen, intellectual property expertise, strategic deal making, Securities and Exchange Commission acumen, human resources knowledge, and experience in raising money.

Dustin B. Rawlin, a partner in the Cleveland office of Tucker Ellis, has been named a 2012 "Law360 Rising Star" in the area of product liability. Dustin represents businesses in complex civil litigation matters in courts throughout the United States.

J. Lizette Richards has joined Bulkley Richardson as an associate. She is a member of the litigation/alternative dispute resolution department and works out of the firm's Springfield and Boston offices. She previously was an associate at Fierst, Pucci & Kane in Northampton.

Mariana Simoes has joined Delmar-Ugarte Abogados in Lima, Peru, as of counsel. She previously led the Peruvian legal department of Odebrecht.

2001

Faye Rodman Barbour and her husband, Chris, announce the birth of their daughter, Nadia Elise Ann, on Dec. 7. Nadia joins big brother, Solomon.

Andrew Bender and his wife, Julia, welcomed Isla Ruth on July 25, 2011. The family lives in Brooklyn Heights where Andrew owns an equipment leasing company.

Jeanne "Nan" Donnelly and her husband, John, announce the birth of their daughter, Claire Jeanne, on June 14, 2011. She joins big sister Sophie Rachel.

Stephen Pedersen has joined Hayneedle, Inc., a privately held e-commerce company in Omaha, as general counsel. He previously was a partner at Kutak Rock in Omaha.

Nell Scott has been elected partner at Orrick, Herrington & Sutcliffe, based in the firm's London office. Nell's practice focuses on cross-border M&A, debt and equity capital markets transactions, and general U.S. corporate and securities law advice.

William R. Terpening has joined Nexsen Pruet in Charlotte as a partner and member of the firm's business litigation group. He previously was a founding partner of Anderson Terpening in Charlotte where he focused on white-collar defense, civil litigation, and appellate matters.

Peter A. Tomasi was named to the 2011 "Wisconsin Rising Stars" list in the area of environmental law by *Wisconsin Super Lawyers* magazine. Peter is a partner in the Milwaukee office of Quarles & Brady where he focuses on environmental law.

Travis Wheeler and his wife, Lisa, welcomed daughter Mia Sonne on March 26, 2012. A partner and member of the antitrust practice team at Nexsen Pruet in Columbia, S.C., Travis was selected by *The State* newspaper to its ninth annual list of "20 under 40" Midlands professionals.

2002

David C. Boles has been elected partner at Latham & Watkins. Based in London, he is a corporate attorney with a focus on equity and debt capital markets, company representation and general securities law matters. He represents investment banks, sponsors and companies in a variety of industries on a range of both public and private offerings of equity and debt securities.

Lila Hope has been elected partner at Cooley LLP in its Palo Alto office. She focuses her practice on the representation of technology companies, primarily in the life sciences industry, with a particular emphasis on transactions involving complex intellectual property, business, and operational issues, including strategic partnerships, discovery and option deals and asset purchases.

Sarah Pfuhl has been promoted to partner at WilmerHale in New York. She is a member of the firm's securities department and of the securities litigation and enforcement practice group. She was honored, in November 2011, for excellence in pro bono advocacy by the nonprofit Sanctuary for Families for her representation of a victim of domestic violence.

2003

Jennifer L. Barry has been elected partner at Latham & Watkins. Based in San Diego, she is a litigator who specializes in all aspects of commercial intellectual property, with specific expertise in Internet law. She also provides client counseling and prosecution advice, and manages global IP portfolios.

Stephan Bauer has joined Esche Schuemann Commichau in Hamburg as a partner in the M&A/corporate/restructuring department.

Kirsten E. Kenney has been named partner at Hinckley, Allen & Snyder in Providence, R.I. Kirsten's practice is focused on commercial real estate law, in the areas of finance and development.

Daniel J. O'Neill has joined Macht, Shapiro, Arato & Isserles, a boutique litigation firm in New York specializing in commercial litigation, entertainment law, and appellate practice. He and his wife, Liam, live in Pelham, N.Y. with sons Kellen and Carter.

Erica Schohn has been named a partner at Skadden. She is a member of the firm's executive compensation and benefits group in its New York office.

