An Increasing National Impact
This issue of Washington University Law Magazine celebrates our growing national impact. During the recent economic turmoil, many law schools have looked at ways to tighten their belts and have increasingly focused internally. While we have gone to great lengths to continue to adhere to responsible budgeting and strategic planning processes, we also have looked to areas where the law school can capitalize on its momentum and excel—both in St. Louis and in the nation and world.

Our students now come from nearly 40 states, and our alumni are engaged in careers throughout the country. Our national reach also extends to programs and initiatives generated within the law school that have a national appeal. This issue of the magazine highlights several of our innovative programs.

The law school is benefiting directly from Washington University’s alliance with the Brookings Institution coupled with the University’s new facilities in Washington, D.C. We have greatly expanded opportunities for our students in the nation’s capital, including offering the Congressional & Administrative Law Program year round. Recently, the partnership enabled Professor Melissa Waters, as a Brookings visiting scholar, to further her research on the effects of international law on the death penalty in the United States. We are also pleased to be working with Steven Jackson, the University’s new director for the Washington, D.C., academic program.

This issue of the magazine also spotlights other national projects, including student and faculty work on the Native Hawaiian Government Reorganization Act, faculty contributing their expertise to an ABA project in the nomination process of Supreme Court Justice Elena Kagan, outreach efforts with the DirectWomen Institute in New York and the Delaware Supreme Court, leadership in a national discourse on clinical interference and academic freedom, and faculty expertise in the Model State Administrative Procedure Act. These projects are just a few of the initiatives illustrating the scope and variety of the law school’s national endeavors.

Other staples of this issue include the now regular Why I Teach column by Professor John Drobak and alumni feature articles on sisters Rika and Rina Yano who practice on opposite coasts, attorney and philanthropist Cash Nickerson, and Tomea Mersmann, our associate dean for strategic initiatives.

As you read about our students, alumni, and faculty, I hope you will join us in celebrating the many spheres of influence that extend beyond the walls of Anheuser-Busch Hall. This is an exciting time to be involved in legal education, as we focus on being a center of great teaching and learning while supporting growing ties with the national and international legal communities.
Washington University Law Magazine

FEATURES

2 AN INCREASING NATIONAL IMPACT
The law school’s national presence is on the rise.

12 LEVIN SEeks STATE ADMINISTRATIVE REFORMS
Professor Ronald Levin is helping develop an act to make state agencies easier, fairer, and more modern.

13 NEW FACULTY
The law school welcomes six new faculty and a prestigious visitor.

16 INNOVATIVE PROGRAMS
Two new programs provide modern approaches to career development and executive education.

18 INTERNATIONAL LAW WORKSHOP
Scholars in international and foreign relations law present cutting-edge research.

20 JUSTICE FOR EAST TIMOR
Professor Leila Sadat seeks government accountability in East Timor.

22 WHY I TEACH
Professor John Drobak reflects on his passion for teaching.

28 NEGOTIATING A BETTER WORLD
Cash Nickerson’s endeavors encompass law and philanthropy.

30 SUCCESSFUL SISTERS
Alumnae Rika and Rina Yano enjoy fulfilling careers in New York and Los Angeles.

32 STRATEGIC INITIATIVE
Tomea Mayer Mersmann is dedicated to expanding the law school’s programs.

DEPARTMENTS

24 IN REVIEW
Professor Barbara J. Flagg
“In Defense of Race Proportionality”

26 IN REVIEW
Professor Frances H. Foster
“American Trust Law in a Chinese Mirror”

34 FACULTY PROFILE
Professor Hillary Sale
discusses corporate governance in her installation address.

35 FACULTY NOTES

45 ALUMNI NEWS
Two alumni are appointed to prominent government positions.

46 ALUMNI NEWS
Firm challenge sets new alumni participation record.

48 SMALL FIRM SPOTLIGHT
Three alumnae focus on family law at St. Louis firm.

50 CLASS NOTES

56 IN MEMORIAM

57 END PAPER
Professor Peter Joy
“Thoughtful Curriculum Development Crucial to Legal Profession’s Future”
(above) Dean Kent Syverud, right, and Associate Dean Torma Mayer Mersmann, JD ’91, meet with Steven Jackson, director of Washington University’s academic program in Washington, D.C., at the University’s new facilities in the nation’s capital.

(above) Law students, from left: Jera Oliver, Jessica Agarwal, and Sarah Herman discuss their summer placements in Washington, D.C.

(left) Anna Ulrich gained invaluable experience interning with Darrell West, head of Governance Studies at the Brookings Institution.
An Increasing National Impact

Washington University School of Law’s national presence is on the rise. A new academic partnership, a broad and growing network of strong professional relationships, recently launched programs and courses, national leadership, and exceptional scholarship all address the complex issues of justice today—as faculty and students contribute to legal thought, discussion, and practice nationwide.

(above) The law school is benefiting from the University’s new facilities in the Carnegie Endowment for International Peace building in Washington, D.C.

(left) The Brookings Institution–Washington University alliance is enhancing the law school’s opportunities for students in the nation’s capital.
Law School Reaching Out Nationally

T A TIME WHEN ITS INTERNATIONAL presence is growing rapidly, Washington University School of Law is clearly building upon its already significant stature within the national legal community. The scope spans efforts in Washington, D.C., Delaware, New York, and Hawaii and includes projects ranging from the evaluation of Supreme Court nominees to protecting Native rights, ensuring fair client representation, understanding international implications of the death penalty, and expanding representation on corporate boards.

Howard Cayne, JD ’79, a member of Washington University’s Board of Trustees, the law school’s National Council, and the Washington, D.C., Advisory Group, discusses opportunities in Washington, D.C., with law students Shannon Dobson, left, and Katherine McRobbie. Cayne is a partner at Arnold & Porter in Washington, D.C.

Washington, D.C., Initiative and Brookings Partnership Expansion

YEAR-OLD ACADEMIC ALLIANCE between Washington University and the Brookings Institution—a nonprofit, public-policy think tank that advances independent research in Washington, D.C.—is a striking example of the law school’s expanded national impact. The Brookings affiliation presents remarkable opportunities for the law school to fortify its existing program in the nation’s capital. Joint programs, additional externships, faculty research collaborations and grants, scholar exchange programs, and a speaker series are among the benefits available to the law school and the University.

The law school is lending significant leadership to this endeavor with Kent Syverud, dean and the Ethan A.H. Shepley University Professor, taking on the added role of associate vice chancellor of Washington, D.C., programs. Tomea Mayer Mersmann, JD ’91, associate dean for strategic initiatives and lecturer in law, also is helping to establish the University’s expanded Washington, D.C., initiatives.

“The new alliance with the Brookings Institution offers the law school an exceptional opportunity to build upon our existing, strong D.C. academic program and to expand our presence in Washington—a city of particularly strong interest to our students, faculty, and alumni,” says Syverud, who also leads the University’s D.C. programs advisory group. “Interdisciplinary and scholarly endeavors with Brookings, and among the Washington University schools and departments, are gaining momentum through this new alliance.”

A direct beneficiary of the University’s commitment to the nation’s capital, the law school’s Congressional & Administrative Law Program in Washington, D.C., has expanded from one semester to year-round offerings. Among the oldest legal externship programs in the country, it currently attracts nearly 10 percent of each third-year class at Washington University. Senior Lecturer Susan Kaplan, who has taught in the program for 14 years, has worked to expand placements to accommodate the dramatic increase in students. Beginning in 2011, second-year law students also will be eligible for placement in the externships on Capitol Hill and in federal agencies. In all, 36 law students will participate in the clinic during the course of the academic year.

“Law students are extremely interested in these placements,” says Mersmann, who is teaching the Congressional & Administrative Law Program this fall. “One of our fall clinic students, Theresa Mohin, is working with the Council on Environmental Quality, which advises the executive branch. Other placements this year are with the State Department, SEC, and HUD, and...
ELISSA A. WATERS, professor of law and a McDonnell International Scholars Academy Ambassador to Utrecht University, was a Brookings visiting scholar in fall 2009. Waters was pleased to be able to further strengthen her contacts in the State Department, which she had formed in 2000–01, as a senior advisor in the Bureau of Democracy, Human Rights, and Labor.

Waters’ scholarship centers on the role of international law in U.S. constitutional interpretation—the subject of often vociferous debate. The topic reached firestorm proportions, for example, when U.S. Supreme Court Justice Anthony Kennedy wrote the court’s controversial 2005 decision in Roper v. Simmons, she notes. The issue, which the justices decided 5-4 in the affirmative, was whether the death penalty when applied to juveniles under age 18 violated the Eighth Amendment’s

“In addition to the academic programs, a variety of companion programs and events will be held in the new space to involve the entire University community, including alumni and friends of the University,” Mersmann says. Washington University also has arranged with the University of California for students to have access to its dormitory rooms nearby, making for convenient living accommodations.

This spring, the law school’s Crimes Against Humanity Initiative held its final conference for the project’s treaty draft in Brookings’ adjacent conference space. The project also was among the first to receive a grant from the new Brookings—Washington University Academic Venture Fund. This fall, the law school held its National Council meeting in the new facilities, focusing much of the meeting on exploring new opportunities for the law school in Washington.

Melissa A. Waters

Partnership’s First Faculty Scholar

ELISSA A. WATERS, professor of law and a McDonnell International Scholars Academy Ambassador to Utrecht University, was a Brookings visiting scholar in fall 2009. Waters was pleased to be able to further strengthen her contacts in the State Department, which she had formed in 2000–01, as a senior advisor in the Bureau of Democracy, Human Rights, and Labor.

Waters’ scholarship centers on the role of international law in U.S. constitutional interpretation—the subject of often vociferous debate. The topic reached firestorm proportions, for example, when U.S. Supreme Court Justice Anthony Kennedy wrote the court’s controversial 2005 decision in Roper v. Simmons, she notes. The issue, which the justices decided 5-4 in the affirmative, was whether the death penalty when applied to juveniles under age 18 violated the Eighth Amendment’s
prohibition on cruel and unusual punishment. Kennedy relied heavily on domestic law, but also cited relevant international treaties. For months afterward, Justice Antonin Scalia decried Kennedy’s “reliance” on international law in every speech he gave, Waters says.

Waters explains that she sought to become a visiting scholar at Brookings after talking with its president, Nelson “Strobe” Talbott, following “a fantastic speech he gave at the law school.” Waters’ subsequent fellowship contributed to the growing, collaborative relationship between the University and Brookings scholars. Her project involved research for her forthcoming book about international law’s effects on the death penalty and its influence on the related U.S. debate. “During the last 20 to 30 years, we’ve witnessed the abolition of the death penalty worldwide,” she says.

“‘It’s an incredible transformation, and I’m trying to identify the causes behind it.’

Waters’ scholarship generally encourages international judicial dialogue. She hopes to expand the conversation about not only related domestic law, but also the development of customary international law, such as international human rights law. For example, she notes that U.S. laws on free speech are far more liberal than those in Europe. “If we want our views to become part of customary international law, we can only be influential if our judges are part of the transnational judicial dialogue on these issues,” she says.

Waters enjoyed the vibrancy at Brookings and engaging with other scholars. She calls the experience “invaluable to developing my project.” She is also creating a law course based on her book, which she will recast as a textbook to be widely distributed through Aspen Publishers.

<table>
<thead>
<tr>
<th>Initiatives that Address Native Peoples’ Rights</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Legal Assistance in Hawaii</strong></td>
</tr>
<tr>
<td>Three Washington University law students spent summer 2010 in Hawaii—drawn not by beaches and tropical vistas, but by the opportunity to work for the Council for Native Hawaiian Advancement, a nonprofit organization that represents the Native Hawaiian people. Although recognized by the U.S. federal government as a native entity, Native Hawaiians have no federally recognized government. Yet as the students’ supervisor, Adjunct Professor of Law Steven J. Gunn, points out, the vibrant, native culture that visitors find so special is everywhere on the islands. Hawaiian is the official language, and the rich culture and traditions, to which the native people are tied, remain. Law students worked on the Native Hawaiian Government Reorganization Act, which aims to restore to the indigenous Hawaiian people the sovereignty of the Kingdom of Hawaii. Students will also assist with the reorganization process, drafting organic documents and laws for the Native Hawaiian government. This experience, offered to Washington University students for the first time this past summer, is valuable to the law students as they hone hands-on skills. It also introduces them to comparative law within the United States, Gunn notes.</td>
</tr>
<tr>
<td><strong>Legal Assistance in the Dakotas</strong></td>
</tr>
<tr>
<td>Since 2004, Gunn’s students also have traveled with him to North and South Dakota to live and work on Indian reservations in those states. Students have assisted tribal governments with legal efforts including litigation, drafting laws, and advising tribal councils on legal and policy matters. The experience is part of the American Indian Law Summer Program, one of the law school’s array of top-ranked clinical, externship, and summer opportunities in which future lawyers acquire skills in a real-world context. The preservation of land and natural resources, as well as economic development, is essential to Indian tribes’ viability, Gunn notes. The success of these efforts depends on strong native governments and the availability of lawyers to protect their legal rights. Traditionally, law students have worked with the Cheyenne River Sioux Tribe in South Dakota and with the Standing Rock Sioux Tribe in North Dakota. “These are well-established tribal nations,” Gunn explains. “They have strong legal departments, and they are active, staunch defenders of Indian rights. Historically, they have been involved in a number of prominent, successful cases.” Most students in the American Indian Law Summer Program first take Gunn’s course on American Indian Law, and many ultimately pursue careers in public interest law. Cynthia Wolken, JD ’05, a summer program participant, is one example. She received support for her public interest work as the law school’s first Skadden Fellow and now lives in Montana, where she runs her own consulting firm to help women seeking elected office.</td>
</tr>
</tbody>
</table>
Protecting Rights of Native Americans and Native Hawaiians

TEVEN GUNN, adjunct professor of law and director of the law school’s American Indian Law Summer Program, is a dedicated advocate for native peoples. As a Skadden Fellow at the Indian Law Resource Center in Washington, D.C., following his graduation from Yale Law School, he represented American Indian tribes in actions to protect their lands, resources, and cultures. He has practiced and taught Native American law ever since. Now through Gunn’s program at Washington University, law students have the opportunity to work on behalf of Native Americans in the Dakotas, as well as for Native Hawaiians in the 50th state.

In work that enhances his teaching, Gunn handles cases in which he defends native peoples’ rights. Recently, he testified before the Senate Indian Affairs Committee’s hearing on the Native Hawaiian Government Reorganization Act; appeared on a live television broadcast in Hawaii with the state attorney general and others to discuss the act; and submitted written comments to the Senate and House committees overseeing the legislation.

Although Missouri is no longer home to any federally recognized tribes, rigorous efforts to learn about and protect tribal cultures, resources, and rights continue at Washington University. The Katherine M. Buder Foundation funds the Buder Center for American Indian Studies at the George Warren Brown School of Social Work, and the Buder Foundation also provides scholarships for native students to attend the law school and the school of social work. Additionally, Gunn directs and teaches an interdisciplinary course, American Indian Societies, Cultures and Values, along with faculty from many disciplines at the University.

Such work demonstrates the law school’s notable national reach—which influences the caliber of the students’ education, the lawyers they become regardless of the field they choose, and indirectly, the quality of the democracy in which they live.
Hillary A. Sale works with the Direct-Women Institute in New York and is helping place students with the Delaware Supreme Court.

Addressing the Changing World of Corporate Law

HILLARY A. SALE, another professor well known in national legal circles, joined the law school in 2009 as the Walter D. Coles Professor of Law and a professor of management. Most of Sale’s work focuses on public companies, addressing how state law and federal law interact. She uses the keystone term, “corporate governance,” in a considerably broader fashion than it has historically denoted. “I refer to the larger world of governance, how it grows and changes, and how the relationships have shifted over time,” she says.

The public companies Sale examines are those for which the national organization DirectWomen educates and trains women for board service. She currently chairs the DirectWomen Institute. Another national task is serving on the ABA’s Committee on Corporate Law.

Having worked for years with Delaware’s courts, Sale helped arrange for judges from that state to teach at the law school. Chancellor William B. Chandler III of the Court of Chancery, who has taught Intersession courses since 2008, was joined this year by Justice Randy J. Holland of the Delaware Supreme Court, who taught in February 2010 and will return this academic year. Through the new Corporate Judicial Field Placement that Sale established, students will work directly with Holland for at least 13 weeks beginning this fall. The first extern is recent graduate Katherine Childers, JD ’10.

Sale’s own teaching earned her the 2009–10 David M. Becker Professor of the Year Award, the highest recognition of excellence that the law school’s Student Bar Association bestows.

In addition to her involvement in academic corporate law and professional service, law professor Hillary A. Sale chairs the Direct-Women Institute, a unique organization that she says “identifies outstanding senior women attorneys who have honed business acumen, judgment across the spectrum, and a skill set that would make them valuable members of public company boards.”

Based in New York City, the DirectWomen Institute develops and supports about 20 women each year, who are selected from hundreds of applications drawn from a deep and qualified pool. It then works to help them obtain director positions in companies. The initiative is sponsored by the ABA and Catalyst Inc., a nonprofit organization that works with businesses and professions worldwide on behalf of opportunities for women and business.

The need is clear. Ilene H. Lang, president of Catalyst Inc., has been quoted as saying that at the current rate, 73 years will likely pass before women reach parity with men in Fortune 500 boardrooms. The 2009 Catalyst Census, cited in the online publication The Glass Hammer, showed that for the past five years, only about 15 percent of board directors have been women. Yet more than half of law school graduates are women, and according to Catalyst’s 2008 findings, “companies with the highest representation of women board directors and women corporate officers actually experience more financial success than boards with little to no female representation.”

Sale has been involved in the DirectWomen Institute since its first year, 2007. She has served as a member of its faculty, which includes both women and men—judges, prominent academic experts in corporate governance, and members of corporate boards and leading law firms. “Last year, we had another stunning faculty group—including Lew Coleman, president of DreamWorks, and Anne Mulcahy, former CEO and chair of the board at Xerox Corporation. And that is just to name two,” notes Sale.

Institute participants examine a range of topics such as independence, oversight, compensation, and compliance. Attending the classes are corporate counsel at a broad range of companies, partners from leading law firms, members of academia, and lawyers from associations and other affiliations—proven leaders, all.

Sale is also part of the six-member executive committee that is creating an advisory board to carry DirectWomen forward. The organization gained free-standing 501(c)(3) status during summer 2010 under the umbrella of the Tides Center, a nonprofit, fiscal sponsor. Headquartered in San Francisco, Tides provides infrastructure and services to nonprofit projects nationwide. Because DirectWomen has new graduates each year, the organization also is forming a DirectWomen Alumni Institute.

The project is a natural tie to Sale’s work at the law school. “I organize the Direct-Women Institute sessions, participate in the panels, and talk with the women about corporate governance, and all of that has an impact in my classroom and on my scholarship interests,” Sale says. “In that sense too, DirectWomen is invaluable.”
The ABA called upon constitutional law scholar Gregory Magarian to lead a team of faculty evaluating Supreme Court Justice Elena Kagan’s writings during the recent nomination process.

**REGORY MAGARIAN**, professor of law, is a renowned legal scholar who focuses primarily on First Amendment free-speech questions. He also engages with national questions of election law and of law and religion, using the First Amendment as a springboard. “I write about theory and doctrine,” he explains, “but what drives me on an underlying theoretical level is the question of why we have constitutional protection of speech. I believe it is substantially about democracy and self-government.”

Although he says the idea is an old one, Magarian is testing it in a contemporary setting in an effort to make it relevant for contemporary free-speech problems. More deeply, “it seems intuitive and desirable to me that free-speech protection should be a vehicle for social change,” he adds. “That links back very directly to the idea of the relationship between free-speech protection and democracy—the notion that democratic process should, at the least, create opportunities for progressive change.”

The two biggest doctrinal areas in which Magarian’s interests lie in the national realm are media regulation and political regulation, because both are important to shaping democracy. He has published widely on such issues and brings a portfolio of ideas and closely reasoned thinking to his law classes. He also educates the public at large, through media interviews and presentations based on his ability to apply his expertise to contemporary issues. “I like the public intellectual model,” he explains. “Some of my scholarship is rather obscure, but most of it is important to people’s lives. I don’t want to lose sight of that.”

A special project Magarian and 13 colleagues completed in June 2010 also had great national significance. The ABA, which provides an evaluation of federal judicial nominees to the U.S. Senate Judiciary Committee, invited Washington University School of Law—one of two law schools nationwide—to form an academic reading group to evaluate the writings of Supreme Court nominee Elena Kagan. Magarian led the team, whom he selected based on their wide range of subject-matter expertise.

**Defending the Nation’s Law School Clinics**

**OBERT R. KUEHN**, professor of law and co-director of the Interdisciplinary Environmental Clinic, brought vast experience in environmental law and clinical legal education to the law school when he joined its faculty in July 2009. The innovative clinic, co-directed by senior lecturer and founder Maxine Lipeles, exposes law students to advanced, cross-disciplinary ideas and methods about how to effectively serve clients facing environmental harms.

The readers were tasked with commenting on Kagan’s professional competence, integrity, and temperament. “To a lesser extent, we described what her writings might indicate about her philosophy or approach, but not in an evaluative way,” he says.

After the committee wrote its memoranda (Magarian wrote one, as well), he drafted an extensive executive summary of the findings. Several hundred pages consisting of the summative memorandum and accompanying memos went to the ABA, where they joined reports from other groups, such as practitioners, to be combined with the association’s internal work on the subject. The result: the ABA’s recommendation of “well qualified” by vote of the Standing Committee on the Federal Judiciary.

In a striking coincidence, Magarian in 1994 clerked for the Supreme Court associate justice whom Kagan was nominated to replace: the Honorable John Paul Stevens.
The clinic draws both law students and individuals from other disciplines, such as environmental studies, engineering, social work, and medicine, so that “clients receive not only legal assistance, but also help with some of the scientific and technical issues that arise in environmental representation,” Kuehn says. He notes that clinical work teaches the day-to-day professional skills and professional values expected of all lawyers. His scholarship also centers on professional responsibility, or legal ethics; environmental law; and aspects of clinical legal education.

Kuehn’s teaching, scholarship, and advocacy recently joined together when criticizing an increasingly national pattern of judicial and legislative interference in clinical cases. In an article accepted for publication in the *Georgetown Journal of Legal Ethics*, Kuehn examines 40 years of efforts to interfere with law school clinics. It covers how issues arise and the form in which they tend to appear. Kuehn and his co-author, University of Michigan law professor Bridget M. McCormack, surveyed law clinic faculty at the nation’s law schools in 2005 and 2008 about the effects of outside interference on professors and students’ decisions about which cases to take on and what they may do in representing a client. The surveys found that about 12 percent, or 1 in 8, of law professors had suffered interference in their law clinic casework. A far greater number, more than 36 percent, worried about intrusion, and as a consequence, changed what they did—a finding cited in a *New York Times* article (April 3, 2010) that quoted Kuehn. Of professors who had not been directly confronted, 1 in 6 had actually self-censored their clinic work.

As president of the Clinical Legal Education Association (CLEA), the nation’s largest association of law professors from more than 160 law schools in the United States, Kuehn issued a compelling statement in March 2010 about a legislative attack on a University of Maryland law school clinic, made “at the bidding of wealthy, powerful poultry interests.” In May 2010, he sent a letter to the senator chairing the Louisiana Senate Commerce, Consumer Protection, and International Affairs Committee about a senate bill attacking clinical programs at that state’s four law schools. In it, CLEA accused the bill’s supporters of being “more concerned about protecting favored business from compliance with the law and punishing the state’s universities than about higher education and access to justice.”

Kuehn, and Peter Joy, vice dean and co-director of the Criminal Justice Clinic, also recently published an article on clinical interference in the *Journal of Legal Education*. Additionally, Joy participated in fighting Maryland’s legislative effort by circulating a letter addressed to the Maryland General Assembly that was signed by nearly 500 law faculty and more than 50 law school deans. Joy and Kuehn observe that the outside interference faced by clinics is similar to that experienced by other lawyers who represent poor or unpopular clients. However, despite this history of frequent interference, very little scholarship on the issue exists outside the work co-authored by Kuehn.
Jackson Named Director of Washington, D.C., Academic Program

STEVEN I. JACKSON HAS BEEN NAMED director of the new University academic program in Washington, D.C. Formerly associate director of Cornell University’s Cornell-in-Washington Program, Jackson brings a wide range of Washington, D.C., experience and contacts to Washington University’s academic program. The law school’s long-standing Congressional & Administrative Law Program will benefit from Jackson’s addition to Washington University’s efforts in the nation’s capital. The new University academic program is part of an overall initiative to expand Washington University’s presence in D.C. Under the direction of Dean Kent Syverud, the University initiative also includes the alliance with the Brookings Institution, providing faculty exchanges, grant and research opportunities, a lecture series, and an executive education program.

“As with several law students already interning at the Brookings Institution, the Brookings relationship, the new program, and Jackson’s involvement will open new doors in Washington for law students,” says Toma Mayer Mersmann, the law school’s associate dean for strategic initiatives and a member of the search committee who recommended Jackson. “The arrangement is benefiting the law school in a number of ways, including expanding our Congressional & Administrative Law Program to year-round offerings and creating new facilities, relationships, and scholarly collaborations. Having a University-wide program in such a significant city creates numerous opportunities for internships, research collaboration, and policy studies.”

As program director, Jackson will teach at least one course each semester, supervise and assist with internship placements for students from throughout the University, and supervise management of the new D.C. facilities, located in the Carnegie Endowment for International Peace building.

Jackson holds a PhD, MPhil, and MA in political science, all from Yale University; an MSc in international relations from London School of Economics; and a bachelor’s degree in international relations from Stanford University. In addition to numerous articles, he is the author of Doing Research Right: A Textbook for the Study of Qualitative and Quantitative Research Design, Analyzing American Government, and Growth with Fairness: A Program to Rebuild the American Economy. His broad teaching experience includes courses on public policy, foreign policy, and research methods.

The search committee for the new program director position was chaired by Syverud, dean of the law school, the Ethan A.H. Shepley University Professor, and associate vice chancellor for Washington, D.C., programs. Other members were Professor Andrew Rehfeld (Political Science) and Dean Jeff Cannon (Olin Business School).

By Rachel Wisdom
Levin Seeks State Administrative Reforms

Dealing with state government agencies may become easier, fairer, and more transparent for many citizens, practicing attorneys, and legislators, thanks in part to the work of Ronald Levin, the Henry Hitchcock Professor of Law. For the past three years, he’s been helping to develop a new Model State Administrative Procedure Act (MSAPA). Finalized in July 2010, the 60-page document provides state legislatures with a template to bring agency procedures and access into the 21st century.

A nationally known administrative law scholar, Levin served as the ABA advisor to a Uniform Law Commission (ULC) committee that spent six years updating the act. Although the act was revised in 1981, many states continued to use the previous version, from 1961, to guide their administrative procedures. But a lot has happened in the past 50 years—such as the advent of the Internet and other alterations in the way agencies operate—warranting wholesale changes to the act.

“One concrete illustration of the relevance of the new MSAPA to the public and the practicing bar is its new guidelines for putting rules and working papers online,” Levin says. “This will go a long way toward improving the transparency of government and agency proceedings.”

However, figuring out how to codify principles of administrative law can be complicated, Levin notes. “The MSAPA provides a template that state legislatures can tweak and adopt. It overcomes inertia.”

During the past half century administrative law “has evolved considerably,” says Levin. “The new act reflects the fact that administrative agencies rely less on case-by-case adjudicated decisions and more on rules that apply across classes of administrative cases.”

The MSAPA sets forth procedures that state administrative agencies must follow as they perform their regulatory functions, such as issuing regulations, publicizing their policies, and deciding cases. It also spells out methods by which courts and legislatures can oversee the work of these agencies. A federal Administrative Procedure Act covers similar territory regarding federal agencies.

As the ABA advisor, Levin attended ULC drafting committee meetings, wrote language for sections of the act, argued for certain provisions, and helped present drafts to the full ULC.

“I welcomed the opportunity to participate in this project because it fit with my academic interests,” Levin says.

His casebook, State and Federal Administrative Law, co-authored with Michael Asimow, is distinctive in that it systematically addresses state law issues along with federal law. Further, he’s been an active member of the ABA Section of Administrative Law and Regulatory Practice for three decades, serving as its chair in 2000–01.

As to his involvement in shaping the new MSAPA, Levin feels he was “in the right place at the right time.” His advocacy on behalf of the ABA Section is reflected in the new act.

“The committee adopted some of our suggestions and modified or rejected others,” Levin observes.

For example, the draft act at one point allowed an administrative hearing officer to conduct hearings by video conferencing only under “compelling circumstances.” But Levin argued that electronic alternatives to face-to-face hearings have become common and work well. “The committee revised the draft so that video hearings will be readily permissible,” Levin says.

He also successfully argued that the requirement for state administrative agencies to finish any rulemaking proceeding within 180 days after the public-comment period was too short. The committee responded by extending the time limit to two years, with possible extensions for another two years.

Further, Levin worked to promote more governmental openness in state rulemaking. “In federal rulemaking proceedings,” he says, “an agency is expected to disclose scientific and statistical studies that served as a basis for a proposed rule. I suggested that the states should follow a similar practice, and the committee wrote that requirement into the model act.”

Additionally, Levin made the case on the ABA Section’s behalf that state agencies should not always have to use formal rules to codify their procedures, such as those citizens use when they apply for licenses or benefits. “Regulations are hard to revise when experience shows they need fine-tuning,” says Levin. “The committee heeded this critique. The act now provides that the agency must ‘publish’ its procedures, but allows more flexibility in the methods by which the agency can accomplish this task.”

Overall, Levin hopes the revised act will make the state administrative process more effective and up-to-date.
New Faculty

Washington University School of Law welcomes six outstanding new faculty members and one prestigious visitor for 2010–11: Professors Adam B. Badawi, Kevin Emerson Collins, and Peggie R. Smith; Faculty Fellow Julian Lim; Senior Lecturers Jorge Contreras and Peter H. Ruger; and Visiting Professor Russell K. Osgood. Their areas of expertise include contracts and commercial law, intellectual property law, regulation of care work, history of U.S. immigration law, race and the law, employee benefits and pension law, and constitutional law.

ADAM B. BADAWI, previously a Bigelow Fellow and lecturer in law at the University of Chicago Law School, is an expert in contracts and commercial law. His chief interest is the interaction between formal law and informal norms to regulate behavior. Badawi received both his bachelor’s degree and his JD from the University of California, Berkeley, where he was elected to the Order of the Coif and served as an editor of the California Law Review. He went on to earn a PhD from the Jurisprudence and Social Policy Program at Berkeley, where he was a John M. Olin Fellow in Law, Economics, and Institutions. His dissertation focused on legal and extra-legal ordering.

Badawi, who joins the law faculty as an associate professor, will be teaching Contracts, Corporations, and Contract Theory. Before becoming a law professor, he clerked for the Hon. Michael W. McConnell of the Tenth Circuit Court of Appeals and practiced law at Munger, Tolles & Olson LLP in San Francisco. His articles have been published in the George Mason Law Review, Berkeley Business Law Journal, and California Law Review.

Jorge Contreras has been named acting director of the law school’s Intellectual Property & Technology Law Program, as well as a senior lecturer in law. He formerly was a partner at Wilmer Cutler Pickering Hale and Dorr LLP, practicing in Boston, London, and Washington, D.C. Contreras has served on the Council of the National Human Genome Research Institute and as chair of the Committee on Technical Standardization of the ABA Section of Science & Technology Law. He edited the ABA’s 2007 Standards Development Patent Policy Manual and has published numerous articles relating to standards and technology law. Contreras holds a JD from Harvard Law School and undergraduate degrees in English and electrical engineering from Rice University. He will teach IP in Business Organizations, Law & Regulation of Science, and Internet Law.

Longtime adjunct professor, Peter H. Ruger, JD ‘69, has been named a senior lecturer in law. Over the years, Ruger has supervised numerous
KEVIN EMERSON COLLINS joins the faculty from Indiana University Maurer School of Law in Bloomington. A renowned intellectual property scholar and teacher, Collins’ main focus is patent law. He works with such questions as the scope of patentable subject matter and the reach of patent protection into later developed technologies.

After earning his bachelor’s degree in architecture and in molecular biophysics and biochemistry from Yale College, he went on to receive an MArch from Columbia University Graduate School of Architecture, Planning and Preservation.

Collins then worked as an architect in New York and Paris, and as an adjunct professor of architecture at Columbia. In 2002, he earned his JD from Stanford Law School, where he was elected Order of the Coif and served as an articles editor for the Stanford Law Review. He clerked for now Supreme Court Justice, the Hon. Sonia Sotomayor, and for the Hon. Raymond C. Clevenger of the Federal Circuit.


PEGGIE R. SMITH, a leading scholar in the regulation of care work and an outstanding professor, brings extensive knowledge of the regulation of child care and elder care both inside and outside the home. Formerly the Murray Family Professor of Law at the University of Iowa, she joins the Washington University faculty as a professor of law. Smith has published widely on issues such as home-based care work, work and family balance, and elder care. She is the co-author of the leading treatise, Principles of Employment Law.

Smith’s teaching experience includes her time as a Charles Hamilton Houston Fellow in Law Teaching at Harvard University, students in the Clinical Education Program, including most recently law students concentrating on legal projects for nonprofit organizations through the Intellectual Property & Nonprofit Organizations Clinic. Ruger also teaches Nonprofit Organizations Planning & Drafting. A law school alumnus, he is a former general counsel for both Washington University and Southern Illinois University. Ruger has extensive experience practicing both higher education and nonprofit law, and serves on the boards of several nonprofit organizations.

Julian Lim, a PhD candidate in the department of history at Cornell University, will join the law school as a faculty fellow in January 2011. Lim specializes in the history of U.S. immigration law and in race and the law. She earned both her bachelor’s degree and JD from the University of California, Berkeley, where she was co-editor-in-chief of the Asian Law Journal. After law school,
A new study by Senior Lecturer Jorge Contreras, in the July 23 issue of the journal Science, chronicles a 15-year struggle around the competing needs inherent in data-release decisions—in particular those related to research regarding the humane genome.

In the first comprehensive examination of its kind, Contreras explains that the U.S. government must weigh the rights of researchers, also called data producers, against those of data users. The scientific community needs the latest data as soon as possible in order to drive further research, but researchers may want time to prepare for publication and apply for patents. The result is a balancing act between the interests of these two groups. Although Contreras’s study focuses on human genome research, the same dilemma holds true for research in many other areas of study.

“While it would be preferable, from a pure scientific advancement standpoint, to have every piece of data released immediately to the public, that doesn’t give data-generating scientists the opportunity to publish and advance their careers through publication,” says Contreras, who was recently named the law school’s acting director of the Intellectual Property & Technology Law Program.

At the dawn of human genome research two decades ago, more than 1,000 researchers were working around the globe. To facilitate knowledge sharing, the U.S. government sought to coordinate their efforts. In the past, government-funded human genome researchers had a 12-to-18-month latency period between the generation of data and its required release. In 1992, this period was reduced to six months, and in 1996, the “Bermuda Accord” required that human genome research findings be released prior to publication within 24 hours after generation. Then in 2007, a compromise was reached in which genome-wide association studies now require quick data release, but users are prevented from publishing the data or presenting related information for up to 12 months.

“I think you must have a compromise. Otherwise these commons, or bodies of data, aren’t going to be created,” Contreras says.

—Nancy Fowler Larson
New Summer Programs Provide Modern Approaches to Careers, Executive Education

The Law School launched two innovative programs this past summer—one aimed at giving JD students practical skills development for career success, and the other designed to teach international Executive LLM students about the intricacies of U.S. law.

**Professional and Career Development**

**THE NEW ASSOCIATE IN TRAINING** (AIT) Program provides JD students with an opportunity to improve their knowledge about a variety of legal settings, while developing a career plan and professional skills to help launch their successful career in law. The six-week program is a direct response to what’s happening currently in the legal profession nationwide, says Janet Bolin, associate dean of admissions and student services.

“Firms need young associates who are able to hit the ground running,” says Bolin, who designed the summer program along with Tomea Mayer Mersmann, JD ’91, associate dean for strategic initiatives and lecturer in law.

The AIT Program is also a response to the fewer number of summer associate opportunities at firms due to the current economy. Designed to simulate as closely as possible a summer law work experience, the AIT Program presents an understanding of how a firm or other legal practice setting operates, including law firm economics, practice areas, client development, and professionalism.

“The AIT Program is one area in which our students are able to polish their skills, including understanding law as a business,” Bolin says. “They also receive advice on situational conflicts, such as missing a deadline or misinterpreting what a partner wanted them to do, and then handling the situation professionally. The program is an opportunity to play these things out in a safe environment where neither a paycheck nor job security is at issue.”

Many of the skills the AIT Program addresses aren’t found in textbooks, so people are invaluable resources. The program matches students with mentors, either locally or nationally. If a student wants to work in Washington, D.C., for instance, he or she is matched with a law school alumnus in that geographic area, who will communicate over the phone and/or by e-mail, as well as offer feedback to a videotape of the student doing mock trials and presentations.

Additionally, advanced skills development is offered through mini courses and other programming. The faculty who taught in the program this past summer were:

- Philip Berwick, associate dean for information resources and senior lecturer in law, Advanced Research;
- Bill Dorothy, professor of practice, Litigation Skills;
- Michael Downey, adjunct professor and St. Louis attorney, Internal Law Practices;
- Robert Kuehn, professor of law and co-director of the Interdisciplinary Environmental Clinic, Ethics;
- C.J. Larkin, senior lecturer in law and administrative director of the Dispute Resolution Program, Alternate Dispute Resolution;
- Jo Ellen Lewis, professor of practice and director of the Legal Practice Program, Advanced Legal Writing;
- Joan Newman, JD ’73, St. Louis-area law and business consultant, Social Etiquette; and
- Kyle Williams, JD ’01, New York attorney, Accounting and Business for Lawyers.

Williams, an attorney at Goldman Sachs and a member of the law school’s National Council, says he enjoyed sharing his area of practice with the rising second- and third-year law students.

“For all of my career, I’ve served as a capital markets lawyer for many of the investment banks in New York City,” Williams notes. “My perspective on finance is at one level very macro—the role of financial institutions in allocating capital and fueling efficient markets—and on another level, very micro—how businesses think of capital structure, capital-raising activities, and the legal risks associated with their options.
“I was pleased to discover that the students had equal enthusiasm for both levels, and a healthy appetite to delve into some of the issues associated with financial statement analysis and financial due diligence,” he observes. “The questions from the students reflected their interest in legal policy, as well as the legal analysis behind issues—a trait most common to Washington University law students.”

Benjamin Winoker, now a third-year law student, says the program complemented his experience after his first year of law school when he was a summer associate at a large firm. “The AIT Program allowed me to contextualize what I experienced the previous summer and has provided me with the ammunition necessary to make myself more competitive in the job market in the coming year,” he says. “The practical focus on the realities of law firms and the legal market, in general, gave me insight into how to improve my profile as a prospective associate, and the exposure to different practicing lawyers served as a great platform for my personal marketing efforts.”

Executive LLM Program

ALSO NEW THIS SUMMER, the Executive Master of Laws Program (ELLM) is the result of a partnership between Korea University and Washington University. The 12-week program is aimed at international attorneys, judges, and government officials who are interested in increasing their knowledge of U.S. law.

“We designed the ELLM Program to provide experienced legal professionals outside the United States with the opportunity to study here in a condensed timeframe—one which may make it easier for them to take time off from their current positions to hone their knowledge of U.S. law,” says Peter K. Cramer, assistant dean of graduate programs. “The program prepares participants for the global legal and business environment through specialized courses in U.S. corporate and business law. Another attractive aspect is that ELLM graduates who hold a first law degree from their home country also will be eligible to apply to sit for the New York bar.”

The new degree program is part of the law school’s expanded international outreach efforts, which build upon existing relationships such as those through the University's McDonnell International Scholars Academy. Other recent initiatives include the Transnational Law Program (TLP), which involves partnerships with Utrecht University in the Netherlands and three other European schools, and enhanced faculty and student exchanges with Fudan University in Shanghai.

“The ELLM Program reflects a broader commitment on the part of the law school to reach diverse populations abroad,” notes Michael Peil, associate dean for international programs, TLP executive director, and lecturer in law. “In tandem with enhanced recruiting efforts around the globe, the ELLM is designed to position Washington University’s graduate programs as one of the elite international graduate legal centers in the world.”

In preparation for the ELLM, the summer participants first took two courses at Korea University, Introduction to U.S. Law and Surviving the LLM. Once at Washington University, they enrolled in intensive courses in Contracts, Corporations, Legal Research/Methods, Securities Regulation, Antitrust, Commercial Law, and Intellectual Property Law.

Program faculty were selected for their extensive knowledge and practical experience in their respective fields. They are:

- Charles Burson, senior professor of practice, Washington University;
- Youngsun Cho, professor of law, Korea University;
- David Deal, lecturer in law and director, Intellectual Property & Nonprofit Organizations Clinic, Washington University;
- Dorsey D. Ellis Jr, dean emeritus and the William R. Orthwein Distinguished Professor of Law Emeritus, Washington University;
- Leigh Greenhaw, senior lecturer in law, Washington University;
- Michael Koby, professor of practice and director, Trial & Advocacy Program, Washington University;
- Michael Korybut, professor of law, Saint Louis University;
- Dae-Hee Lee, professor of law, Korea University;
- Hwang Lee, professor of law, Korea University; and
- Mark Lee, professor of law, Southern Illinois University.

ELLM participant Rain Shen, a practicing attorney in Shanghai, China, says she appreciates the fact that the ELLM “is intensive, but also efficient. As a person who already has several years working experience, I cannot leave my job or my customers for a long time,” she notes. “The ELLM Program is providing me with the opportunity to earn a valuable degree in three months.”

Shen says she is benefiting from the “concentration on the practice side, which helps a lot in the daily operation of a business.” She also has found valuable the insights into the U.S. legal system, including how to handle cases, as well as the opportunities to enhance her interpersonal and professional skills.

Above all, she has enjoyed the exchange of ideas with her professors. “Unlike the way we teach in China, at Washington University we have lots of interaction with the professors,” she notes. “We are encouraged to raise questions and will get answers from our professors from both sides rather than the one definite answer.”

Senior Professor of Practice Charles Burson with an ELLM student
Enowned scholars in international law and foreign relations law recently gathered to present their works-in-progress at the Public International Law and Theory workshop, hosted by the law school’s Whitney R. Harris World Law Institute. Attendees came from across the country, as well as from Leiden University and Utrecht University, both in the Netherlands.


“The symposium provided a wonderful opportunity for this distinguished group of scholars to present their work on topics as diverse as the Obama administration’s climate change policies; the responsibilities of Google, Facebook, and other technologies under repressive governments; and the theory of jus post bellum,” Sadat says. “In addition to presenting cutting-edge programs and lecturers, one of the missions of the Harris Institute is to support and encourage scholarship at the forefront of international and humanitarian law.”

In addition to Helfer and Waters, other presenters were:

“Although it is possible to formulate functional arguments for restricting opt-out rights under CIL [Customary International Law], it is difficult to conclude from these arguments that such restrictions should apply across the board to all of CIL, especially in light of the inefficiencies that such a mandatory regime is likely to generate.”