Adam Smith, an associate at the Law Office of D. Hardison Wood has been certified to the North Carolina State Bar as a specialist in workers compensation. He is the only attorney in Cary to hold this honor. Adam focuses his practice on workers compensation and personal injury litigation.

Nicole Williams has been elected partner at Thompson & Knight in Dallas. She is a member of the trial practice group and focuses her litigation and arbitration practice on matters involving antitrust, advertising, RICO, gaming, and other complex commercial disputes.

James R. Wyche has joined Moore & Van Allen in Charlotte as a member of the firm's corporate and securities practice group. James serves as outside counsel to public and private companies, focusing his practice in the areas of securities, mergers and acquisitions, corporate finance, and general corporate law. He was named a North Carolina *Super Lawyers* 2011 Rising Star.

2004

A. Xavier Baker and **Emily Su** announce the arrival of daughter Violet Josephine Huiwen Su-Baker, on Jan. 12, 2012.

Scott S. Bell has been named a shareholder in the Salt Lake City office of Parsons Behle & Latimer. Scott is a member of the litigation department and concentrates his practice on commercial and business litigation, media law, health care law, and antitrust law.

Campbell Chiang has transferred to Qualcomm, Beijing as associate patent counsel. He supports Qualcomm's patent presence in Greater China. He previously was based in San Diego.

Adam Darowski has been elected shareholder at Winstead PC. Based in Dallas, Adam is a member of the firm's real estate development and investments practice group and focuses his practice on a wide range of commercial real estate transactions.

Jeremy Entwisle has joined JPMorgan's legal department in Tokyo. He covers the investment banking activities including debt and equity capital markets, M&A, and corporate banking. He previously was an associate at Davis Polk in London.

Seagrumn L. Gilbert has joined Stein & Lubin in San Francisco as an associate in the real estate practice group. She specializes in commercial real estate transactions. She previously was an associate at Cooley in San Francisco.

Michael Greenwald has launched Greenwald Davidson, a law firm in Boca Raton specializing in prosecuting class actions, including securities and consumer fraud cases.

Stefanie Kandzia is serving as the dean's fellow for international studies at Duke Law School.

Timothy Kuhner and his wife, Ana, announce the birth of their son, Blake, on Nov. 16, 2011.

Allyson Jones Labban has been promoted to partner at Smith Moore Leatherwood in Greensboro, N.C. She focuses her practice on health care law.

Jenna Kiziah McGee, partner at Parker Poe Adams & Bernstein in Charleston, S.C., was named a recipient of the *Charleston Regional Business Journal's* 2012 "40 Under 40" Award. She concentrates her practice on complex commercial and construction litigation.

Stephen Pesce has been elected partner at Flanagan Partners in New Orleans. Steve concentrates his practice in the areas of energy, insurance coverage, admiralty, construction, and commercial matters, focusing on litigation, as well as contract negotiation and management.

Benoit Quarmby has joined the litigation boutique MoloLamken LLP. A specialist in intellectual property litigation, Ben previously was an associate at Quinn Emanuel in New York.

Jamiah K. Waterman was appointed interim city attorney of Greensboro, N.C., by a vote of the City Council on Feb. 28. Jamiah joined the city's legal staff in 2007, most recently serving as attorney for the city's Human Resources Department.

Erinn and **Michael White** announce the birth of their son, Conor Hugh, on June 29, 2011. He joins big brothers Ian and Will, and big sister, Delaney. The family lives in Issaquah, Wash.

Walter M. Wood was named to the list of "2012 Rising Stars for Personal Injury — Plaintiff" by *North Carolina Super Lawyers*. Walt practices at Martin & Jones in Raleigh.

2005

Cory Kampfer has joined On Deck Capital, Inc., in New York City as general counsel. Previously, Cory was an associate at Paul, Weiss, also in New York.

Mangyo Kinoshita has been promoted to partner at O'Melveny & Myers. He is a member of the mergers and acquisitions practice group and is based in the Tokyo office. He advises on a wide range of corporate matters, focusing on cross-border mergers and acquisitions.

Ryan Levy has been named a shareholder at Waddey & Patterson in Nashville. Ryan focuses his practice on intellectual property litigation with a particular emphasis on patent disputes.

Howard Sherman has joined GSI Commerce as patent counsel. He previously practiced patent litigation at Kaye Scholer in Washington, D.C.