Curtis Bradley and Mitu Gulati
Duke University

“The risk is that the underlying digital network itself could make political networks vulnerable, a veritable black book of names and addresses for the secret police to round up. In the optimistic scenario, the Internet might help topple dictators; in the pessimistic scenario, the Internet might cement their control. … It seems incumbent upon us to demand the inculcation of a professional ethic among new media companies to protect the freedom-enhancing aspects of cyberspace.”

Anupam Chander
University of California, Davis

“The evident lesson of these case studies is that occupation is a singularly unhelpful precedent for planning exits from nation-building missions. The fundamental strategy of those missions is to build liberal democratic structures in the hope they foster reconciliation and coexistence. But only four of the 20 occupiers examined sought to build liberal democracies in the territories they controlled.”

Gregory Fox
Wayne State University

“A state’s decision to derogate from a human rights treaty during a domestic crisis can be explained by the fact that the derogation conveys information about the state’s future conduct. … Stable democracies are more likely to derogate from human rights treaties than autocracies or democratizing states.”

Laurence Helfer
Duke University
• Curtis Bradley and Mitu Gulati, Duke University, “Withdrawing from International Custom”;

• Anupam Chander, University of California, Davis, “Googling Freedom”;

• Gregory Fox, Wayne State University, “Exit from Belligerent Occupation”;

• Frédéric Mégret, McGill University, “Prospects for ‘Constitutional’ Human Rights Scrutiny of Substantive International Criminal Law by

“The tendency by criminal lawyers to see international human rights law as part of the problem—because of the way in which the human rights movement has of late been associated with pressure for relatively more repressive constructions of offences—has blinded them to what they know full well domestically, namely that human rights are potentially their best ally in pushing back repressive excess.”

Frédéric Mégret
McGill University

“Specifically, the Obama administration should explore opportunities for (1) greater, smaller-scale governmental involvement in technology-oriented financial incentives programs; (2) federal-level, top-down, vertical initiatives connecting federal approaches to highways, railroads, and gas prices with smaller scale efforts to have people drive less in their communities; and (3) litigation, which often has a rescaling effect, by interested individuals, nongovernmental organizations, corporations, and government.”

Hari Osofsky
Washington & Lee University

“When a court invokes non-self-execution doctrine as a rationale for refusing to decide whether threatened criminal sanctions are illegal, the court potentially allows the government to violate the law in the very process of imposing criminal punishment. As Chief Justice Marshall observed ... ‘the United States has been emphatically termed a government of laws, and not of men.’ It will certainly cease to deserve this high appellation, if the courts allow government officials to impose criminal sanctions in violation of established legal rules.”

David Sloss
Santa Clara University

“When the current (mis)perceptions of the role of moral parameters in the theorization of jus post bellum might be adjusted if just war theorists paid greater attention to the impact of legal rules and principles. Conversely, the legal discipline may draw valuable insights from the content of the classical jus post bellum under just war doctrine and historical sources when defining the contours of jus post bellum in modern international law.”

Carsten Stahn
Leiden University—Den Haag
the ICC, with Special Emphasis on the General Part”;

• Hari Osofsky, Washington & Lee University (now University of Minnesota), “Diagonal Federalism & Climate Change: Implications for the Obama Administration”;

• David Sloss, Santa Clara University, “Executing Foster v. Neilson”;

• Carsten Stahn, Leiden University–Den Haag, “Jus Post Bellum: Mapping the Discipline(s)”; and


In addition to Sadat, other discussants included: Adeno Addis, Tulane University; Robert Ahdieh, Emory University; Laura Dickinson, Arizona State University; David Luban, Georgetown University; Luz Nagle, Stetson University; Héctor Olásolo, Utrecht University; B. Don Taylor III, Washington University; Stephen Thaman, Saint Louis University; and Beth Van Schaack, Santa Clara University.

Our Hundred Miles

North of Australia, the island nation of East Timor is “out of sight” and “out of mind” for the average American. However, it is never far from the heart and mind of Leila Nadya Sadat, the Henry H. Oberschelp Professor of Law and director of the Whitney R. Harris World Law Institute.

In 1995, Sadat began attending meetings leading up to the creation of the International Criminal Court (ICC). The ICC was established in 1998 by the Rome Statute of the International Criminal Court—a treaty drafted to create an international court that would seek justice for victims of war crimes and other crimes against humanity.

The year after establishment of the ICC, East Timor ended its nearly quarter-century occupation by Indonesia. Experts estimate that between 60,000 and 200,000 Timorese were killed during those tumultuous years. Countless more people were raped, tortured, or imprisoned.

Armed with her understanding of the ICC and the challenges of prosecuting perpetrators of war crimes, Sadat took on the grim task of documenting the atrocities committed at the hands of the Indonesian forces. She provided her findings to special panels created to bring the guilty to justice.

“I was asked to address an important legal issue—the question of ne bis in idem, more commonly referred to as the problem of ‘double jeopardy,’” she explains.

"An Ombudspanel would be preferable over an Ombudsperson. Furthermore, in terms of reinforcements, this panel should be able to make—at the very least—recommendations as to whether an individual meets the listing criteria and whether there is sufficient evidence to support the listing. ... In other words, the panel should only recommend to delist if there is a manifest error of assessment or a patent misuse of power.”

Larissa van den Herik
Leiden University

"The Supreme Court began to cite Charming Betsy as support for the domestic constitutional avoidance canon, relying explicitly on Charming Betsy’s supposed grounding in separation of powers concerns. ... The Charming Betsy canon continues to be misquoted as an example of the constitutional avoidance canon, rather than as a mandate that courts attempt to reconcile federal statutes with U.S. international law obligations. As Professor Ralph Steinhardt has commented: ‘This use of the Charming Betsy principle is seriously flawed.’"

Melissa Waters
Washington University
The problem was that Indonesians had allegedly committed crimes, including terrible massacres, in East Timor. However, it was thought that the Indonesian government was trying to shield its nationals from prosecution by trying them in Indonesia before the special panels in East Timor could act.

More recently, Sadat served as a special adviser to the Timorese government during negotiations that led up to the first Review Conference on the Rome Statute in Kampala, Uganda.

The conference brought together the 111 nation-states and many nongovernmental organizations (NGOs) that signed the Rome Statute (the United States, unfortunately, is not among them, Sadat notes). Its purpose was to consider changes to the Rome Statute and to evaluate its “implementation and impact.”

“East Timor is a small nation that had suffered from war crimes and crimes against humanity; it was a great supporter of the ICC,” Sadat says. “The country had an interest in making sure that the court continues to be impartial, independent, and effective.”

Sadat, who has been a member of the Washington University law faculty for 18 years, says that her interest in public international law, international criminal law, and human rights spans her career, including her work as a law clerk for both of France’s supreme courts and an attorney in Paris.

“I had practiced law and taught in France first,” remembers Sadat. “Early in my teaching career, the French courts were involved in several interesting cases regarding crimes against humanity committed during World War II.”

One of those cases was that of Paul Touvier, a radically anti-Semitic “small-time thug” under the French Vichy government whose best defense was that he had killed “only” seven people.

Cases like Touvier’s, the famous Nuremberg trials, and the 1992 outbreak of war in Bosnia set the stage for the ICC, Sadat says. But at that time, she did not know that she would soon meet the late Whitney R. Harris and one day become director of the Harris Institute.

“I’m an eternal optimist,” says Sadat. “I believe that much can be done to make the world a safer, saner place—the fall of the Soviet Union, for example, shows that the transformation of a society is possible given the right conditions and the right pressures. The ICC presents a very powerful idea—that leaders can be held accountable for their actions. It is an idea whose time has come.”

Sadat believes that the world today faces three distinct challenges: environmental degradation and climate change; nuclear weapons; and government accountability.

Regarding the first challenge, Sadat remembers talking with Professor Oliver Houck when she was a law student at Tulane University. “He was sounding the alarm about global warming 25 years ago,” she says. “Environmental degradation is a problem because people don’t see the Earth as a living thing that we need to protect.”

Similarly, nuclear arms control seems beyond the reach of the everyday person, she notes. But Sadat believes that government accountability offers a more tangible opportunity for hope. “If a government leader takes part in massive transgressions of human rights, there are now legal tools, like the ICC, to make people responsible for those actions,” she says. “Society needs rules, institutions to provide the rules, and institutions to enforce the rules. Enforcing human rights is a challenging problem, but not an insurmountable one.”
Why I Teach

THE ENERGY OF a university is hard to top for a place to work—and I couldn’t conceive of a better place to teach than Washington University.

Nearly a decade before I came to Washington University, I first thought about teaching when I was a law student because I was impressed by so many of my professors. I realized that a good teacher could help a student develop an interest in a particular field of the law, just as a bad teacher could drive a student away. Stanford Law School had an excellent teaching faculty when I was a student there in the early 1970s. Many of my professors have had a lasting influence on me to this day. Jack Friedenthal, for example, brought his sense of humor to teaching Civil Procedure. I try to do that, too, because learning rules can be a little dry at times. I still use his casebook today with some of the funny and unusual cases he put in the book to make the material more interesting. The most influential, and the best teacher of all, was Charlie Meyers, my first-year Property professor. Coincidentally, Charlie was a product of the excellent teaching tradition at the University of Texas Law School, as was our own Mike Greenfield.

I have noticed that many good law teachers point to their professors who influenced their teaching and that certain law schools were particularly influential during different eras.

Washington University has long been known for the quality of its teaching. When I joined the faculty here in 1979, Frank Miller and others of his generation impressed upon me the importance of being a “triple threat” faculty member: excelling at teaching, scholarship, and service to the law school and the University. They not only spoke often about the need for excellence in teaching, they also showed by example. Then David Becker and Mike Greenfield followed, and in many ways improved upon, that tradition. I’ve tried to follow their example over the years.

Our law students have kept me young at heart. They bring an energy that makes the classroom (and the entire building) alive and exciting. Even though I have been a professor for more than 30 years, every new class brings students who raise novel points and add a fresh perspective to the material I have been covering.

“Why I Teach” is a regular column in the Washington University Law Magazine highlighting various faculty members’ unique and heartfelt reflections on what makes teaching law rewarding. Previous columns have been written by Dean Kent Syverud and Professors David Becker, Michael Greenfield, and Susan Appleton. To view these columns, visit: law.wustl.edu/WhyITeach.
It is a challenge to find the right series of questions to help a student move the material along. Just as there is a “runner’s high,” a successful class can bring a rush of excitement. (I've noticed that I'm not alone in this because many faculty members need time to unwind after class.)

One of the joys of teaching comes from seeing students finally understand concepts and doctrines. There really are “light goes on” moments. Sometimes you can see it in the face of a student in class; sometimes a student will ask a question with apparent amazement about the answer she has already figured out herself. Often it happens at the end of the semester when students are trying to pull the course material together and they ask me for assurances that their understanding is correct. It is fulfilling to know that my teaching has had an impact on them.

It’s also fun getting to know my students outside the classroom environment, whether it is playing basketball with them, having a beer at a Friday afternoon party, or joining them to hear a speaker. The more I learn about the backgrounds of our students, the more I am impressed with their accomplishments. To give just a few examples, I’ve met students who were symphonic musicians or professional ballet dancers, students who owned successful businesses, students who had responsible positions in government (including in the White House), students who had worked in countries around the world, and students who played professional or collegiate athletics. (One year, I taught a law student who had been a star receiver for the Stanford football team years earlier, when I was a law student sitting in the card section and cheering for all his big plays.) There are very few places to work where you routinely come into contact with so many different, interesting people.

The pleasure I take from my students does not end with their graduation. I enjoy crossing paths with them after many years or reading about them in newspapers or in alumni publications and learning of their accomplishments, both in their careers and with their personal lives. I’m proud that I could play a small part in the lives of so many successful graduates.

Teaching has been a happy challenge for me over the years because good teaching requires deep understanding of the course material. Just when you think you have the material down pat, the Supreme Court complicates things with a new opinion, or Congress passes a new statute. But having to learn the new law keeps teachers from becoming stagnant. I’ve also been lucky because I’ve been able to teach a number of different courses during my career. I started with a portfolio of Civil Procedure, Real Estate Transactions, Regulated Industries, and assorted writing seminars. A few years later, I was able to join my friend Doug North (a member of the Economics faculty who would receive the Nobel Prize in 1993) in teaching a law and economics course for both undergraduates and law students. That has always been a special collaboration as a result of the give-and-take Doug and I have in class and the radically divergent perspectives economics and law students bring to the course material.

My interest in economics also led me to become interested in antitrust law. As many of the industries I taught about in Regulated Industries became deregulated and the course itself headed toward obsolescence, I was able to replace that course with Antitrust. A few years ago, I began teaching Federal Jurisdiction as a complement to my Civil Procedure course. During all the years I taught Civil Procedure, I had the sense that I needed to know more about the related federal material. Teaching a law school course is truly a great way to learn the material, so my teaching of Federal Jurisdiction has helped my teaching of Civil Procedure, and vice versa.

Finally, I am teaching first-year Property beginning this fall. Although I practiced property law when I was a lawyer and I taught Real Estate Transactions during my first years at Washington University, this course will be a new challenge because I’ve never taught in the first semester of law school, where building a good foundation in case analysis is crucial. Although teaching a new course means more work, it also reenergizes me and keeps my job interesting. In this way, my job is always different, even though in many ways it is the same.

I enjoyed my five years of law practice, but I like law teaching even more. I not only try to motivate my students to work hard at learning the law, but I also try to help them enjoy learning. I also strive to help instill a sense of ethical standards and social obligations in all of us “officers of the court.” Most of all, I try to help my students learn to love the law. Too many people, even lawyers who routinely get involved in the daily details of law practice, forget that the law is essential to social stability and to our way of life. I tell my students that they are lucky because they will be joining one of the most important professions in our society. I’ve seen all kinds of comments in the student evaluations of my courses during these 30 years, but last fall I received a comment in Federal Jurisdiction that accurately portrayed my beliefs and complimented me in a unique way. The student wrote that it was “great to have a professor who genuinely loves the Constitution and the practice of law.” That’s how I feel—and I’m glad my students know that.

By John N. Drobak

John N. Drobak is the George Alexander Madill Professor of Real Property & Equity Jurisprudence at the law school and a professor of economics and of political economy in Arts & Sciences.
In Defense of Race Proportionality

“The future of our Nation rests on the quality of the education in young people receive. And for our Negro children, quality education is especially vital because it is the key to equality. Although we have made substantial progress in ending formal segregation of schools, racial isolation in the schools persists—both in the North and the South—because of housing patterns, school districting, economic stratification, and population movements. It has become apparent that such isolation presents serious barriers to quality education. The problems are more subtle and complex than those presented by segregation imposed by law. The remedies may be difficult.”

—President Lyndon B. Johnson, 1965

In Parents Involved in Community Schools v. Seattle School District No. 1, the Supreme Court held that public school districts may not, consistent with the Fourteenth Amendment’s Equal Protection Clause, employ race-specific measures when seeking to achieve district-wide racial integration. Seattle, Washington, and Jefferson County, Kentucky—the two school districts involved in the litigation consolidated in the Supreme Court—each had adopted procedures for student assignment that looked to the racial composition of their district-wide student populations and had attempted to reproduce that distribution, more or less, in each school within the district.

Applying strict scrutiny, a plurality of justices, in an opinion authored by Chief Justice Roberts, took the position that none of the purposes proffered by the two defendant districts met the constitutional requirement that a state interest be “compelling,” and in addition expressed the view that the race-specific means adopted were not “necessary” to achieve the asserted objectives. The plurality was joined in the holding by Justice Kennedy, who wrote separately to explain that, in his judgment, districts seeking to achieve racial balance among schools might in some cases be permitted to employ race-conscious, but not race-specific, means of advancing that goal.

Much of the discussion in each of the Court’s various opinions focuses on the districts’ interest in promoting racial diversity in the school classroom, an understandable locus of attention given that an interest in student body diversity at the university level was found to be a “compelling” purpose in Grutter v. Bollinger in 2003. However, this essay will look instead at two interests asserted by Seattle before the Supreme Court that are distinct from the diversity interest, but which did not garner much comment from the Court. These are interests in avoiding “racial isolation” and in providing “equitable access” to all of Seattle’s high schools for all students within the district. These state objectives, especially the goal of avoiding “racial isolation,” have been part of the education policy conversation since the 1960s, and continue to deserve attention today, the holding in Parents Involved notwithstanding. …

I do not consider the demands of equal educational opportunity as they apply across school districts, even though that may be the arena in which the problem is greatest and the need for reform most pressing. I focus instead on the issue of equity within school districts, because that is the setting in which the Parents Involved case arose … and because it represents an aspect of the problem that receives relatively little attention. Racial isolation and attendant resource inequities remain pressing issues at the intradistrict level. As one commentator puts it: “Something systemic about a school serving predominantly black, or predominantly white, students—covering both resources and expectations—contributes to the success or failure of all students who attend.” Thus this essay examines race proportionality within, rather than between, school districts, considering the racial distribution of students at the school level.

Many commentators caution that integrating schools does not necessarily solve, or even address, the problem of racially equitable educational opportunities; inequalities along racial lines can and often do exist within individual schools as well. Indeed, Seattle’s own Garfield High is a case in point. One of the oversubscribed Seattle high schools to which the challenged race-specific student assignment procedure was applied, Garfield is the only such school located in a predominantly black neighborhood; students assigned to Garfield under the race-specific criterion were white. However, the desirable racial diversity seen at the school level (approximately 46% white, 30% black, 17% Asian, 6% Latino, and 2% Native American in 2004) did not translate into integration within Garfield (in AP classes, 64% were white, 22% Asian, and only 8% black). Thus, “[i]n the remedial class, all but one of the students [were] black; in the honors class, white students fill[ed] the seats, along with a handful of Asian students.” …

Clearly, race proportionality implemented only at the school level is not a panacea. Even so, I think it a good place to begin. Race proportionality among schools would constitute some progress relative to the racially skewed educational opportunities that currently are available in many large urban districts. Moreover, the dynamics of pupil assignment within schools undoubtedly would be different in a racially proportionate system than would be the case in ones with racially identifiable schools such as Garfield. We don’t yet have the experience with such systems to be able to reason competently regarding classroom assignment policies that might make sense in a genuinely race proportional district. …
A final preliminary comment: there is good reason to be concerned that inequality of educational opportunity is both a result and a cause of racial hierarchy in the United States, especially as regards blacks and whites. Many studies show that black children underperform white children on standardized tests even before entering school, and that the gap between the two groups grows through the school years. However, there is recent evidence that: a) the black–white test gap has “generally been declining over time”; b) the preschool gap disappears if one takes into account a relatively small number of other variables; and c) the “leading explanation for the worse trajectory of black students in our sample is that they attend lower-quality schools.” The stereotype that blacks are intellectually inferior to whites traces directly back to the era of slavery, where it was one significant element of the discourse that permitted a country committed to the principle that “all men are created equal” simultaneously to hold other human beings as “property.” Putting that past entirely behind us will require, among other things, putting to rest the notion that blacks are inferior to whites. In turn, it appears that providing genuinely equal educational opportunities to black children is a necessary, and likely sufficient, means of dismantling the myth of black intellectual inferiority; it thus is an indispensible ingredient in the fight for racial justice.

THE COMMISSION on Civil Rights Report on Racial Isolation was prepared not long after the end of legalized segregation in the United States. One might wonder, then, whether “racial isolation” still exists today, more than 40 years later. The data indicate that it does persist, and that in fact it is on the increase after a period of decline. Even so, “racial isolation” (often defined as a circumstance in which all or most minority students attend schools that are 90 percent or more minority) and “race proportionality” are rather stark contraries. Surely there is an intermediate condition, one in which all or some of the schools within a large school district do not mirror the composition of the district as a whole, but at the same time are not so racially disproportionate as to bring to mind the term “racial isolation.”

I’ll call these schools “racially identifiable,” and define that term functionally: when the racial composition of a school’s student body is distinctive enough, relative to the larger community, that community members think of it in racial terms (consciously or unconsciously), that school is “racially identifiable.” In this taxonomy, “racially identifiable schools” and “race proportionality” become functional opposites, “race proportionality” referring to a situation in which each school within a district approximates the racial make-up of the district as a whole closely enough that schools are not thought of in racial terms.

Unlike “racial isolation,” which generally refers to the isolation of nonwhite students, “racial identifiability” is not limited to schools with disproportionately large black, Hispanic, Asian, or other nonwhite student populations; a school might also be identified as “white.” Indeed, it is crucial to keep whiteness in the foreground of the analysis when considering racial identifiability, because it may be that whiteness is more determinative of educational opportunity effects than are other racial classifications. That is, the perception that a given school is “white” may have greater impact on educational opportunity in a particular school district than the perception that other schools are “black” or otherwise nonwhite. The issue to be explored in this part is whether a policy of race proportionality is justified as a means of avoiding the harms associated with systems of racially identifiable schools. …

Turning to the deeper substantive issue, a policy of race proportionality would obviate the harms associated with racially identifiable schools. Pursuing relatively strict race proportionality is the one countermeasure that would address the factors generating resource allocation inequities, such as unconscious racial bias and color stigmatization. Distributing students proportionally throughout a district eliminates any possibility that race will influence the allocation of resources at the school level. This is not to say that resources automatically would be distributed equally in such a system, as factors other than race might come into play, nor, as noted in the introduction to this essay, to say that one might not see race effects within schools.

But race proportionality would constitute a step forward, and it would resolve the problems of educational opportunity inequities along racial lines that have persisted for the past 50-plus years, in spite of Brown. The lesson of that period is that equality of educational opportunities requires the intertwining of white and nonwhite interests; that is most easily achieved by ensuring that white and nonwhite students attend the same schools.

RACE PROPORTIONALITY ... is one means of avoiding inequalities of resource allocation that otherwise are likely to occur. As a matter of policy, its benefits in providing equal educational opportunity across racial lines clearly outweigh the costs of individual racial identification it imposes on all students, both white and nonwhite. Race proportionality is consistent with an anti-subordinationist interpretation of the Equal Protection Clause, an interpretation at least as persuasive as the colorblindness interpretation adopted by the Supreme Court in recent years. For these reasons race proportionality ought not to be taken off the educational policy table. …


American Trust Law in a Chinese Mirror

American Legal Missionaries have left their mark on post-9/11 Afghanistan and Iraq. Under the banner of democracy and the rule of law, U.S. legal professionals of every stamp have launched an ambitious effort to transform the Afghan and Iraqi legal landscapes. …

For decades, American legal professionals have exported or, in comparative law parlance, “transplanted” American rules, institutions, procedures, and values to countries from Albania to Zambia. … The United States is not alone. Throughout history, nearly every nation in the world has participated in “legal transplants.” Indeed, the leading authority on legal transplants, Alan Watson, has concluded that legal transplants from abroad are so common that “[m]ost changes in most systems are the result of borrowing.” …

Comparative law scholars have produced a vast literature documenting and analyzing legal transplants. They have offered a plethora of theoretical models to identify the basic features of and rationales for legal transplants. These scholars have engaged in often heated debate over what causes such transplants to thrive, persist, or turn “toxic” in foreign soil. Thus far, comparative law scholars have focused principally on legal transplants’ impact on the “recipient” country. In so doing, those scholars have missed an equally important phenomenon—the impact of the process on the “donor” country. This article seeks to fill this gap in the literature. It argues that legal transplants can provide a mirror for donor countries to see flaws in their own systems and new directions for reform.

Part I presents a critical analysis of comparative law scholarship. It demonstrates that scholars have failed to recognize the significance of legal transplants for donor as well as recipient countries. The remainder of the article uses one example—China’s 2001 import of the classic “Anglo-American” concept of trust—to illustrate the advantages of a more balanced study of legal transplants.

Part II describes the research base for this article. It shows that China has produced a voluminous and impressive comparative trust law literature. Comparative law research and analysis have played a prominent role in the design, dissemination, and improvement of China’s first Trust Law. Part II demonstrates that China’s comparative trust law literature is important for understanding the trust law model China transplanted as well as the legislative product of that transplant. Yet, because nearly all texts are available only in Chinese, these publications and the lessons they provide have been inaccessible to those who could most profit from them—trust law scholars and reformers in the United States.

Part III presents the first study of China’s critique of American trust law. It shows that close analysis of Chinese commentary, legislative history, and statutory text exposes a systemic flaw that U.S. scholars and reformers should address: inadequate checks and balances on trustees.

The article concludes that this finding raises serious questions about the current direction of American trust law. Rather than strengthening the traditional legal and moral constraints on trustees, reformers are actually weakening those constraints. Thus, the mirror China provides should inspire reformers to see our trust system as it really is and to abandon their ill-advised reform agenda.

* * *

The Chinese Trust Law literature paints a disturbing picture of an American trust system out of balance. This system favors trustees at the expense of settlors, beneficiaries, and third parties alike. Chinese critics trace this imbalance to three main factors: (1) the “negative attitude toward settlor rights,” (2) insufficient protection of beneficiaries, and (3) secrecy of trusts.

In a Chinese mirror, American settlors are weak and ultimately irrelevant. Once settlors establish trusts, American trust law severs their ties to those trusts. Unless settlors had the foresight to reserve rights in the trust instrument or to name themselves trustees or beneficiaries, they “do not possess any rights whatsoever with respect to the trust property or trustee.” Indeed, this separation of settlor from trust is so complete that American trust law denies settlors even the status of party to their own trusts. Under the American definition of the trust, where once there were three parties to a trust, now only two parties exist—the trustee and the beneficiary. The settlor becomes at best an interested bystander.

For Chinese scholars, the very notion of cutting off settlors from their own trusts is perverse. … Moreover, the American approach misses another obvious point—the “constructive role” of settlors in enforcing their own trusts. Who better than settlors can determine whether the trust purposes, beneficiary rights, and trustee duties they themselves prescribed are “conscientiously fulfilled?” Yet, rather than promoting this beneficial,
even indispensable, function of settlors, American trust law actually impedes it. …

China’s depiction of American beneficiaries is troubling. The Chinese trust law literature reveals beneficiaries our system has left behind—the young, the sick, the nameless, even the unborn. It shows that in the United States those most vulnerable to trustee abuse and neglect must fend for themselves. According to Chinese scholars, American trust law makes beneficiaries the principal, and often only, check on trustees. This model simply assumes that beneficiaries can defend their own rights and interests. Except in the charitable trust context, it provides no mechanism to protect those who cannot protect themselves. Yet, as Chinese commentators emphasize, these are precisely the beneficiaries for whom many settlors create trusts. …

Finally, the Chinese trust law literature exposes a third, equally disturbing source of imbalance in American trust law—invisible trusts. It reveals American trusts so secret that their very existence is known only to their settlors and trustees. To make matters worse, because trusts are “continuous in nature,” those trusts may well survive their settlor’s death. Thus, if the American settlor takes the secret to the grave, the trustee alone may know that the property she enjoys is not her own.

Chinese scholars point out that even if beneficiaries are aware that such a trust exists, rules that promote secrecy of trusts may make it impossible for beneficiaries to fulfill the role American trust law assigns them as enforcer of trusts. Because no record exists of an invisible trust’s purpose, property, parties, or fiduciary rights and duties, beneficiaries lack the information they need to monitor a trustee and hold that trustee accountable for any misconduct. Indeed, secrecy of trusts may effectively deny beneficiaries any claim whatsoever to trust property. …

The Chinese trust law literature shows that secrecy of trusts poses significant dangers as well for American third parties who have a “legal relationship” with the trustee. When trusts are secret, a third party has no way to “know the truth” about whether the party on the other side of the table is a trustee, the transaction violates the trust purpose, or the property at issue is in fact trust property. Chinese authors argue that the effect is to injure both the individual involved in the transaction with the trustee and the commercial system as a whole. Secrecy of trusts can cause third parties to “sustain unwarranted harm,” and undermines the “security and efficiency” of commercial transactions.

Chinese commentators trace the invisible trust phenomenon to two flaws in American trust law. First, the U.S. system permits oral trusts. … Second, the U.S. system fail[s] to require registration of trusts except in the charitable trust context. They argue that “public notice of trusts” is essential to ensure that beneficiaries, third parties, and the general public can “easily look up the trust purpose,” property, and parties’ rights and duties. …

In the end, then, the Chinese trust law literature sends an unmistakable message to American and Chinese readers alike. The most effective, fair, and moral trust system is one that recognizes and balances the needs of all parties affected by trusts—settlers, beneficiaries, and third parties as well as trustees.

... 

COMPARATIVE LAW SCHOLARS define their central mission as to “render the foreign familiar.” … This article has suggested a new mission for the comparative law field—to render the familiar foreign. It has demonstrated that study of a foreign system can provide invaluable perspectives for domestic legal scholars and reformers. Specifically, this article has examined China’s recent experience with transplanting the American trust law model. It has shown that the most telling lessons may be found in what China rejected rather than what China adopted. …

The Chinese trust law literature reveals an American trust system out of balance, a system that favors trustees at the expense of settlors, beneficiaries, and third parties. This literature shows that American trust law cuts settlors off from their own trusts, leaves beneficiaries unprotected from trustee abuse, and denies trust parties and third parties alike knowledge of the terms, administration, and even the very existence of trusts. China’s critique exposes the dangers of what both American and Chinese scholars have aptly called a system of “trusting trustees.”

Ironically, the American trusts and estates field is not addressing this imbalance, but instead appears to be heading in precisely the opposite direction. Under the influence of law and economics theory, prominent scholars and reformers are rapidly dismantling the traditional legal and moral constraints on trustees. Trusts are becoming mere “contracts,” and trust law nothing more than “default rules.” “Efficiency” is triumphing over morality. In the law and economics universe of foresighted settlors, loyal trustees, informed beneficiaries, and sophisticated family and commercial creditors, trusting trustees may make sense. In the real world, however, it does not. A trust system that exalts trustee autonomy over accountability can and increasingly does impose significant human costs on all affected by trusts.

China’s critique of American trust law challenges U.S. reformers to reconsider their current course. In a Chinese mirror, we can see that trusting trustees is the problem, not the solution. 

Frances H. Foster, the Edward T. Foote II Professor of Law, specializes in trusts and estates, and the legal systems of socialist and former socialist countries.

In the future when defenseless populations can live free from fear because corrupt regimes and rogue militias can no longer act with impunity, this new freedom will testify to the generosity of corporate lawyer and philanthropist Steven Cash Nickerson, JD ’85, MBA ’93.
A LUMNUS STEVEN CASH NICKERSON has built a career as an irrepressible entrepreneur, working in mergers and acquisitions, creating and growing his own companies, and helping clients succeed in new enterprises. This same zest for creating new ventures has shaped his work as a philanthropist, financing a far-reaching initiative to write and implement a treaty banning crimes against humanity.

An early supporter of global legal studies at the law school, Nickerson was the one to whom Leila Nadya Sadat, the Henry H. Oberschelp Professor of Law and director of the Whitney R. Harris World Law Institute, turned for funding assistance in 2008. Sadat was in the early stages of a bold initiative addressing crimes against humanity.

“I was really struck by the opportunity to do something that the world needs,” Nickerson says. “I thought helping Washington University become more engaged in these efforts would be great for the school and great for the world.”

True to his entrepreneurial spirit, Nickerson’s career path has taken many unexpected turns. When he completed law school in 1985, he signed on with Union Pacific Railroad, where he worked on the company’s merger with the trucking firm Overnite Transportation, which at that time was the largest-ever merger in the transportation industry.

In 1989, he joined the Chicago law firm of Jenner & Block LLP, making partner just three and a half years later. China was opening its economy to capitalist enterprises, and Nickerson worked with Continental Grain Co. on a joint grain elevator venture with a Chinese partner.

From Jenner & Block, he became president and general counsel of a large human resources consulting firm, pursuing an interest that has shaped his career ever since. He soon left there to start his own HR enterprise, Workforce Strategies, in San Francisco. Selling that company, he then opened a law practice with another attorney. Since 2003, he has been a principal and counsel of a large human resources consulting firm, pursuing an interest that has shaped his career ever since. He soon left there to start his own HR enterprise, Workforce Strategies, in San Francisco. Selling that company, he then opened a law practice with another attorney. Since 2003, he has been a principal and counsel of a large human resources consulting firm, pursuing an interest that has shaped his career ever since.

As the working world changes, he believes his unconventional career path will become more the norm. “The lawyer of the future will be unlikely to take the organizational path from associate to partner,” he predicts. “In some fashion, lawyers will have to be looking in at the world less and living in it more. Careers will be blends of opportunities. There will always be big law firms,” he concedes, “but that model’s being challenged now.”

His best advice to new young corporate lawyers is to take every possible opportunity to learn negotiating skills. “The earlier they can get negotiating the better,” he says. “Deals are about negotiations.” In fact, he’s even advised the law school to take students to Cancun, give them $100, and turn them loose in the mercado. “Have fun with it!” he says with a laugh.

“Great lawyers are great negotiators,” he concludes. “It’s part of our DNA—a high need to negotiate.”

Nickerson also relishes human resources work. “You’re very involved in people’s lives,” he observes. He finds profound satisfaction in helping solve problems. “When people come to you, something hurts, and they’re kind of stuck. I really enjoy helping people get unstuck, helping them find some solution they haven’t thought of.”

It was his own hurt over the loss of his father to prostate cancer in 1996 that moved him to found David’s Cure, a private foundation to raise research funds. In 2009, David’s Cure held its first fundraiser, a golf tournament, which raised $25,000 for Washington University School of Medicine’s Siteman Cancer Center, and in 2010 the annual event raised $30,000. “We’re off to a good start,” he observes. “We hope to grow.”

But it is on the global stage where Nickerson is more dramatically reaching out to people who hurt through his generous support of the law school’s Crimes Against Humanity Initiative. During the past two and a half years, Sadat and the project’s steering committee have drafted, circulated, and finalized a proposed treaty. It now goes to United Nations member countries for debate and approval.

Nickerson devoutly hopes for its success. “I think we have the right people behind it,” he says, “and there’s a window that’s somewhat open right now.” International support is building for the International Criminal Court, members of the U.S. Congress are discussing criminal sanctions for crimes against humanity, and international tribunals are producing a growing body of jurisprudence.

“Critical to getting it adopted,” he contends, “is showing how what we currently have isn’t working. After the Holocaust, we said, ‘Never again.’ But 100 million people have died since we said ‘never again.’ We have to establish dissatisfaction with the status quo.”

This year, Nickerson attended a steering committee meeting at the Brookings Institution, where he was given a philanthropy award. Afterward, a jurist from Darfur took his hands in hers and with tears in her eyes told him: “You are birthing a great-grandchild. This will change the world.”

As recognition goes, says Nickerson simply, “that’s enough. I will never forget that moment.”
Successful Sisters
Rika and Rina Yano Enjoy Fulfilling Careers on Both Coasts

Sisters Rika Yano, JD ‘96, and Rina Yano, JD ‘98, credit their law school education with opening doors into fields that have become a perfect match for each of them. In their positions as director of Deutsche Securities Inc. and in-house counsel at Roll International Corporation, both sisters relish the daily intellectual and creative challenges of their jobs—whether handling options on the trading floor or helping produce commercials for pistachios.
A LUMNAE RIKAI YANO AND RINA YANO followed similar paths while growing up in Japan and the United States, attending the same law school, and working for a law firm upon graduation—but their current careers in entertainment/corporate law and international securities demonstrate the diversity of the opportunities Washington University helped put within their reach.

As Japanese-Americans, the two believe their careers illustrate a point they would like to make to minority women interested in pursuing law: despite tough economic times, many interesting career options are available to law graduates.

“I hope that incoming students at Washington University can see that there are lots of career choices out there and that they will be able to broaden their horizons,” Rina Yano says.

Rika Yano echoes her younger sister: “I definitely deviated from the traditional law firm track,” she says. “A legal education just opens so many avenues and career opportunities. And with my language skills, I’ve been able to create my own niche, which has been challenging, but also fun.”

Recently, Rina enjoyed putting her talents and skills to the test while producing eight television commercials for Roll International’s Los Angeles pistachio product.

“First I reviewed the scripts to make sure that there was no copyright infringement,” she recalls. “The second aspect was to hire all the celebrities for the spots and negotiate terms with each of their agents. I also obtained licenses for the music we used.”

Additionally, she attended each of the commercial shoots to ensure that her client’s interests were protected. “I had to make sure they weren’t doing anything that would get us in trouble, such as if the costumes or something in the background had infringed on someone else’s intellectual property rights.”

The project involved a myriad of details, but when it was finally completed, Rina notes that “the rewarding aspect was seeing the commercials on the air.”

Rina works on legal issues for Roll’s various companies, including a bottled water company and a floral wire service. The corporation’s holdings also include three farms—the one that grows nuts, as well as one that produces oranges and lemons, and one that grows pomegranates.

While Rina enjoys contract law, particularly entertainment matters, her sister, Rika, oversees the business management of the Global Markets division which handles sales and trading of securities at Deutsche. She recently relocated to New York from Tokyo when her husband, Jeff Olson, a mergers and acquisitions lawyer, was transferred there by his firm.

Both sisters have employed not only legal and business skills, but also their fluency in Japanese. The two learned Japanese when their family lived in Tokyo from 1971 to 1976, before returning to the United States for the rest of elementary school and high school. Rika graduated from Duke University in 1993, and Rina earned a degree from Scripps College in Claremont, California in 1995.

Rika was a third-year law student at Washington University, when Rina enrolled as a first year. The older sister helped her younger sister get acclimated, and the two lived together in an off-campus apartment. Rika also shared her class notes with Rina, along with observations on courses and professors.

When Rika graduated, she joined Bryan Cave LLP in St. Louis. But she recalls wanting to “leverage” her Japanese fluency. So in 1997, she took an in-house legal position at Lehman Brothers and worked two years in Tokyo and another in New York. In 2001, she joined Deutsche’s credit trading desk in Tokyo and began working in structured credit documentation.

“I was helping out with derivatives business when I made the switch to Deutsche Securities,” she says. “I had the opportunity to work side by side with traders on the trading floor. It brought me closer to the action in the ‘front office.’"

The securities assignments in Tokyo were a great fit. “I liked the tempo, the open surroundings,” she says. “I enjoyed working with traders on the floor who had innovative product ideas. All that excitement was alluring.”

Her duties regularly brought her into contact with government regulators, compliance officers, and senior sales representatives and traders. “I had to be constantly aware of all the rules as to what you can do and how you do it on a trading floor,” she says. “If a regulation was amended, I also met with our compliance officers to determine what practices we had to change.”

Like her sister, Rika started her legal career working for law firms. But in 2001, she moved to the entertainment industry at Sony Pictures Digital Inc. in Los Angeles. In 2004, she joined Warner Bros. International Television Distribution Inc., and two years later, Roll hired her.

“I had always loved watching movies and television,” she says. “Naturally, being here in southern California, there are a lot of in-house opportunities in the entertainment field. I always wanted to work for a large corporation. A contract is a contract, but I’d rather work on one related to something I enjoy.”

At Roll, she also draws on her fluency in Japanese. “I was asked to work on various business and legal aspects when we expanded to Japan, including setting up the corporation with our local counsel and making sure that we’re in compliance with regulations when we send our products there.”

She believes that the in-house work is less intense than what she observed at a law firm. “This really has been my favorite working environment,” says Rina, who’s married and has a one-and-a-half-year-old son. “I have great colleagues, a diverse workload, and work that permits me to spend time with my family. I don’t have a story of something at work that I don’t like to do.”
Tomea Mayer Mersmann, JD ’91, has spent much of the last 15 years creatively helping her alma mater meet the challenges of a changing legal and educational environment—teaching legal writing skills, shoring up career services opportunities for students, and now helping to guide the law school’s strategic initiatives.
IN 1995 ALUMNA Tomea Mayer Mersmann had been practicing corporate and environmental law for four years at the St. Louis firm of Thompson & Mitchell when she was recruited to teach legal writing at the law school. It was the beginning of a varied and highly rewarding career at her alma mater.

Mersmann recalls that she jumped at the chance when then Acting Dean Daniel Keating offered her the full-time position. “He called me in late July and asked if I would teach the first-year legal writing course,” Mersmann says. “So within two weeks, I had quit my job at the firm and had returned to law school. But instead of being a student, I was now teaching.

“Practicing law long term was never my ultimate goal, and over time, I have found that it was actually not the best fit for my talents and skills,” Mersmann continues. “I enjoyed the intellectual challenge, but it was adversarial in most cases, and I wanted to do something that was more creative in a constructive sense.”

As a Lecturer in Law, Mersmann taught legal writing for two years. She then rejoined her law firm for a year as the firm-wide director of recruiting before she was again recruited to the law school in 1998 to work in the Career Services Office, where she held several positions over the next eight years, ultimately leading the office. Then in 2006, Mersmann was named to the new position of Associate Dean for Strategic Initiatives. She found the position to be a great fit for her skills in writing, analyzing problems from different perspectives, and developing creative, logical solutions.

Kent Syverud, dean and the Ethan A.H. Shepley University Professor, developed the strategic initiatives position after joining the law school in 2006. “He’s very innovative,” Mersmann says. “When he came to the law school, he had many, many projects and ideas he wanted to initiate, but didn’t necessarily have time, himself, to evaluate the options and work on the details.”

Syverud initially tapped Mersmann for work on the law school’s strategic plan. “There are intense challenges to legal education and to the legal employment market today,” she notes. “Dean Syverud is current on all of these issues and very analytical about how they impact our school and our students.

“My varied background and skills have given me a broad perspective encompassing legal practice, legal employment, and legal education, as well as insights from being a student, alumna, lecturer, and administrator,” she says. “He asked me to employ those skills and perspectives while working on our new strategic plan.”

Mersmann also has played a key role in developing the University’s academic partnership with the Brookings Institution (see page 4), as well as creating the law school’s January Intersession and new Summer Associate in Training Program (see page 16). While Intersession brings in renowned jurists and practitioners to teach short courses in their area of expertise, the new summer program is designed to help law students hone their practical legal skills. These skills have become harder to acquire as law firms have cut summer associate positions and associate training programs during the down economy, she notes.

The summer program complements the law school’s mission of not only providing students with “an exceptional traditional legal education,” Mersmann says, but also with the knowledge and confidence “to get where they want to go professionally.”

Mersmann’s role with the Washington, D.C., initiative has included designing and setting up the University’s new facilities in the Carnegie Endowment for International Peace building, as well as helping create a 15-unit, University-wide, interdisciplinary program. As a lecturer in law, she also will teach the law school’s long-standing Congressional & Administrative Law Program in the nation’s capital this fall.

Commuting to Washington, D.C., several times a month, Mersmann handled close to 18 months of negotiations with various vendors and constituents from around the University as part of the new partnership. “I continue to work with a lot of very different stakeholders trying to create a substantive program that is a win for everybody,” she says.

Mersmann believes her experience in law school helped prepare her for her current role. “The beauty of law school is that even if you are not completely sure what you want to do when you graduate, if you develop your skills and talents, when an interesting opportunity comes your way, you’re going to be ready to take it,” she says. “Law school changes the way you think—how you analyze issues and solve problems. It teaches you to break apart a situation into smaller, manageable pieces, as well as how to write well and be persuasive. Those skills are definitely transferrable to a lot of professional settings.”