Kelsey Weir married Ty Johnson on Dec. 31, 2011, in Dallas. She also has joined Klemchuk Kubasta, a full-service intellectual property boutique firm in Dallas. She specializes in commercial and intellectual property litigation.

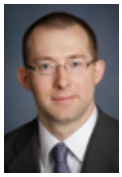
2006

Chad C. Duberke has joined the Orlando office of GrayRobinson, as an associate in the firm's intellectual property and corporate practice groups. Chad focuses on matters relating to corporate and securities law as well as intellectual property law, including mergers and acquisitions, commercial contracts and transactions, licensing agreements, software and technology contracts, and Internet law.

Murad Fares teaches legal research and writing at An-Nablus Law School in Palestine and has set up a legal clinic in Nablus, in addition to his law firm practice. He has received a grant from the Soros Foundation to set up clinics at other universities.

Coalter Lathrop has been appointed editor of *International Maritime Boundaries*, a project of the American Society of International Law and a BRILL/Martinus Nijhoff publication. Coalter is the principal of Asheville, N.C.-based Sovereign Geographic, an international boundary consultancy providing legal, geographic, and historic analysis and custom cartographic services to government and private sector clients.

Zia Oately has joined Ellis & Winters in Cary, N.C., as a litigation associate. She previously was a litigator at Gibson, Dunn & Crutcher in Washington, D.C.



Joshua Stowell has been named a partner in Knobbe Martens Olson & Bear. Based in the firm's Orange County, Calif., office, he represents and counsels clients in intellectual property disputes relating to patents, trademarks, copyrights, trade secrets, and unfair competition.

Amy Yeung was honored by the Bar Association of the District of Columbia as "Young Lawyer of the Year" on Dec. 3, 2011 at the Library of Congress. The award recognizes a young lawyer's civic participation and community service, including contributions to the Bar Association and its Young Lawyers Section. Amy received the LAA's 2012 Young Alumni Award for her service to the Law School and the legal profession; she served as the inaugural chair of the LAA's New Lawyer Division.

2007

Courtney Brown has opened Respite Café, a coffee and tea shop, in downtown Durham.

Patrick Hansen has co-founded Stratus IP Law Group in Washington, D.C., where he focuses his practice on the strategic development of patent portfolios, including the preparation and prosecution of U.S. and foreign patent applications.

Joseph O. Ope has joined ExxonMobil's legal department in Dubai to support Exxon's operations in Iraq. Joe previously practiced at Fulbright & Jaworski in Dubai.

Beth Richardson-Royer joined the Office of the Deputy Federal Public Defender in Los Angeles in June 2012, following a six-month road trip in Central America. She works primarily within the capital habeas unit.

Iyad Tayyem is the chief judge of the Nablus District Court in Palestine and is responsible for the total administration of the court, including almost 40 judges.

Jessica Bodger Rydstrom and her husband, Justin Rydstrom, welcomed their son, John Bodger Rydstrom, on Sept. 1, 2011. John joins big brother Nathaniel.

2008

Marisa Darden has joined the New York County District Attorney's Office as an assistant district attorney. She previously clerked for Judge Morrison C. England of the U.S. District Court for the Eastern District of California.

Laura Beach Dugan and her husband, Brendan Dugan, announce the birth of their son, Robert Broyhill, on July 9, 2011.

Jessica M. Eaglin has joined the faculty of California Western School of Law in San Diego as a teaching fellow. She previously worked at Simpson Thacher & Bartlett in New York as a litigator, primarily focused on antitrust law and white collar crime, and clerked for Judge Damon J. Keith of the U.S. Court of Appeals for the Sixth Circuit. Jessica's research and scholarship interests lie at the intersection of civil rights, critical race theory, education, and sentencing disparities in the United States.

Sarah Hawkins married William Blaise Warren on March 3, 2012, in Atlanta. Sarah is an associate at Kirkland & Ellis in Washington, D.C. She joined the firm following a yearlong clerkship with Judge Richard J. Leon on the U.S. District Court for the District of Columbia. Sarah chairs the Duke Law Alumni Association's New Lawyers Division.