Mersmann also was a good choice to develop the University-wide program with Brookings because she is a natural advocate for both the law school and the University.

“I’m a St. Louis native,” she says. “I grew up with Washington University. I’ve worked with very interesting and talented people from across the University who really care about the students and teaching, all within an outstanding educational and research environment. Working here has allowed me to remain in my hometown, but have a national and global perspective.”

Mersmann believes she has truly found her calling: “I always loved school, being around campus, working among academics, and teaching. I also love being around and contributing to innovative projects. We have a nice window to the world here, so that keeps me challenged and interested.”
SinCE HER EARLY DAYS as a law professor, Hillary A. Sale has been fascinated by the issues of corporate scandals and the role of corporate governance in preventing them. During her March 25, 2010 installation as the Walter D. Coles Professor of Law, she aptly spoke about “The Importance of Being Public,” addressing what governance now means for public companies.

Corporate governance has traditionally been defined as the relationship among shareholders, officers, and directors of a company, but this understanding is changing, Sale says. She believes that the current financial crisis was brought on partly by “a failure of both the private sphere and the public sphere to understand the public governance space and what it means actually for a corporation to be public.”

Corporations now must operate in the public sphere, where they are subject to media scrutiny and blogging. Public expectations also have grown, and governance has come to mean substantive choices about compensation, risk, investments, and even limiting the number of directors on the board. This kind of focus, Sale says, “is here, and it’s not going away. And that means that company fiduciaries … must learn to understand the importance of being public.”

A key point in becoming a public company is that the company must be ready to accept the responsibilities, pressures, and expenses involved, she says. Once a company accepts public status, it also must be regulated. “Governing a public company,” Sale says, “means addressing the expectations of shareholders and the public about what the company can and will do, operating with public responsibilities, complying with rules and regulations in a public manner, and understanding that public has a broader meaning than just the regulations. It means that the media, bloggers, and commentators are watching and waiting.”

Sale concluded her address by observing that there are two clear realizations that public company governors must reach—first, accept their role as public, and second, understand the importance of being public in order to make decisions within that context. “This doesn’t mean that directors can’t make the right business decisions,” she says. “Instead, it means that they must make the right business decisions because the shareholders, the public, and eventually the government will hold them accountable.”

Sale’s professorship is named for law school alumnus Walter D. Coles, LLB 1889, who served as an Assistant U.S. Attorney for the Eastern District of Missouri from 1894–98. He was a lecturer at the law school from 1904–10, teaching in the areas of bankruptcy and constitutional law. In 1935, he began his first year on the bench as a judge on the Supreme Court of Missouri.

Robert B. Thompson, the New York Alumni Chancellor’s Chair in Law and Professor of Management at Vanderbilt University, introduced Sale during her installation ceremony. Thompson was a longtime faculty member and director of the Center for Interdisciplinary Studies at Washington University School of Law. Chancellor Mark S. Wrighton and Kent Syverud, dean and the Ethan A.H. Shepley University Professor, also gave remarks.

An expert in securities and corporate governance, Sale ranks among the nation’s best scholars, teachers, and leaders in corporate law. “Hillary’s substantial scholarship has become an essential part of the securities law field,” Syverud says. “She also is a talented teacher who cares deeply about her students, while demanding that they live up to the high expectations she has for them.” Indeed, Sale was named the David M. Becker Professor of the Year for 2009–10.

Sale is the author of numerous publications on securities and corporate governance issues. Two of her articles, “Delaware’s Good Faith” (2004) and “Securities Fraud as Corporate Governance: Reflections Upon Federalism” (2003), were selected by Corporate Practice Commentator as among the top 10 corporate and securities law articles published in those years. In 2005, she joined the authors of the Securities Regulation casebook, John C. Coffee, Jr. and Joel Seligman, former Washington University law dean. The 11th edition now is co-authored by Sale and Coffee. Sale also is a co-author with Coffee of the 2009 edition of Federal Securities Laws, Selected Statutes, Rules and Forms. Among her professional affiliations, Sale is a member of the DirectWomen Executive Committee and chairs its Institute. She previously was a member of the Iowa College of Law faculty.
Dean Syverud Named Trustee of $20 billion BP Gulf Fund

KENT D. SYVERUD, dean of the law school and the Ethan A.H. Shepley University Professor, has been named an independent trustee of the $20 billion Deepwater Horizon Oil Spill Trust. An expert in complex litigation, insurance law, and civil procedure, Syverud is one of two appointees who is overseeing the newly established trust. The other trustee is the Hon. John S. Martin, Jr., a former U.S. District judge for the Southern District of New York.

Syverud, who also serves as associate vice chancellor of Washington, D.C., programs, calls the appointment “an honor and a great public responsibility.”

“This spill has been a traumatic experience for so many,” says Syverud, who stressed the importance of the fund being “responsibly administered for the benefit of those with legitimate claims.”

The fund is designed to settle legitimate claims against BP resulting from the Deepwater Horizon explosion on April 20, 2010, which prompted a massive oil and gas spill in the Gulf of Mexico. The $20 billion escrow account is being established in phases to satisfy claims ranging from those under the Oil Pollution Act of 1990 to natural resource damages to state and local response costs. Fund administrator Kenneth Feinberg will determine eligibility, and Syverud and Martin will oversee administration of the account.

Syverud has published extensively on settlement negotiations, including articles in the Virginia Law Review, Michigan Law Review, and UCLA Law Review. In addition to his empirical studies of civil jury trials and the settlements that precede them, he has written widely on issues in legal education. A renowned teacher and national leader in legal education, Syverud has served as president of the American Law Deans Association and the Southeastern Association of Law Schools and chaired the Board of Trustees of the Law School Admission Council.
Brickey Receives Alumni Distinguished Teaching Award

KATHLEEN F. BRICKEY, the James Carr Professor of Criminal Jurisprudence, was honored with Washington University School of Law’s Alumni Distinguished Teaching Award at Commencement 2010. Created in 1988, the award is presented every three years. It is considered one of the school’s highest honors, recognizing exceptional teaching among a faculty where excellence in teaching is considered the norm.

Brickey, who joined the law faculty in 1976, is a nationally recognized scholar and teacher who specializes in the field of corporate and white collar crime. She currently teaches Criminal Law, Corporate Fraud, and Corporate & White Collar Crime. A beloved professor, Brickey received the University’s Distinguished Teaching Award at Founders Day in 1991. She has written four books and more than two dozen articles on topics ranging from environmental crime to the legal fallout from Enron’s financial accounting fraud scandal. Her three-volume treatise, Corporate Criminal Liability, and her casebook, Corporate and White Collar Crime, are leading works in the field.

In 1989, Brickey became the first woman on the Washington University law faculty to be named to a chaired professorship, serving as the George Alexander Madill Professor of Law. She was installed as the Carr Professor in 1993 and served as a Treiman Faculty Fellow in 2000–01 and in 2002–03.

Nominees for the Alumni Distinguished Teaching Award are reviewed by the dean and the Alumni Executive Committee. Nominees must be tenured faculty members who have served at Washington University for at least 10 years. Previous recipients are Professors David Becker, Frank Miller, Dale Swihart, Stephen Legomsky, Charles McManis, Susan Appleton, and Peter Wiedenbeck.

David M. Becker
Associate Dean for External Relations and Joseph H. Zumbalen Professor Emeritus of the Law of Property

David Becker (with David Gibberman) published the semiannual supplements to Legal Checklists in 2009 and 2010. Along with Michael Spivey, assistant dean for Career Services, he met with law school graduates in Miami to launch the school’s Alumni Networking Employment Initiative in February 2010. During 2010–11, Becker will be visiting other cities with Daniel Keating in an effort to implement this initiative.

Cheryl D. Block
Professor of Law

Cheryl Block continues her research and writing on federal taxation, the federal budget, and bailouts. The fourth edition of her Corporate Taxation: Examples & Explanations was published in January 2010. Her article, “Measuring the True Cost of Bailouts,” is forthcoming in volume 88 of the Washington University Law Review. Her book, Overt and Covert Bailouts: Developing an Effective Public Policy, will be published by Cambridge University Press in 2011. Block continues to lecture on taxation for Barbri Bar Review and reads weekly to underprivileged pre-school children through the Ready Readers program.

Kathleen F. Brickey
James Carr Professor of Criminal Jurisprudence

Kathleen Brickey recently published the 2010–11 supplement to her treatise, Corporate Criminal Liability. She is currently working on the fifth edition of her casebook, Corporate and White Collar Crime: Cases and Materials, and the accompanying teacher’s manual. Brickey also published a chapter, “In Enron’s Wake: Corporate Executives on Trial,” in Corporate Criminal Liability: Some Insights, and has a chapter in press, “From Boardroom to Courtroom to Newsroom: Perspectives on the Role of the Media,” which will be published in Perspectives on Corporate Governance (Cambridge University Press). She continues her work on a comprehensive database tracking major corporate fraud prosecutions and is working on articles on corporate criminal liability and the BP oil spill, in addition to a book on corporate fraud. At the May 2010 Commencement ceremony, she received the law school’s Alumni Distinguished Teaching Award.

Kathleen Clark
Professor of Law

Clark’s recent publications include “Congress’s Right to Counsel in Intelligence Oversight,” University of Illinois Law Review; “A New Era of Openness?: Obama and Intelligence Sharing with Congress,” Constitutional Commentary; “The Architecture of Accountability: A Case Study of the Warrantless Surveillance Program,” Brigham Young University Law Review; and a book chapter, “Restrictions on Gifts and Outside Compensation for Executive Branch Employees,” in The Lobbying Manual. She made presentations at the University of California,
Clark serves on the University’s Institutional Review Board and gave a presentation about whistleblowing for lawyers working for the U.S. Senate. She taught a course, “Comparative Perspective on the Role of the Judiciary,” at the University of Iowa; taught at the University of Pittsburgh; Hofstra University; Berkeley; University of Texas; University of North Carolina; University of Minnesota; University of North Texas; and Brigham Young University, and at the annual meetings of the Association of American Law Schools and American Society for Bioethics and Humanities.

Marion G. Crain
Wiley B. Rutledge Professor of Law and Director, Center for the Interdisciplinary Study of Work and Social Capital

In her first semester as director of the Center for the Interdisciplinary Study of Work and Social Capital, Marion Crain organized several events designed to highlight the center’s new focus. A series of lectures, a panel discussion on “Human Trafficking,” and a symposium on “For Love or Money?” brought internationally renowned scholars to campus. Papers authored for the symposium will be published by the Washington University Journal of Law & Policy, including Crain’s paper, “Arm’s Length Intimacy: Employment as Relationship.” In 2010, Crain published “Managing Identity: Buying Into the Brand at Work” in the Iowa Law Review, presented and published “Work Matters” in a symposium issue of the Kansas Journal of Law & Public Policy, and (with co-author Pauline Kim) completed work on a second edition of Work Law: Cases and Materials (Lexis Law Publishing 2010) and the accompanying teacher’s manual.

Adrienne Davis
William M. Van Cleve Professor of Law

Adrienne Davis published a paper in the Harvard Gender Journal on challenges confronting people of color in teaching law. She and her co-author, Robert Chang, compared their experiences as an African American and Asian American, respectively, in law school classrooms and recommended ways to create more hospitable environments. Davis also gave the keynote address at the Texas Wesleyan Lawyers of Color Symposium and served on an Association of American Law Schools panel, “Retaining & Recruiting Minority Law Professors.” She presented papers at the law schools of the University of California, Los Angeles; University of Chicago; Georgetown University; and University of Colorado. Davis participated in “Author Meets Reader” panels at the American Society for Legal History and Law and Society Association conferences. Additionally, she inaugurated the Law & Culture Initiative; hosted Professor Kendall Thomas from Columbia Law School as part of the Saint Louis University–Washington University Legal Theory Workshop; and sponsored a talk as part of the Law & History Colloquium.

Gerrit De Geest
Professor of Law and Director, Center on Law, Innovation & Economic Growth

Gerrit De Geest published the anthology, Economics of Comparative Law (Edward Elgar), and edited a special issue of the Review of Law & Economics (with papers of the Kauffman Foundation Conference on Intellectual Property and Innovation). He served as the general editor of the latest reference work on law and economics—The Encyclopedia of Law and Economics. The first three of the 12 volumes of the second edition have been published, and several more are expected later this year. De Geest also wrote two chapters for the book, Economic Analysis of the DCFR: The Work of the Economic Impact Group within the CoPECI Network of Excellence (Chirico and Larouche, eds.), and published articles in the European Review of Private Law (on the formation of contracts) and International Review of Law and Economics (on annulable bonuses and penalties). He spoke at the Midwestern Law & Economics Association’s annual meeting at Notre Dame Law School.

Rebecca S. Dresser
Daniel Noyes Kirby Professor of Law and Professor of Ethics in Medicine

Rebecca Dresser published two articles in the Journal of Law, Medicine & Ethics, ”Stem Cell Research as Innovation: Expanding the Ethical and Policy Conversation“ and “Off-Label Prescribing: A Call for Heightened Professional and Government Oversight“ (with Joel Frader, MD). For the Hastings Center Report, she wrote columns on the legal status of medical marijuana and treatment refusals in the aftermath of suicide attempts. Two of her invited commentaries were posted on the New York Times “Room for Debate” blog. Her essay, “Toward a Richer Public Bioethics,” appeared in Apples of Gold in Pictures of Silver: Honoring the Work of Leon R. Kass. Dresser also served as the Ethics and Humanities Grand Rounds speaker at the University of Rochester Medical Center. She gave presentations at the University of North Carolina, University of Minnesota, University of North Texas, and Brigham Young University, and at the annual meetings of the Association of American Law Schools and American Society for Bioethics and Humanities.

John N. Drobak
George Alexander Madill Professor of Real Property & Equity Jurisprudence, Professor of Economics, and Professor of Political Economy

John Drobak delivered a series of lectures to begin a new PhD program in law and economics at Goethe University in Frankfurt. The lectures were designed to introduce the students to the wide range of topics that could be studied in a law and economics graduate program. He also taught U.S. Antitrust Law from a Global Perspective at Catholic University of Portugal, one of the law school’s partners in the Transnational Law Program. Early this past summer, Drobak lectured about the limits of rational choice and economic theory at the European School for New Institutional Economics, a one-week program for European graduate and postdoctoral students in law, economics, and political science, which was held in Cargese, Corsica, France. Finally, in June, Drobak chaired a panel on “Law and Legal Systems” at the 14th Annual Conference for New Institutional Economics held in Stirling, Scotland.

Dorsey D. Ellis, Jr.
Dean Emeritus and Distinguished Professor of Law Emeritus

Dan Ellis has received a Fulbright grant to teach at Catholic University of Portugal, one of the partnership schools in the Transnational Law Program (TLP). He also continues to serve as TLP’s academic director, including attending several international planning meetings. In April 2010, he delivered the
keynote address on “Transnational Law- yering” at the TLP conference in Utrecht on Human Rights in the Corporate World. In summer 2010, she taught Antitrust as part of the law school’s new Executive Master of Laws Program for international students. Additionally, as chairman of the board of Maryville College in Tennessee, she appointed the search committee and negotiated the appointment of the new president, Dr. William “Tom” Bogart.

Barbara Flagg
Professor of Law
Barbara Flagg continues to research in the area of race and the law. In 2009, her article, “In Defense of Race Proportionality,” appeared in the Ohio State Law Journal. She is in the process of completing the manuscript of her next book, The Souls of White Folk, and has begun work on a reader/course book on Critical Jurisprudence, which will combine critical legal studies, feminist jurisprudence, and critical race theory. At the law school, Flagg served as a member of the Student Life Committee.

Frances H. Foster
Edward T. Foote II Professor of Law
Frances Foster continues to focus her scholarship and teaching on comparative law, inheritance, and trust law issues. Her article, “American Trust Law in a Chinese Mirror,” was published in the February 2010 issue of the Minnesota Law Review. Foster currently is working on an article titled “Should Pets Inherit?”

Katherine Goldwasser
Professor of Law
Katherine Goldwasser oversaw her new supervised practicum through which law students pair up with inner-city high school students at Northwest Academy of Law. Working closely with a teacher at Northwest, the law students provided mentoring for two of her classes and planned and led a series of activities involving the study of contemporary legal and social justice issues. Goldwasser also spoke on criminal law issues to a gathering of Missouri Supreme Court and Court of Appeals judges at the annual Missouri Courts Appellate Forum. Her most recent article, “The Perils of Empowerment” (co-authored with Jane Aiken), will be published this fall in the Cornell Journal of Law and Public Policy.

Michael M. Greenfield
George Alexander Madill Professor of Contracts & Commercial Law
Michael Greenfield was an invited participant in a roundtable on credit counseling and debt settlement at the Federal Reserve Bank in Philadelphia. In October 2009, the Missouri Lawyers Weekly announced that its 2009 Readers Poll had selected him as “Missouri’s Best Law Professor.” He also gave a presentation and moderated a panel on “Settlement, Collection, and Modification of Consumer Debt” at the Teaching Consumer Law Conference sponsored by the University of Houston’s Center for Consumer Law. His article (co-written with Peter Alces), “They Can Do What!? Limitations on the Use of Change-of-Terms Clauses,” was published in June in a symposium issue of the Georgia State Law Review, and the sixth edition of his Sales casebook is scheduled for publication in December.

John Owen Haley
William R. Orthwein Distinguished Professor of Law Emeritus
John Haley completed the manuscript for his new book, Rivers, Revenue, Rice: Law’s Political Evolutions. Several of the volume’s chapters have been adapted as articles, including those on law and medieval Japan in the Journal of Japanese Studies; the evolution of law in Colonial Spanish America, Dikaion, a periodical of the University of Sabana, Bogota, Colombia; and political foundations of private law in Medieval Europe and Japan, Law and Long-Term Economic Change: An Eurasian Perspective. His publications also include the second edition of his co-authored casebook, Comparative Law: Historical Development of the Civil Law Tradition in Europe, Latin America, and East Asia, and several essays and articles, including those on Thomas L. Blakemore, Japanese and comparative law topics, and criminal law, appearing in the International House of Japan and Blakemore Foundation Blakemore Symposium Volume, American Journal of Comparative Law, Law and Contemporary Problems, The Handbook of Criminal Law, and The Internationalization of Law. As of August 2010, Haley assumed emeritus status at the law school.

Rebecca Hollander-Blumoff
Associate Professor of Law
In 2009–10, Rebecca Hollander-Blumoff presented her article, “Just Negotiation,” at the Stanford–Yale Junior Faculty Forum. She also presented the paper, which is forthcoming in the Washington University Law Review, at the Lewis & Clark Law School Faculty Colloquium and at the American Psychology–Law Society’s annual meeting in Vancouver. Hollander-Blumoff was an invited discussant at Saint Louis University School of Law’s annual Richard J. Childress Lecture. Additionally, she gave a presentation on the challenges of teaching negotiation ethics at the Association of American Law Schools annual meeting in New Orleans. Hollander-Blumoff presented an empirical project, “The Objective Antecedents of Procedural Justice in Bilateral Negotiation,” at the annual meeting of the Law and Society Association in Chicago. She also organized the third year of a series of regional junior faculty works-in-progress workshops.

Emily Hughes
Associate Professor of Law and Co-Director, Criminal Justice Clinic
The second edition of Emily Hughes’ co-authored book, Federal Habeas Corpus: Cases and Materials, is forthcoming this fall, as is her article “Innocence Unmodified,” which the North Carolina Law Review will publish next spring. Her research on capital mitigation has continued with the Capital Jury Project. Hughes is also conducting empirical research through interviews of capital mitigation specialists nationwide; she discussed her findings at Stanford Law School as part of the International Legal Ethics Conference. She presented her work at the University of Illinois, Washington University’s Midwest Regional Junior Scholars Roundtable, a Law and Society forum, and the Southeast Association of Law Schools Conference. Hughes
taught at the Darrow Death Penalty Defense College, co-hosted by DePaul University and the University of Michigan, and she presented at “Life in the Balance,” co-sponsored by the National Legal Aid & Defender Association and the National Alliance of Sentencing Advocates and Mitigation Specialists. She was named a Treiman Fellow at the law school in 2009–10.

Peter A. Joy
Vice Dean; Professor of Law; and Co-Director, Criminal Justice Clinic
Peter Joy published an article on informant perjury in the Ohio State Journal of Criminal Law, and he co-authored a chapter on ethics issues in The State of Criminal Justice—2010, published by the ABA. He also co-authored articles addressing academic freedom, clinical legal education, and legal ethics in the Journal of Legal Education and the ABA’s magazine, Criminal Justice. He gave a lecture at Northumbria University in the United Kingdom and presentations at an ethics conference sponsored by Hofstra University, a faculty workshop at Indiana University Bloomington, and the Association of American Law Schools (AALS) Clinical Legal Education Conference. He is chair-elect and serves on the AALS Section on Professional Responsibility’s Executive Committee, the ABA Section on Legal Education & Admissions to the Bar Accreditation Committee, the Society of American Law Teachers Board of Governors, and the AALS Committee on Academic Freedom and Tenure. He is also a contributing editor for Criminal Justice and a member of the Clinical Law Review Board of Editors.

Daniel L. Keating
Tyrrell Williams Professor of Law
As of January 1, 2010, Dan Keating returned to full-time teaching and scholarship following a period of more than 16 years in law school administration. Keating’s article, “Automobile Bankruptcies, Retiree Benefits, and the Futility of Springing Priorities in Chapter 11 Reorganizations,” was accepted for publication in the Iowa Law Review. This past summer, Keating and David Becker began a series of trips to major legal markets across the country to visit and brainstorm with alumni in those cities about how to expand job opportunities for students. These visits are being coordinated through the Career Services Office and stem from an initiative developed by Becker.