Michael Rosenberg, an associate at Kilpatrick Townsend in Raleigh, has been recognized as a 2012 North Carolina "Rising Star" in the area of employment litigation: defense by *North Carolina Super Lawyers* magazine. He focuses his practice on labor and employment law.

Bryce J. Yoder has joined Keating Muething & Klekamp in Cincinnati as an attorney in its litigation practice group. He previously was an associate at Sullivan & Cromwell in New York.

Alumni Notes

2009

Elissa (Flynn) McClure and **Sean McClure '10** announce the birth of their daughter, Alexa Meghan, on March 24, 2012, in San Diego.

Ryan Mellske has joined the Latin American arbitration practice at White & Case in Washington, D.C. He previously worked for Arias & Munoz in Costa Rica.

Kesev Mohan has joined BizLab as executive vice president and legal adviser. Based in Menomonee Falls, Wisc., BizLab starts or acquires small Internet-based businesses and grows them.

2010

Mikkel Andersen joined the law firm of Bech-Bruun in Copenhagen on Jan. 1. He focuses his practice on a wide range of real estate matters.

Arthur Jean Bertin has joined DFI and Partners in Paris as an associate specializing in private equity. Arthur previously was an associate at Loyens & Loeff in Luxembourg. He is also pursuing a PhD at the Sorbonne.

Amber Jordan is clerking for Judge Evan Wallach of the U.S. Court of Appeals for the Federal Circuit.

Sean McClure and **Elissa (Flynn) McClure '09** announce the birth of their daughter, Alexa Meghan, on March 24, 2012, in San Diego.

2011

Brandon Bartee has joined Winstead PC in Dallas as an associate in its real estate structured practice group.

Nicholas L. Simon married Jennifer Von Deylen on Aug. 20, 2011. Nick currently clerks for U.S. District Judge Karen Caldwell in Lexington, Ky.

In Memoriam

1942
Frederick Nelson
Feb. 26, 2012

1945
Julian D. Sanger
Feb. 7, 2012

1947
Harold D. Spears
Feb. 8, 2012

1948
Frank W. Dailey
March 21, 2012

1950
Arthur K. Knudsen Jr.
Feb. 26, 2012

Robert B. Lloyd Jr.
Feb. 13, 2012

1955
Jon P. O'Donnell
June 13, 2011

1956
Marshall Royal Cassedy Sr.
Dec. 5, 2011

Harley B. Gaston Jr.
Dec. 31, 2011

Elisha Carter Harris Jr.
May 8, 2011

John D. Johnston Jr.
Dec. 18, 2011

1957
Robert W. Bradshaw Jr. BOV
Jan. 20, 2012

1958
George J. Kintz
Sept. 23, 2011

1962
James J. Kenny
Dec. 26, 2011

1969
James Patrick Alexander
Nov. 21, 2011

Howard G. Godwin Jr.
April 1, 2012

1974
John C. Tally
March 5, 2012

1979
Robert T. Harper
Feb. 27, 2012

1980
James B. Blackburn III
March 5, 2012

1984
Jeff Stonerock
Oct. 13, 2011

1986
Lawrence G. Smith
March 10, 2012

1995
Myra Maureen Frazier
Nov. 14, 2011

1998
Robin Whitlock Smith
May 22, 2012

1999
Cynthia O'Neal
Jan. 25, 2012

2005
Tristan Zimmermann LLM
April 6, 2012

2010
Amelia Marguet
March 11, 2012

This list reflects information received by the Duke Law Alumni and Development Office by May 25, 2012.

» View obituaries at **www.law.duke.edu/magazine**.

Justice John Paul Stevens — May 12, 2012

Retired Supreme Court Associate Justice John Paul Stevens shared stories and insights from his legal career with graduating Duke Law students and their families in a special "Lives in the Law" interview with Dean David F. Levi held prior to the Law School's hooding ceremony. Stevens also shared warm recollections of the various chief justices he has known since his days as a clerk — the subjects of his 2011 book, *Five Chiefs: A Supreme Court Memoir* — and of other colleagues on the Court. He agreed with Justice Byron White's observation that "every time there is a new justice it becomes a new Court."

"There are nine decision-makers, and every time you have a different one, it becomes a different decision-making body," Stevens said.

» View "Lives in the Law" with Justice John Paul Stevens at **www.law.duke.edu/news/audiovideo**.

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