Pauline Kim
Associate Dean for Research & Faculty Development 2008–10 and Professor of Law
Pauline Kim presented a paper, “Beyond Principal–Agent Theories: Law and the Judicial Hierarchy,” at the Symposium on Political Science and Law, which was sponsored by the National Legal Aid & Defender Association and Mitigation Advocates and the National Alliance of Sentencing Advocates and Mitigation Specialists. She was named a Treiman Fellow at the law school in 2009–10.

Konig Publishes Book on Dred Scott Case


The volume presents 14 essays composed by leading historical and legal scholars reflecting on the Dred Scott case. The book is the result of a Washington University symposium that was co-sponsored by the law school and marked the 150th anniversary of the U.S. Supreme Court decision in the case. That decision declared that African Americans “had no rights” under the Constitution.

The essays examine the case’s history, its later consequences, and its vast implications for history and American law. The book also presents reflections of the current justices of the Missouri Supreme Court.

“Dred Scott was the first true civil rights case decided by the U.S. Supreme Court, and it raised issues that have not been fully resolved despite three Constitutional amendments and a century and a half of litigation,” Konig notes. “The essays in this book revisit the historical forces that created those problems and left them only incompletely remedied by law.”

Konig is an expert in early-American history and Anglo-American legal history. The author of multiple journal articles, he also edited the 16-volume Plymouth Court Records and is the author of Law and Society in Puritan Massachusetts: Essex County, 1629–1692 and Devising Liberty: Creating and Preserving Freedom in the New American Republic. He is currently working on a new book, Nature’s Advocate: Thomas Jefferson and the Discovery of American Law, for which he is drawing on years of research and several previous articles and papers on the third president. Additionally, he is preparing a scholarly edition of Thomas Jefferson’s legal notes for The Papers of Thomas Jefferson. His work on the Second Amendment was recently cited by Justice Stephen Breyer in his dissent in McDonald v. Chicago.
sored by the Searle Center at Northwestern University School of Law. This paper will appear in the Northwestern University Law Review later this year. The second edition of her casebook, Work Law: Cases and Materials, co-authored with Marion Crain and Michael Selmi, has been published, together with an accompanying teacher’s manual. Also to be published this year are: “Reply, ‘Exploring Panel Effects,’” University of Pennsylvania Law Review’s PENNumbra; “Collective and Individual Approaches to Protecting Employee Privacy: The Experience with Workplace Drug Testing,” Workplace Privacy (Samuel Estreicher & Jonathan Nash, eds.); and “Regulating the Use of Genetic Information: Perspectives from the U.S. Experience,” Comparative Labor Law & Policy Journal. She finished her term as associate dean for research & faculty development in August 2010.

Michael H. Koby
Professor of Practice; Director, Trial & Advocacy Program; and Director, Lawyering Practice Externship

Michael Koby presented “Legal Writing Skills Development and a Structured Feedback Process” at the Externships 5 conference at the University of Miami School of Law. The presentation focused on using externship placements as a vehicle to develop students’ legal writing skills.

David T. Konig
Professor of History and Professor of Law

David Konig completed a term as chair of the Kathryn T. Preyer Award committee of the American Society for Legal History, which honors work by junior legal historians. At the society’s annual meeting, he presented a paper on “Asymmetries of the Lawyer—Historian Debate” in legal scholarship. He also presented papers on “Whig Lawyering in the Legal Education of Thomas Jefferson” at the Massachusetts Historical Society and Jefferson’s cause lawyering at workshops at the University of Illinois College of Law and New York University School of Law. He presented work on Second Amendment jurisprudence at Northeastern University School of Law and conducted a workshop on the topic at a seminar for the Institute for Constitutional Studies at the University of California, Santa Barbara. His article, “Why Does the Second Amendment Have a Preamble?,” appeared in the UCLA Law Review. His co-edited book, The Dred Scott Case: Historical Perspectives on Race and Law, was published in July 2010.

Robert R. Kuehn
Professor of Law and Co-Director, Interdisciplinary Environmental Clinic

Robert Kuehn published “Lawyering in the Academy: The Intersection of Academic Freedom and Professional Responsibility” in the Journal of Legal Education. He is working on two articles, “Lessons from Forty Years of Interference in Law School Clinics” and “Kneecapping” Academic Freedom: Attacks on Law School Clinics” (with Peter Joy), that will be published later this year. As part of his work with the Interdisciplinary Environmental Clinic, he established and supervised a new community outreach coordinator position designed for a master’s of social work practicum student to lend assistance to the clinic. Among his presentations, he was a guest lecturer on “Environmental Justice” at Arizona State University; presented “Transforming Advocacy” at the Association of American Law Schools Annual Meeting; and was a moderator for “Basic Statistics Tutorial for Law Professors,” at the Southeastern Association of Law Schools Annual Meeting. He is serving as president of the Clinical Legal Education Association.

D. Bruce La Pierre
Professor of Law and Director, Appellate Clinic

Bruce La Pierre continues to teach overseas regularly and to litigate with his Appellate Clinic students an interesting and diverse set of cases in the U.S. Court of Appeals for the Eighth Circuit. This fall, he is teaching a short course at Catholic University of Portugal in Lisbon, and next fall, he will teach and lecture at Fudan University in Shanghai. His Appellate Clinic cases include United States v. Watson, 8th Cir. (09-3606) and Washington v. Blunt (09-3606). In Watson, the court, on its own motion, asked the Appellate Clinic to address three issues governing the timing of criminal appeals under Federal Rule of Appellate Procedure 4(b)(1)(A). The other case, Washington v. Blunt, raises issues of qualified immunity in civil rights actions and of prison conditions.

C.J. Larkin
Senior Lecturer in Law and Administrative Director, Dispute Resolution Program

C.J. Larkin successfully concluded the mediation process in Kirkwood, Missouri, in collaboration with the Department of Justice. Working with adjuncts Mike Geigerman and Jim Reeves, she presented a workshop on “Mudslinging, Manners and Mediators” at the ABA Section of Dispute Resolution Spring Conference in San Francisco. Larkin collaborated with Missouri State University to present Civil and Family Mediation Training in fall 2009 and spring 2010. She was also a panelist at the fall 2009 Domestic Violence Documentary Premiere in St. Louis and was asked to speak regarding the law school’s Clemency Project.

David S. Law
Professor of Law and Professor of Political Science

David Law presented papers at a variety of venues including the annual meetings of the American Political Science Association, the Midwest Political Science Association, the Western Political Science Association, the Law and Society Association, and the Conference on Empirical Legal Studies. He also presented a paper on imposed constitutionalism in Japan at the Foundation for Law, Justice, and Society at Oxford University and spoke on the future of constitutional theory at the Constitution in 2020 conference held at Yale Law School. His presentations over the last year have included “Law Versus Ideology: The Supreme Court and the Use of Legislative History” (co-authored with David Zaring), which appeared in the William and Mary Law Review; and “The Anatomy of a Con-
Mandelker Publishes Book on Designing Planned Communities

DANIEL R. MANDELKER, the Howard A. Stamper Professor of Law, has published a new book, Designing Planned Communities, in which he shows how design concepts for planned communities can be translated into effective design guidance by local governments.

Published by iUniverse Inc., Mandelker’s book deals with the gap between subdivision ordinances and zoning ordinances. One of the country’s leading scholars and teachers in land use law, he stresses that neither set of ordinances provides the flexibility for a planned community, including the need to address such issues as common open space, resource protection, and better and varied design. Mandelker also demonstrates how design concepts can become effective design guidance in the hands of local governments.

Professor Michael Allan Wolf, University of Florida, writes in his review of the book, “Planning and local government attorneys will find the information about the legality of innovative design plans most interesting and helpful. Mandelker provides examples of localities that have experimented with a variety of design approaches and explores case law that will have an impact on these innovations.”

Mandelker is also co-author of a popular law school casebook, Planning and Control of Land Development, now in its seventh edition, as well as numerous other books, journal articles, and book chapters. At the law school, he teaches Environmental & Land Use Litigation, Land Use Law, Law & Popular Culture, and State & Local Government. Among his professional activities, Mandelker was the principal consultant and contributor to the American Planning Association’s model planning and zoning legislation project. The project resulted in the 2002 Legislative Guidebook, which contains new model legislation.

Ronald M. Levin
Henry Hitchcock Professor of Law

Ronald Levin continued his service as the ABA’s advisor to the drafting committee to revise the Model State Administrative Procedure Act. He also is the Reporter for an ABA Task Force on Lobbying Reform. Levin recently spoke at a symposium on The Obama Administration and the Future of the Administrative State, sponsored by the University of Miami Law Review. He discussed the courts’ role in facilitating policy changes over time. Levin also participated in a panel discussion on formal and hybrid rulemaking at the Rulemaking Institute of the ABA Section of Administrative Law and Regulatory Practice. His co-authored revision of a chapter of The Lobbying Manual: A Complete Guide to Federal Lobbying Law and Practice was published in 2009. Levin and Michael Asimow of UCLA School of Law also published the teacher’s manual to their casebook, State and Federal Administrative Law.

Jo Ellen D. Lewis
Professor of Practice and Director, Legal Practice Program

Jo Ellen Lewis received a Fulbright Senior Specialist grant to teach at Fudan University School of Law in April 2010. She taught courses in Legal English and Torts.

Daniel R. Mandelker, the Howard A. Stamper Professor of Law, has published a new book, Designing Planned Communities, in which he shows how design concepts for planned communities can be translated into effective design guidance by local governments.

Stephen H. Legomsky
John S. Lehmann University Professor
Steve Legomsky is now on leave as the Global School of Law Visiting Professor at Catholic University of Portugal where he is researching EU migration law. He enlisted a co-author, Professor Cristina Rodríguez of New York University, for the now-published fifth edition of his immigration and refugee law course book, adopted at 172 law schools since its inception. He also recently published migration related articles in the Duke Law Journal, Georgia Law Review, and Israel Law Review, and a chapter in an edited NYU Press volume. At the request of the U.S. House Immigration Subcommittee, Legomsky drafted a proposed bill for revamping the U.S. immigration adjudication system. He gave a faculty workshop at the University of New Mexico and other invited presentations at Duke University and in Potsdam, Hong Kong, Lisbon, and Berlin, as well as in Chicago and Washington, D.C. Upcoming talks include those in Nijmegen, London, Brussels, Tel Aviv, Stockholm, Lund, and Hong Kong.

Jo Ellen Lewis
Professor of Practice and Director, Legal Practice Program

Jo Ellen Lewis received a Fulbright Senior Specialist grant to teach at Fudan University School of Law in April 2010. She taught courses in Legal English and Torts.
Gregory Magarian  
**Professor of Law**

Gregory Magarian spent two weeks in fall 2009 teaching a course in comparative constitutional law at Fudan University in Shanghai, China. He also made presentations at Shanghai Jiaotang University and East China University of Law and Politics. Magarian completed his latest article, “Religious Argument, Free Speech Theory, and Democratic Dynamism.” He is currently researching his next article on the implications of First Amendment theory and doctrine for emerging Second Amendment jurisprudence. In June, Magarian and 13 colleagues completed a project for the ABA, which provided an evaluation of federal judicial nominees to the U.S. Senate Judiciary Committee. He also served as a discussant for a presentation on political theory at a Washington University workshop, gave presentations on Supreme Court procedures to high school teachers in the StreetLaw program, and participated in a panel discussion sponsored by the National Lawyers Guild. Additionally, he gave numerous national and local print and radio interviews on constitutional and election law issues.

Andrew D. Martin  
**Professor of Law; Professor & Chair, Department of Political Science; and Director, Center for Empirical Research in the Law**

In 2009–10, Andrew Martin continued his work in the field of judicial decision-making. He published articles in the American Journal of Political Science and Washington University Journal of Law & Policy. Martin and other Center for Empirical Research in the Law collaborators continue work on the Supreme Court Database (supremecourtdatabase.org) and a study of institutional legitimacy of constitutional courts across the globe. Both of these projects are funded by the National Science Foundation. In 2010, Martin was recognized for the fifth time by the Graduate School of Arts & Sciences for Excellence in Mentoring.

Daniel R. Mandelker  
**Howard A. Stamper Professor of Law**

Daniel Mandelker published a new book, Designing Planned Communities, in which he shows how design concepts for planned communities can be translated into effective design guidance by local governments. He also contributed chapters to the seventh edition of his co-authored casebook, State and Local Government in the Federal System. Additionally, the Washington University Journal of Law & Policy will be publishing his article on the National Environmental Policy Act as part of a symposium on environmental law. Mandelker also published articles on “Zoning Codes: Form and Function” in Local Planning: Contemporary Principles and Practice, the most recent edition of the national encyclopedia on planning practice, and on “Decision-Making in Sign Codes: How to Comply with the First Amendment and Avoid Litigation” in Zoning Practice. Mandelker spoke on issues in sign regulation at a zoning conference in Dallas and at the national planning conference in New Orleans.

Charles R. McManis  
**Thomas & Karole Green Professor of Law**


Carl Minzner  
**Associate Professor of Law**

Carl Minzner’s article, “Riots and Coverups: Counterproductive Control of Local Agents in China,” was published in the University of Pennsylvania Journal of International Law, and his article, “Judiciary Disciplinary Systems for Incorrectly Decided Cases: The Imperial Chinese Heritage Lives On,” was selected for publication in an edited volume by Cambridge University Press. Minzner organized a conference on Legal Reform in China at the law school, which was also webcast. He testified before Congress regarding Chinese government petitioning institutions, served as the keynote speaker for a Houston World Affairs Council event on modern China, published op-eds on Chinese domestic politics in the New York Times and Los Angeles Times, and taught a class on American property law at the P.R.C. State Intellectual Property Office. He continues to work to enhance Washington University’s relationships with Chinese law schools.

Kimberly Jade Norwood  
**Professor of Law and Professor of African & African American Studies**

In 2009–10, Kim Norwood continued to receive awards for her high-school-to-law-school pipeline initiative, including the Archway Chapter of the Links Inc.’s Excellence in Service Award to Outstanding Women and the St. Louis Diversity Job Fair Committee’s Diversity Award. She was appointed by Missouri Governor Jeremiah Nixon in April 2010 to serve as a Commissioner on the Missouri Civil War
Sesquicentennial Commission. Norwood also presented various lectures to law students, LLM students, and PhD students at Fudan University in Shanghai, China, on subjects ranging from personal injury law to the U.S. legal system. She continues to supervise students engaged in public interest externships in Ghana and Kenya.

Stanley L. Paulson
William Gardiner Hammond Professor of Law and Professor of Philosophy
Stanley L. Paulson devoted a good part of the past year to his Kelsen monograph, consisting of 11 chapters and appendices. His paper, “A Strong Normativity Thesis in Hans Kelsen’s Pure Theory of Law?,” is forthcoming in the volume, Institutional Reason, ed. M. Klatt (Oxford University Press). Last November, a conference at the University of Leicester was devoted to Paulson’s work, with commentators from the U.K. and the European continent. Last March, Paulson delivered the plenary address at a conference on Kelsen’s work in Buenos Aires. Also in November, a commissioning editor at the Oxford University Press arranged for a meeting with Paulson and his wife, Bonnie, to convince them to undertake a translation of the second edition of Kelsen’s Reine Rechtslehre. Representatives at the Press have also suggested that the two edit an English-language edition of Kelsen’s works; negotiations are under way. In addition, Paulson served as the John Fleming Visiting Fellow in the Faculty of Law, Australian National University, Canberra during summer 2010.

Mae C. Quinn
Professor of Law and Co-Director, Civil Justice Clinic
Mae Quinn joined the faculty in July 2009 as co-director of the Civil Justice Clinic (CJC) and an architect of that program’s new Child and Family Advocacy Project. Shortly after her arrival, Quinn worked with law students and community partners at the Legal Services of Eastern Missouri to file a federal lawsuit addressing problematic disciplinary practices in the Saint Louis Public Schools system. Under her supervision, CJC students also represented youths in local juvenile court proceedings and administratively challenged illegal placement practices within the state’s Division of Youth Services. Continuing her activism through scholarship, Quinn’s recent works include “Reconceptualizing Competence: An Appeal” and “Further (Ms.) Understanding Legal Realism: Rescuing Judge Anna Moscowitz Kross.” Quinn gave talks across the country on a variety of subjects and was featured in a cover story of Missouri Lawyers Weekly for her drug treatment court research.

Neil Richards
Professor of Law
Neil Richards’ article, “Reconciling Free Speech and Civil Liability” (with D. Solove), was published in the Columbia Law Review. He has two articles forthcoming in 2010, “Brandeis, Privacy, and Speech,” Vanderbilt Law Review, and “Prosper’s Privacy Law: A Mixed Legacy,” California Law Review. He attended conferences and/or presented papers at the University of Berkeley School of Law, Northwestern University, George Washington University, the University of Kansas, and Washington University, as well as at the annual meetings of the Association of American Law Schools and the Missouri Library Association.

Laura Rosenbury
Associate Dean for Research & Faculty Development and Professor of Law
Laura Rosenbury spent the spring 2009 semester as a visiting professor at the University of Chicago Law School. She published two book chapters, “Whose Privacy?,” Criminal Law Conversations, and “Gender: Legal and Public-Policy Perspectives,” The Child: An Encyclopedic Companion, as well as a full-length article co-authored with Jennifer Rothman, “Sex In and Out of Intimacy,” Emory Law Journal. She recently joined the fourth edition of the Feminist Jurisprudence casebook. Rosenbury presented her scholarship in faculty workshops at the law schools of Loyola Marymount University –Los Angeles, Northwestern University, University of Chicago, University of Maryland, University of Illinois, and George Washington University. She participated in a panel on parenthood at Stanford Law School, was a commentator at Chicago Law School’s Democracy and Gender Equity in the Muslim World conference, and spoke at Harvard Law School’s Family Law Summer Camp and the Williams Institute’s conference on sexuality and gender law. In August 2010, she became associate dean for research & faculty development.

Adam H. Rosenzweig
Associate Professor of Law
Adam Rosenzweig recently published “Imperfect Financial Markets and the Hidden Costs of a Modern Income Tax,” SMU Law Review, and “Not All Carried Interests Are Created Equal,” Northwestern Journal of International Law and Business. He is currently at work on several other tax articles, including “Why Are There Tax Havens?,” “Taxing Offshore Investment Funds,” and “Thinking Outside the (Tax) Treaty.” His presentations include those at the Annual Junior Tax Scholars Forum at Brooklyn Law School, SMU Dedman School of Law’s Tax Colloquium, a Washington University School of Law incubator session, and faculty speakers series at the University of Missouri Law School and Brooklyn Law School. He also was quoted in national news media outlets about tax havens and other tax issues.

Leila Nadya Sadat
Henry H. Oberschelp Professor of Law and Director, Whitney R. Harris World Law Institute
Leila N. Sadat is in the process of finalizing the Crimes Against Humanity Initiative’s proposed convention in English and French, the culmination of a nearly three-year project that involved organizing several international conferences, as well as producing an edited volume, Forging a Convention for Crimes Against Humanity (forthcoming, Cambridge University Press). Sadat published articles on the Nuremberg paradox, Rwandan genocide, unlawful enemy combatants, and the Goldstone Report in the American Journal of Comparative Law, Leiden Journal of International
in summer 2010 as the Distinguished Jurist Council of the ABA’s Section on Legal Education and the Denver Journal of International Law and Politics Assembly of States Parties and served as a subcommittee drafting the 6th edition of the Business Corporation Act, and chairs the Executive Committee and chairs the DirectWomen’s Assembly, which is responsible for drafting the Model Corporate Director’s Guidebook.

Currently, she is a member of DirectWomen’s Assembly, and continues her work with DirectWomen; currently, she is a member of DirectWomen’s Executive Committee and chairs the DirectWomen’s Assembly. Sale is also a member of the ABA Committee on Corporate Law, which is responsible for drafting the Model Business Corporation Act, and chairs the subcommittee drafting the 6th edition of the Corporate Director’s Guidebook.

Karen L. Tokarz

Charles Nagel Professor of Public Interest Law & Public Service; Professor of African & African American Studies; and Director, Dispute Resolution Program

Karen Tokarz is a member of the Missouri Supreme Court Commission on Alternative Dispute Resolution and chair of the current U.S. Magistrate Merit Selection Commission for the U.S. District Court, Eastern District of Missouri. She published “Advancing Social Justice through Alternative Dispute Resolution and Clinical Legal Education in India, South Africa, and the United States” in the Global Clinical Movement: Educating Lawyers for Social Justice. Tokarz presented “International Clinical Externships” at the Externships 5 conference in Miami, Florida, and “Universal Clinical Legal Education” at the Association of American Law Schools Conference on Clinical Legal Education. She coordinated the annual, yearlong Public Interest Law & Policy Speakers Series and facilitated with Annette Appell a scholarship roundtable, New Directions in ADR and Clinical Education. For the ninth summer, she directed externship placements for law students with the Legal Aid Board and Lawyers for Human Rights in South Africa. She also assisted with field placements for students in Rwanda, Burkina Faso, Cambodia, and India.

Melissa A. Waters

Professor of Law

Melissa Waters spent fall 2009 as a visiting scholar at the Brookings Institution, researching a book examining the political, economic, and legal forces involved in the evolution of the death penalty under international law. During the spring semester, she taught a short course on the death penalty at Washington University’s partner institution, Utrecht University. She served as principal co-author of a Supreme Court amicus brief in Kiyemba v. Obama, addressing the ramifications under international law of the U.S. government’s indefinite detention of non-combatant Chinese Uighurs. Waters also published a book chapter examining the relationship between the Supreme Court and the International Court of Justice, and has a forthcoming book chapter examining the use of international law as an interpretive tool in the Supreme Court’s post-World War II jurisprudence (both with Cambridge University Press). Additionally, she was invited to present her scholarship at the annual conference of the American Society of International Law.

Peter J. Wiedenbeck

Joseph H. Zumbalen Professor of the Law of Property

As background for the health care reform debate, Peter Wiedenbeck’s article, “Taxes and Healthcare,” appeared in Tax Notes. On behalf of a group of law professors, he filed an amicus brief advocating the grant of certiorari in Hecker v. Deere & Co. The case was out of the U.S. Court of Appeals for the Seventh Circuit involving the scope of ERISA § 404(c), which absolves defined contribution pension plan fiduciaries from liability for certain losses if the plan allows participants to select among a sufficiently broad range of investment alternatives. Wiedenbeck’s book, ERISA: Principles of Employee Benefit Law, was published by Oxford University Press in early 2010.

Law, Denver Journal of International Law, and ILSA Quarterly. She represented Timor-Leste during the Eighth Meeting of the ICC Assembly of States Parties and served as an NGO delegate to the ICC Review Conference in Kampala, Uganda. Among her many presentations, she delivered a speech on prosecuting crimes against humanity to an audience of nearly 5,000 at the Chautauqua Institution. Sadat continues to advise the Philip C. Jessup International Law Moot Court Team and direct the Summer Institute for Global Justice. Next year, she will be the Distinguished Fulbright Alexis de Tocqueville Professor of the Law.

Hillary A. Sale

Walter D. Coles Professor of Law and Professor of Management

Hillary Sale, who joined the faculty in fall 2009, was installed as the Walter D. Coles Professor of Law. Her article on corporate governance is forthcoming in Duke Law School’s Law and Contemporary Problems. Her co-authored article (with John C. Coffee, Jr.), “Redesigning the SEC: Does the Treasury Have a Better Idea?,” was published in the University of Virginia Law Review. Sale and Coffee also co-authored the 11th edition of Securities Regulation.

She presented at various workshops and conferences and was elected chair-elect of the Association of American Law Schools Section on Business Associations. Sale continues her work with DirectWomen; currently, she is a member of DirectWomen’s Executive Committee and chairs the DirectWomen’s Institute. Sale is also a member of the ABA Committee on Corporate Law, which is responsible for drafting the Model Business Corporation Act, and chairs the subcommittee drafting the 6th edition of the Corporate Director’s Guidebook.

Kent D. Syverud

Dean of the Law School; Ethan A.H. Shepley University Professor; and Associate Vice Chancellor of Washington, D.C., Programs

Kent Syverud was elected vice chair of the Council of the ABA’s Section on Legal Education and Admissions to the Bar. He served in summer 2010 as the Distinguished Jurist in Residence at the Peking University School of Transnational Law in China. He also lectured on “The Uncertain Future of American Law Schools” at Arizona State University. In spring 2010, he taught Negotiation and Civil Procedure.

Brian Tamanaha

Professor of Law

Brian Tamanaha’s new book, Beyond the Formalist–Realist Divide (Princeton University Press), was published in January 2010. A review in the Law & Politics Book Review observed that Tamanaha’s “book will change the way we think about both formalism and realism, about the history of legal scholarship, and about the empirical study of judicial decision-making.” Tamanaha delivered featured lectures at universities in Jakarta, Nagoya, Sao Paulo, and Toronto. Additionally, he was the final speaker at a conference on legal pluralism sponsored by the United States Institute for Peace.

Karen L. Tokarz

Charles Nagel Professor of Public Interest Law & Public Service; Professor of African & African American Studies; and Director, Dispute Resolution Program

Karen Tokarz is a member of the Missouri Supreme Court Commission on Alternative Dispute Resolution and chair of the current U.S. Magistrate Merit Selection Commission for the U.S. District Court, Eastern District of Missouri. She published “Advancing Social Justice through Alternative Dispute Resolution and Clinical Legal Education in India, South Africa, and the United States” in the Global Clinical Movement: Educating Lawyers for Social Justice. Tokarz presented “International Clinical Externships” at the Externships 5 conference in Miami, Florida, and “Universal Clinical Legal Education” at the Association of American Law Schools Conference on Clinical Legal Education. She coordinated the annual, yearlong Public Interest Law & Policy Speakers Series and facilitated with Annette Appell a scholarship roundtable, New Directions in ADR and Clinical Education. For the ninth summer, she directed externship placements for law students with the Legal Aid Board and Lawyers for Human Rights in South Africa. She also assisted with field placements for students in Rwanda, Burkina Faso, Cambodia, and India.

Melissa A. Waters

Professor of Law

Melissa Waters spent fall 2009 as a visiting scholar at the Brookings Institution, researching a book examining the political, economic, and legal forces involved in the evolution of the death penalty under international law. During the spring semester, she taught a short course on the death penalty at Washington University’s partner institution, Utrecht University. She served as principal co-author of a Supreme Court amicus brief in Kiyemba v. Obama, addressing the ramifications under international law of the U.S. government’s indefinite detention of non-combatant Chinese Uighurs. Waters also published a book chapter examining the relationship between the Supreme Court and the International Court of Justice, and has a forthcoming book chapter examining the use of international law as an interpretive tool in the Supreme Court’s post-World War II jurisprudence (both with Cambridge University Press). Additionally, she was invited to present her scholarship at the annual conference of the American Society of International Law.

Peter J. Wiedenbeck

Joseph H. Zumbalen Professor of the Law of Property

As background for the health care reform debate, Peter Wiedenbeck’s article, “Taxes and Healthcare,” appeared in Tax Notes. On behalf of a group of law professors, he filed an amicus brief advocating the grant of certiorari in Hecker v. Deere & Co. The case was out of the U.S. Court of Appeals for the Seventh Circuit involving the scope of ERISA § 404(c), which absolves defined contribution pension plan fiduciaries from liability for certain losses if the plan allows participants to select among a sufficiently broad range of investment alternatives. Wiedenbeck’s book, ERISA: Principles of Employee Benefit Law, was published by Oxford University Press in early 2010.
LOUIS SUSMAN, JD ’62, is serving as Ambassador to the United Kingdom. Susman, who has extensive experience as a banker and lawyer, has long been active in the public sector. In 1988, he was appointed by President Ronald Reagan to the U.S. Advisory Commission on Public Diplomacy, which provided oversight to the U.S. Information Agency. He also was a director of the Center for National Policy in Washington, D.C., a nonpartisan organization that examines national public policy issues. Additionally, he worked on the campaigns for President Barack Obama and presidential hopeful, John Kerry, as well as for the late Senator Thomas Eagleton.

During his legal career, Susman has concentrated on mergers and acquisitions and on corporate law. He began his practice in St. Louis at Thompson & Mitchell (now Thompson Coburn LLP). He also was a member of the St. Louis Cardinals’ Board of Directors and Management Committee. He then worked for Salomon Brothers, which later became part of Citigroup, heading various divisions. Most recently, Susman was vice chairman of Citigroup Corporate and Investment Banking. Additionally, he has served in leadership positions for the Chicago Council on Global Affairs, Art Institute of Chicago, and Northwestern Children’s Memorial Hospital. At the law school, he served on the National Council from 1988 to 1997.

The U.S. Senate has confirmed the Hon. Sharon Johnson Coleman, JD ’84, as a judge on the U.S. District Court for the Northern District of Illinois. President Obama nominated Coleman, a justice on the Illinois Appellate Court for the First Judicial District, to the U.S. District Court vacancy in March 2010.

Coleman had served as a justice on the Illinois Appellate Court for the First Judicial District since her election in 2008. She previously was a judge on the Circuit Court of Cook County from 1996 to 2008. Coleman was assigned to the child protection division for two and a half years and served nearly 10 years as a jury trial judge in the law division.

Before that, Coleman was a supervisor in the Cook County State’s Attorney’s Office and an Assistant U.S. Attorney in the Northern District of Illinois. She has served on the boards of numerous legal and bar associations and public interest organizations. Among her accolades, Coleman received a Woman of Excellence award from the Chicago Defender and was a Leadership Greater Chicago fellow.

Additionally, Judge Audrey Fleissig, JD ’80, was sworn in to the U.S. District Court for the Eastern District of Missouri in June 2010. She previously was a U.S. magistrate judge for the Eastern District. (Judge Fleissig was featured in the spring 2010 issue of the magazine.)
2010 Firm Participation Challenge Results*

<table>
<thead>
<tr>
<th>Firms with 40+ Alumni</th>
<th>Firms with 4–15 Alumni</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Firms with 40+ Alumni</strong></td>
<td><strong>Firms with 4–15 Alumni</strong></td>
</tr>
<tr>
<td><strong>BayFaive</strong></td>
<td><strong>Carmody MacDonald</strong></td>
</tr>
<tr>
<td><strong>43%</strong></td>
<td><strong>50%</strong></td>
</tr>
<tr>
<td><strong>Greensfelder</strong></td>
<td><strong>DrinkerBiddle</strong></td>
</tr>
<tr>
<td><strong>43%</strong></td>
<td><strong>43%</strong></td>
</tr>
<tr>
<td><strong>Husch Blackwell</strong></td>
<td><strong>Foley</strong></td>
</tr>
<tr>
<td><strong>62%</strong></td>
<td><strong>50%</strong></td>
</tr>
<tr>
<td><strong>Thompson Coburn</strong></td>
<td><strong>Freeborn &amp; Peters, LLP</strong></td>
</tr>
<tr>
<td><strong>64%</strong></td>
<td><strong>83%</strong></td>
</tr>
<tr>
<td><strong>Firms with 16–39 Alumni</strong></td>
<td><strong>Firms with 16–39 Alumni</strong></td>
</tr>
<tr>
<td><strong>Armstrong Teasdale</strong></td>
<td><strong>Goldstein, Razin, Pomerantz, Kam &amp; Sherman, LLC</strong></td>
</tr>
<tr>
<td><strong>79%</strong></td>
<td><strong>50%</strong></td>
</tr>
<tr>
<td><strong>CLA Piper</strong></td>
<td><strong>Dicky</strong></td>
</tr>
<tr>
<td><strong>47%</strong></td>
<td><strong>56%</strong></td>
</tr>
<tr>
<td><strong>Gjin</strong></td>
<td><strong>K&amp;L Gates</strong></td>
</tr>
<tr>
<td><strong>54%</strong></td>
<td><strong>42%</strong></td>
</tr>
<tr>
<td><strong>Jones</strong></td>
<td><strong>Katten</strong></td>
</tr>
<tr>
<td><strong>83%</strong></td>
<td><strong>50%</strong></td>
</tr>
<tr>
<td><strong>Kirkland &amp; Ellis</strong></td>
<td><strong>Lashly &amp; Baer, P.C.</strong></td>
</tr>
<tr>
<td><strong>63%</strong></td>
<td><strong>83%</strong></td>
</tr>
<tr>
<td><strong>Lathrop &amp; Gage</strong></td>
<td><strong>Mayer &amp; Brown</strong></td>
</tr>
<tr>
<td><strong>55%</strong></td>
<td><strong>60%</strong></td>
</tr>
<tr>
<td><strong>Lewis Rice</strong></td>
<td><strong>Nature, Pistole, Macek &amp; Lord</strong></td>
</tr>
<tr>
<td><strong>100%</strong></td>
<td><strong>50%</strong></td>
</tr>
<tr>
<td><strong>Fingerson</strong></td>
<td><strong>RGSZ</strong></td>
</tr>
<tr>
<td></td>
<td><strong>100%</strong></td>
</tr>
<tr>
<td><strong>Pezinak Shabazz</strong></td>
<td><strong>Sanderford &amp; Brown, PC</strong></td>
</tr>
<tr>
<td></td>
<td><strong>50%</strong></td>
</tr>
<tr>
<td><strong>Sonneborn</strong></td>
<td><strong>Senn &amp; Rollins</strong></td>
</tr>
<tr>
<td></td>
<td><strong>50%</strong></td>
</tr>
<tr>
<td><strong>56%</strong></td>
<td><strong>80%</strong></td>
</tr>
<tr>
<td><strong>59%</strong></td>
<td><strong>83%</strong></td>
</tr>
<tr>
<td><strong>Winston &amp; Strawn LLP</strong></td>
<td><strong>The Shaw Partnership</strong></td>
</tr>
<tr>
<td></td>
<td><strong>67%</strong></td>
</tr>
<tr>
<td></td>
<td><strong>75%</strong></td>
</tr>
</tbody>
</table>

*Reporting firms with a 30 percent or higher participation rate

2010 MARKS THE FOURTH YEAR of the law school’s Firm Participation Challenge and its first expansion to firms outside the St. Louis market. 2010 also is noteworthy for achieving the best overall alumni participation rate in eight years with gifts to the Annual Fund, driven in large part by the success of the 2010 Firm Participation Challenge.

The Firm Participation Challenge encourages alumni to give to the Annual Fund. It does so through a structure of alumni volunteer leaders at participating firms, creating a sense of fun competition as firms check their firm participation rates against those of other firms. Firm Participation Challenge results are displayed on the Annual Fund Donor Wall in the heart of Anheuser-Busch Hall for the subsequent academic year to honor all participating alumni and law firms.

During the law school’s 2010 fiscal year ending June 30, 2010, a record 37 law firms representing 668 alumni, were involved in the Firm Participation Challenge. Collectively, 59 percent of alumni at these firms—397 alumni total—made a gift to the 2010 Annual Fund. This was the highest rate ever achieved during the four-year history of this program. Four firms achieved 100 percent participation—Carmody MacDonald; Cordell & Cordell; Lewis, Rice & Fingersh; and Rosenblum Goldenhersh Silverstein & Zafft—and the vast majority of firms significantly increased their alumni participation rates over prior years.

The success of the 2010 Firm Participation Challenge was a significant factor in the law school achieving a 24.2 percent overall alumni participation rate in the Annual Fund, up from 22.9 percent in 2009, putting the law school closer to the benchmarks set by other top-ranked law schools, notes Gina Sholtis, senior director of alumni and development for the law school.

“We are grateful to all 37 of the participating firms and the 397 Washington University law alumni at these firms for their tremendous response,” Sholtis says.

Elizabeth Kaul, director of development for the law school and administrator of the Firm Participation Challenge, says she was particularly pleased to welcome the 12 expansion firms and many new volunteers in both St. Louis and Chicago to this year’s challenge.

“Our alumni leaders put a lot of personal effort into raising awareness among their alumni colleagues of the law school’s need for gifts of any size,” she notes. “Specifically at our 12 new
expansion firms, their efforts resulted in a participation rate of 57 percent among alumni at these firms, compared to an overall rate of 19 percent participation last year.”

Sholtis notes gifts of any size can add up to much needed scholarship aid and assist the school in other ways. “The Annual Fund is our largest source of unrestricted funding, and the majority supports student scholarships,” she says. “Just 50 gifts of $100 are enough to create an annual scholarship for a student. And, alumni participation is one of many factors impacting our national rankings, so this program is important for numerous reasons.”

Al Rose, JD ’70, who served as a Firm Participation Challenge volunteer at Lewis, Rice & Fingersh LC, says that he is happy for the opportunity to give back to his alma mater, both in terms of volunteering for the challenge and his gifts to the Annual Fund. “Our legal education is the bedrock of our careers and livelihoods, and we are fortunate to have had an education at the highest level,” he says. “It is a high priority of mine to encourage each of my alumni colleagues to make a gift to our law school. I am passionate about it.”

In large part thanks to his efforts, all 29 Washington University law alumni at Lewis, Rice & Fingersh participated in the challenge. The firm was one of four to reach 100 percent alumni participation in 2010, and one of three firms to have 100 percent participation in both 2010 and 2009.

The Firm Participation Challenge is poised to continue its expansion and welcomes new participating firms where three or more law alumni work. For more information or to become involved in the 2011 Firm Participation Challenge, contact Elizabeth Kaul at (314) 935-7381 or elizabeth_kaul@wustl.edu.

2010 Firm Participation Challenge Volunteers

Armstrong Teasdale LLP (Steve Jones, JD ’82)
Bryan Cave LLP (Peter Van Cleve, JD ’86)
Carmony MacDonald PC (Emily Rosen, JD ’05)
Clausen Miller PC* (Dean Rauchwerger, AB ’81, JD ’84)
Cordell & Cordell PC (Joe Cordell, LLM ’08)
Curtis, Heinz, Garrett, and O’Keefe PC (Leland Curtis, JD ’68)
DLA Piper* (Susan Lichtenfeld, JD ’77 and Monica Thompson, JD ’81)
Drinker Biddle & Reath LLP* (Ed Getz, JD ’85)
Foley & Lardner LLP* (Mark Prager, JD ’76)
Frankel, Rubin, Bond, Dublin, Siegel & Klein PC (Lenny Frankel, JD ’65)
Freeborn & Peters LLP* (Rick Wendy, MA ’83, JD ’83)
Gallop, Johnson & Neuman LC (Tom Campbell, JD ’87)
Goffstein, Raskas, Pomerantz, Kraus & Sherman LLC (Sandy Pomerantz, JD ’65)
Greensfelder, Hemker & Gale PC (Tim Thornton, JD ’80)
Harness, Dickey & Pierce PLC (Bryan Wheelock, JD ’82)
Husch Blackwell LLP (Gary Feder, JD ’74; Scott Jarboe, JD ’03; and Alan Nemes, JD ’82)
Jones Day* (David Kates, JD ’95)
K&L Gates LLP* (Andy Andreasik, JD ’91)
Katten Muchin Rosenman LLP* (Karl Barnickol, JD ’97)
Kirkland & Ellis LLP* (Terry Dee, JD ’92)
Lashly & Baer PC (Jim Hetlage, JD ’89)
Lathrop & Gage LLP (Steve Horace, JD ’85)
Lewish, Rice & Fingersh LC (Al Rose, JD ’70)
Mathis, Marifian, Richter & Grandy Ltd (Pat Mathis, JD ’78, LLM ’79)
Mayer Brown LLP* (Tom Lidbury, JD ’92)
Polsinelli Shughart PC (Jay Dobbs, JD ’91)
Polster, Lieder, Woodruff & Lucchesi LC (Philip Polster, JD ’67)
Rosenblum, Goldenhersh, Silverstein & Zafft PC (Gene Zafft, JD ’52)
Sandberg, Phoenix & von Gontard PC (Ken Bean, JD ’77)
Senniger Powers LLP (Scott Eidson, JD ’05)
Sonnenschein Nath & Rosenthal LLP (Brad Winters, JD ’81)
Stone, Leyton & Gershman PC (Steve Stone, JD ’73)
Summers, Compton & Wells PC (Ron Compton, JD ’67)
The Stolar Partnership LLP (Tom Lowther, JD ’62)
Thompson Coburn LLP (Ed Cohen, JD ’82 and Dudley Von Holt, JD ’85)
Wildman Harrold Allen & Dixon LLP* (Jim Christman, JD ’73)
Winston & Strawn LLP* (Cardelle Spangler, AB ’91, JD ’97)

*2010 Expansion Firms
[Small Firm Spotlight]

Family Matters

FIRM: Bauer Soule Garnholz Albin, St. Louis
www.stl-lawmatters.com

ATTORNEYS: Cynthia Albin, JD ’95; Ann E. Bauer, JD ’94; and Cynthia Garnholz, JD ’80; with Gary T. Soule and Susan Fox Jacobsen

AREA OF PRACTICE: Family Law

YEAR FOUNDED: 2009

BRIEF BACKGROUND:
Alumnae Cynthia Albin and Ann Bauer have practiced primarily in the area of family law since graduating from Washington University and have practiced together since 2001. Both have been active in the local bar association and Missouri Bar. In October 2009, alumna Cynthia Garnholz joined them, along with Gary Soule, to form their current firm. Garnholz handles family law, small business, estate planning, and probate matters. She currently serves as an alderman for the City of Clayton and provisional judge for St. Louis County Municipal Court.

Q: Why did you choose to practice in a small firm?

A: Each of us values the “control over one’s destiny” that is possible in a small firm. We have direct control over most aspects of our practice, including expenses, the selection and compensation of support staff, and what clients and cases we will accept. Practicing as a small firm also gave us the opportunity to choose one another as law partners. We are so fortunate that we enjoy one another’s company, respect one another’s abilities, and support one another’s success.

Q: Do you feel that your firm size is a plus, a minus, or a nonfactor in your practice?

A: Since we spend a lot of time in the office and the work is intense, it is a definite plus to be in an environment that feels like “home.” Knowing each other and our support team well is a definite plus. We believe that all of us, attorneys and support team, know that each person is willing and able to help out when needed. That is a good feeling. The less positive aspect of a small firm is related to management since it takes a lot of time to run the business aspect. Having policies and procedures is important, and there are many nonbillable hours for each partner in a small firm. That can seem a burden at times when there are so few partners to share the load. On the other hand, we can get up every day and feel it is “ours” and we built it. That is a great feeling.

Q: What advantages, if any, have you found through practicing with your alumnae?

A: Alumnae Ann Bauer, JD ’94, and Cynthia Albin, JD ’95, overlapped in law school and shared that experience. Alumna Cynthia Garnholz, JD ’80, is a second-generation law school alumna. Her father, Edward W. Garnholz, graduated from Washington University School of Law in 1947. The fact that we all attended the same law school gives us a shared experience and common history that is both unique and fun. While we
joke with one another that none of us would be accepted to the law school now due to its high standards for acceptance, we do value and are proud of the fact that each of us was accepted to and completed our law school education at a school that has for many years provided a legal education that is among the best in the nation. And our stock value keeps going up as the standards for acceptance rise at our alma mater!

Q: Why did you choose your particular area of practice?

A: For all of us, family law was an interest, and family work tends to come to small firm practitioners even if they are not trying to focus on family law. Family law offers the opportunity to work closely with people, and to help them at a very difficult time of life. For the three of us, that is rewarding. What people outside of family law do not always realize is the range of issues we deal with, and the multiple areas of the law that are part of family law. It may be numbers one day and emotional custody issues the other. It is an intellectually challenging area of the law.

Q: What advice would you have for someone interested in pursuing this area of law?

A: We would encourage those interested in pursuing a career in family law to look for a mentor, whether through a formal mentoring program or association with an experienced practitioner. Since practicing family law can be very stressful for lawyers, especially those learning that area of the law, it is also necessary for practitioners to develop ways in which to “throw off” the stress, whether through exercise, hobbies, or other relaxation methods. Ann Bauer is a runner, Cynthia Garnholz finds time for step aerobics and yoga, and Cynthia Albin enjoys exercising and spending time with her husband, Seth Albin, JD ’97, and two young children. We find this area of the law to be fascinating and rewarding, and encourage those who are interested in it to explore it as a primary field in which to practice and find career satisfaction.

Q: What has been the most rewarding aspect of your practice or a case you have handled?

A: We always want to do a good job for our clients. We often have to tell them the bad news of what they can expect versus what they want. We know that the results, whether in settlement or handed down by a judge after trial, are not always going to make our clients happy and that many will be in a very difficult financial circumstance going forward. It is rewarding when clients send pictures of their children at Christmas. It also is rewarding when clients tell us that they appreciate that we were honest with them about what to expect. We are happy when former clients return to us when they need to instead of seeking out a different attorney. Referrals from former clients are the best!

“The fact that we all attended the same law school gives us a shared experience and common history.”

At a Glance:

Cynthia Albin
- Volunteer lawyer, Legal Services of Eastern Missouri and Legal Advocates for Abused Women
- Board member, National Council of Jewish Women
- Guardian ad litem, St. Louis County Family Court
- Member, numerous professional associations

Ann E. Bauer
- President, Advisory Board for Woman’s Place and volunteer lawyer, Legal Services of Eastern Missouri
- Member, St. Louis County Family Court Task Force and Missouri Bar Family Law Section Task Force on Parenting Coordination, as well as past chair, Family Law Section
- Guardian ad litem, St. Louis County Family Court
- Member, numerous professional associations

Cynthia Garnholz
- Provisional judge, St. Louis County Municipal Court
- Alderman, City of Clayton
- Guardian ad litem, St. Louis County and City of St. Louis Family Courts
- Member, numerous professional associations
1962
Richard L. Turner retired after 45 years as an attorney in St. Louis. He now lives in Princeville, Kauai, known as “The Garden Island.” Turner reports that he does tai chi on the beach at Hanalei, as well as a lot of swimming, and he will be starting yoga classes soon. He says he also eats fresh swordfish, mahi mahi, and salmon three times a week. Turner’s advice to his classmates is: “Do not wait too long before retiring in a beautiful place like this. You deserve it after working hard all your life!”

1967
George Fitzsimmons was inducted into the Academy of Court Appointed Masters (ACAM). ACAM is an honorary organization for lawyers who have served with distinction as a Special Master in complex litigation matters, including mass torts, class actions, toxic torts, and multidistrict litigation cases. Fitzsimmons is a member of the mediator panel at USA&M Midwest Inc. in St. Louis.

1969
The Hon. Michael A. Cherry served as the master of ceremonies at a Nevada Justice Association Gala Dinner in Las Vegas. He has served as a justice on the Supreme Court of Nevada since 2006.

Maury Poscover recently co-authored a chapter on corporate finance in Successful Partnering Between Inside and Outside Counsel. The treatise is jointly published by West and the Association of Corporate Counsel. Originally released in 2000, the updates are a part of a four-volume, 7,000-page report examining numerous aspects of the relationship between inside and outside counsel. Poscover is a partner in the St. Louis office of Husch Blackwell LLP.

1975
Robert L. Firth has been awarded his Ni Dan (2nd degree) black belt by the Shotokan Karate-do Association of Southern California. Firth has a bankruptcy law practice and real estate brokerage company in Cathedral City, California.

1976
William H. Mohr has earned the International Association of Privacy Professionals’ Certified Information Privacy Professional designation after many years in broker-dealer regulatory work. He now works for Citigroup’s Global Data Privacy Office in New Jersey, handling cross-border data protection and outsourcing issues.

1977
Lynn Chipperfield has been elected chairman of the Board of Trustees at Drury University in Springfield, Missouri, his undergraduate alma mater.

1980
Dan Glazier received an Unsung Hero Award from the Jewish Light in St. Louis. The award pays tribute to individuals who have demonstrated commitment to bettering people’s lives. Glazier has served as the executive director and general counsel of Legal Services of Eastern Missouri (LSEM) since 2005. He first joined the nonprofit organization as a Reginald Heber Smith Fellow in the Welfare Law Unit in 1981. Since that time, Glazier has served in a variety of leadership roles at LSEM, including co-managing attorney of the Housing Unit from 1998 to 2005.

1981
Bruce A. Harwood, a shareholder at Sheehan Phinney Bass & Green PA, has been named a Fellow of the American College of Bankruptcy. Harwood is one of only three fellows from the state of New Hampshire. Nominees are invited to join the college based on a record of achievement reflecting the highest standards of professionalism. Since 1981, Harwood has practiced almost exclusively in the areas of bankruptcy and insolvency. He is a member of the Board of Directors of the American Bankruptcy Institute (ABI) and served four years as co-chair of ABI’s Northeast Bankruptcy Conference. Harwood also is a member of the National Association of Bankruptcy Trustees and the Local Rules Advisory Board for the U.S. Bankruptcy Court for the District of New Hampshire.

R. Mark McCareins was honored with the Gene B. Meier Award for outstanding service to Lawrence Hall Youth Services in Illinois. McCareins is a member of Lawrence Hall’s Board of Trustees and serves as its corporate secretary. A senior partner at Winston and Strawn LLP, McCareins also recently gave a presentation on antitrust developments to members of the ABA Antitrust Section Corporate Counsel Committee.
1982
Richard L. Schnake has become a member of the Professional Autograph Dealers Association (PADA). Membership to PADA, a prestigious, international organization of autograph and manuscript dealers, is by invitation only. Schnake founded History In Ink Historical Autographs in 2003. He concentrates in signed letters and other autographed items from U.S. presidents and first ladies, Supreme Court justices, European royalty, and World War II military figures, but also offers items from many other notable persons throughout American and world history. His website is www.historyinink.com. Schnake also continues to practice law full time as a partner in the Law Firm of Neale & Newman LLP in Springfield, Missouri, in the areas of appellate practice and intellectual property.

1984
Kathleen Boozang has been named interim vice provost at Seton Hall University. She has been a member of Seton Hall’s law faculty since 1990. Boozang founded the school’s Center for Health and Pharmaceutical Law and Policy and has served as associate dean for academics. Her scholarship has focused primarily on Catholic hospitals, nonprofit governance, and corporate compliance in the life sciences industry.

1986
Robert J. Bassett has joined Williams, Venker & Sanders LLC in St. Louis as a partner. With more than 20 years of experience as a trial attorney, Bassett focuses his practice on product liability and transportation defense. He currently is serving as first vice president for the St. Clair County Bar Association and has also been a member of the association’s Board of Directors.

Karin Díaz has been selected to receive a 2010 U.S. EPA Environmental Quality Award for her work with the Watershed Stewardship Program of San Juan. The award is the highest recognition the EPA presents to members of the public, recognizing those who have demonstrated an outstanding commitment to protecting and enhancing environmental quality and public health. Díaz chairs the stakeholders’ involvement committee that has worked to achieve the program’s water quality objectives. The award nomination notes specifically that Díaz’s “pro bono legal advice has proven to be an irreplaceable and unique asset.” It also recognizes both her redrafting the Phosphate Detergent Control Act and her working toward the act’s passage.

1988
LaRee DeFreece was appointed by Missouri Governor Jay Nixon as a commissioner for the Missouri Environmental Improvement and Energy Resource Authority (EIERA). The quasi-governmental agency provides financial assistance for energy and environmental projects through the Missouri Department of Natural Resources. EIERA also

Downey Publishes Book on Firm Practice

Michael Downey, JD ’98, has published a new book, Introduction to Law Firm Practice (ABA, 2010). The book is a guide for young and aspiring lawyers designed to demystify how law firms operate, as well as how to succeed in law firm practice.

“The book provides law students and entry-level lawyers with the ins and outs they will need to help navigate their way through a law firm and excel in their profession,” says Downey, a partner in the national lawyer ethics and risk management practice group at Hinshaw & Culbertson LLP in St. Louis. Author of more than 40 articles, Downey teaches courses at the law school in legal ethics and law firm practice. He also has delivered numerous presentations on these topics nationally.

Drawn from his extensive experience and research, Downey’s new book covers a wide range of topics in an easily digestible form. These include organizational structure, governance, and promotional tracks for firms; types of law practices and firm culture; revenue development and law firm profitability; lawyer compensation and review processes; intake of client matter, including engagement letters, retainers, and conflict checking; managing client work and client relationships; business development efforts for new clients; risk management and dealing with mistakes; diversity; and mentoring. Organized in 41 chapters, the book also includes four valuable exercises on organizing and marketing a practice. The contents were adapted from material for one of his law school courses.

For more information, visit ababooks.org and search under the book title.
conducts research, supports energy efficiency and energy alternatives, and promotes economic development and environmental protection. Vice president and business director of Global Sustainability Consulting Services at HOK in St. Louis, DeFreece is a Leadership in Energy and Environmental Design accredited professional.

Daniel J. Sherman is serving as senior vice president and family wealth director of the Sherman Group at Morgan Stanley Smith Barney. He recently joined firm volunteers in delivering numerous meals through the Citymeals On-Wheels program in midtown Manhattan.

**1989**

Rebecca Stith was awarded the Missouri State Public Defender System’s Director’s Award for her service on the Missouri Public Defender Commission. She served on the commission from the time of her appointment in 2003 until fall 2009, including holding the position of vice chair from 2005 to 2007. Stith currently is a senior trial attorney at the St. Louis district office of the U.S. Equal Employment Opportunity Commission and an adjunct instructor of employment discrimination law at Saint Louis University.

**1990**

Allen D. Austill has been awarded a Fulbright Scholarship to lecture and conduct research in business law at Sofia University’s (St. Kliment Ohridski’s) Faculty of Economics and Business Administration in Sofia, Bulgaria. He is a professor of accounting and business law at Union University in Jackson, Tennessee.

Jonathan I. Goldstein is serving as managing director at Advantage Capital Partners in St. Louis. A nationally recognized expert in the field of tax incentive investing, he will be assisting with the structuring and closing of New Markets Tax Credit transactions and developing the firm’s business opportunities in other areas.

**1991**

Stephen J. Dunn is under contract to serve as a co-author of the forthcoming CCH Wolters Kluwer treatise on federal tax practice and procedure. He also helped develop the treatise, which is designed to be a premier work on federal tax practice and procedure. In addition to writing, he practices tax law full time and is an adjunct lecturer at the University of Michigan–Dearborn College of Business.

Connie McFarland-Butler reports that she is pursuing her dream of owning her own law firm. She established the Law Office of Connie McFarland-Butler LLC in Florissant, Missouri. McFarland-Butler specializes in representing personal injury clients. Her new website is at cmbpersonalinjury.com.

**1993**

Matthew Homann is the creator of LexThink. Based in St. Louis, his company promotes innovative legal management concepts such as open-space technology “un-conferences.” He also writes The [Non] billable Hour blog, where he posts about novel practice ideas, such as alternative billing arrangements and creative marketing techniques. He has been active in legal innovation, hosting conferences, and speaking to lawyers and firms about creativity, client service, and alternative billing. Homann also designs and facilitates firm retreats. His website is at www.LexThink.com.

**1994**

Kelly Moore, who recently finished his first year as a professor at University of Toledo College of Law, was voted Outstanding Professor of the Year by the 2010 graduates. No other first-year professor has ever received this award at UT College of Law.

**1997**

Christopher G. Hill announced that he entered into solo law practice at the Law Office of Christopher G. Hill PC on July 1, 2010 in Glen Allen, Virginia.

**1998**

Patrick Chavez, a partner at Williams Venker & Sanders LLC in St. Louis, has been re-elected to the Bar Association of Metropolitan St. Louis leadership.

Lynn Kirkpatrick and her husband, Joe Guevara, welcomed twins, Jake and Gina, on June 13, 2009. Jake and Gina join big brother, Kirk. Kirkpatrick is currently deputy chief of the Narcotics Section for the U.S. Attorney’s Office in Miami.

Melissa Schubert has joined the U.S. Foreign Service, after working in corporate law for seven years in Chicago, Hong Kong, and Delaware. Schubert is currently serving...
**CLASS GIFT GENEROSITY**

Members of the 2010 Class Gift Committee gather to celebrate their success. Overall participation in the graduation class gift was 70 percent. Dean Kent Syverud, back row, left, thanks the committee for their hard work. Members, front row, from left are: Scott Sakiyama, Becky Christensen, Jocelyn Chong, E.D. Harris, McCall Carter, Lisa Kohn, Malinda Lee, Michelle Feit; back row, from left: Genavieve Fikes, Justin Cruz, Spencer Martin, Alyssa Razook, Matthew Dietz, Joel Christensen, Jason Batts, Jay Greathouse, Davin Rosborough, and Ryan Clark (not pictured: Gary Allen, Chantavia Burton, David Cutler, Jonathan Dembling, Selesa Green, Amanda Highlander, Erica Jones, David Kronenfeld, Melissa Lin, Eli Levine, Kristen Schwendinger, and Sophie Wang).

in Algiers as deputy consular section chief. Beginning in July 2011, her next posting will be in Baghdad serving as a refugee coordinator.

**1999**

**K. Lee Marshall** has been named managing partner of Bryan Cave LLP’s San Francisco office. Marshall, who joined the firm in 2000, transferred from the St. Louis office. Head of Bryan Cave’s appellate team, he focuses his practice on appellate and intellectual property litigation matters, with a particular emphasis on biotech patent litigation. He currently serves on the Federal Advisory Committee to the U.S. Court of Appeals for the Eighth Circuit.

**2000**

**Jovita Foster** was appointed by the Supreme Court of Missouri to an ad hoc committee studying the discovery and use of electronically stored material. Foster is a partner at Armstrong Teasdale LLP, where she focuses on employment and labor law litigation. She also serves as a commissioner on Missouri’s Credit Union Commission.

**ByungChan Jung (LLM)** was selected a “secondee” at the Commodity Futures Trading Commission for a one-year program in the Financial Supervisory Service. He recently relocated from Seoul, Korea, to Washington, D.C.

**2001**

**Francis J. Beckwith** (MJS) is serving as a full professor in the philosophy department at Baylor University. He also was a Mary Anne Remick Senior Visiting Fellow in the Center for Ethics & Culture at the University of Notre Dame. Beckwith has recently published articles in *Ethics & Medicine, University of St. Thomas Journal of Law & Public Policy, Journal of Law & Religion, Santa Clara Law Review,* and *Josephinum Journal of Theology*. His most recent book, *Politics for Christians: Statecraft as Soulcraft*, was published by IVP in 2010. He also is the author of the books, *Defending Life*, Cambridge University Press (2007), and *Return to Rome: Confessions of An Evangelical Catholic*, Brazos Press (2009).

**2002**

**Nasser Saleh Al-Hamdan** (LLM) is a certified Saudi lawyer. He is serving as the general legal counsel of Jadwa Investment Company. Al-Hamdan supervises the company’s legal department, compliance and anti-money laundering unit, and corporate secretary office.

**Gary Zhao** was appointed an ambassador for the ABA’s Business Law Section. Each year, only five or six ambassadors are selected nationally. The distinction is given to attorneys who have demonstrated substantive contributions to business law and who have been active in a national bar organization for lawyers of color. Zhao is a partner at SmithAmundsen’s litigation group in Chicago.
2003

Shaun Falvey has joined the St. Louis office of Brown & Crouppen PC. Stephanie M. Grise was appointed by Governor Jay Nixon to serve on the Missouri Credit Union Commission for a five-year term ending January 1, 2015. The mission of the seven-member commission is to promulgate regulations related to credit unions; hear appeals of orders or decisions pertaining to the chartering, relocation, branching, or membership of credit unions; and advise the director of the Division of Credit Unions. Grise also was recently selected for the 2010–11 Leadership St. Louis class, which provides community immersion experiences and advanced skill development, enabling participants to explore critical issues in the St. Louis region. A senior associate at the St. Louis office of Armstrong Teasdale LLP, she focuses her practice in public law and finance matters, specifically on redevelopment incentives.

Thomas McCormack is serving as associate director of the Office of the Ombudsman for the Financial Industry Regulatory Authority (FINRA). He previously was a senior manager in FINRA’s Registration and Disclosure Department. McCormack lives in Bethesda, Maryland, with his wife, Julie, and son, Colin.

2004

Luke Baumstark has joined Williams Venker & Sanders LLC in St. Louis as an associate.

2005

Michael Xuhui Fang (LLM ’05, JD ’09) was invited by the Beijing Lawyers Association to lecture on transnational litigation to Chinese lawyers. Fang is a faculty member of the law school at Hunan University of Technology, which is located in his hometown, Hunan province, Middle Kingdom.

2006

Michelle Akinsiku Hayde has joined Williams Venker & Sanders LLC in St. Louis as an associate.

2007

Julie Lam received the Distinguished Brief Award from the Thomas M. Cooley Law Review for her co-authorship of an amicus curiae brief in Edry v. Edelman, which was submitted on behalf of the Michigan Health & Hospital Association. The award is given in recognition of the most scholarly briefs filed before the Michigan Supreme Court as determined by a panel of jurists. Lam is an associate at Warner Nocross & Judd LLP in Grand Rapids.

Kevin Zhenfeng Liu (IP LLM ’07, JD ’09) is working as an associate in the New York and New Jersey offices of Anslow & Jaclin LLP practicing international corporate finance with a primary emphasis on China-related securities offerings.

Marisa Maclellan was recently named a Rotary International Ambassadorial Scholar for 2010–11. She plans to use her scholarship to earn an LLM at the Université Jean Moulin in Lyons, France. In addition, she will...
give presentations for Rotary International and participate in service projects. For the past two and a half years, she has been a prosecutor on the Financial Crimes Team at the Tulare County District Attorney’s Office in California.

Rommel S. Manuel (LLM) is a member of the Castillo Law Office in New York City.

Kennedy Maranga (LLM) was accepted to pursue a PhD in law at the University of Birmingham, United Kingdom.

Kristen Patton Sagar and Dr. James R. Sagar, an alumnus of the School of Medicine, welcomed their first child, Elizabeth Anne, on March 3, 2010. Baby Ella weighed 7 lbs., 4 oz. and was 19-1/2 inches long.

The family lives in St. Louis, where Kristen Sagar is an attorney for Covenant Theological Seminary.

2008

Jason Plowman has joined the Milwaukee office of Littler Mendelson PC. He also was recently selected to serve on the Board of Directors of the National LGBT Bar Association.

Brett Rowan has accepted a two-year position with the DOJ Honors Program serving as the law clerk to the immigration court in Honolulu. He also recently published an article on EU immigration in Loyola Law School’s International and Comparative Law Review.

2009

Ming-Yu Miriam Chu (LLM) is pursuing her SJD at George Washington University.

Travis Hughes has joined Armstrong Teasdale’s St. Louis office as an associate. He focuses primarily on business, commercial, and tort matters.

Jasper Kan has joined DeHeng Chen LLC in New York City as an associate.

Neeraj Shah and his wife, Krupa, welcomed their son, Rishabh, in January 2010. They moved to Rochester, New York, where Shah opened his own firm. His practice areas include estate planning and tax.

2010

Lisa Kohn has been selected as a 2010–11 American Constitution Society for Law and Policy (ACS) Next Generation Leader. ACS is a legal organization focusing on individual rights, equality, and access to justice. Next Generation Leaders are offered opportunities to increase their engagement in ACS work at local and national levels, including research and writing, lawyer chapter organizing, network building, and development.

Note: View Washington University School of Law’s online Class Notes (law.wustl.edu/Alumni/classnotes.asp) for recent additions, including individually reported selections to Law360 Rising Legal Star, Texas Rising Star, American Bar Association Journal’s Legal Rebel, and Chambers USA: America’s Leading Lawyers for Business.
Whitney R. Harris, the namesake of the law school’s Whitney R. Harris World Law Institute, died on April 22, 2010. He was 97. Harris was the last surviving prosecutor during the trial of the principal Nazi war criminals at Nuremberg. A great friend of the law school, he was a firm supporter of efforts to promote the rule of law. Harris was the author of numerous articles and books, including his firsthand account of the Nazi war trials, *Tyranny on Trial*. He served as a captain in the U.S. Navy before joining U.S. Chief of Counsel Robert H. Jackson’s team. He was a generous supporter of programs at Washington University and numerous philanthropic organizations.

Fred L. Kuhlmann, JD ’38, a dedicated supporter of the law school, died April 3, 2010. He was 93. Kuhlmann served as a longtime executive of Anheuser-Busch Cos. Inc., including as executive vice president. He also was president, vice chairman, and chief operating officer of the St. Louis Cardinals. The law school’s Anheuser-Busch Hall was named in recognition of a generous gift from the Anheuser-Busch Foundation in honor of Kuhlmann. A member of the law school’s National Council, he received the law school’s Distinguished Alumni Award in 1984. A civic leader, Kuhlmann served on the boards of numerous organizations.

**In Memoriam**

1930s
Irvin Becker, JD ’39

1940s
James H. Bandy, JD ’46
William H. Frey, JD ’47
Ottmar H. Grebe, Jr., JD ’47
Kenneth E. Bigus, JD ’48
Ernest D. Grinnell, Jr., JD ’48
Wilson F. Hunt, JD ’48

1950s
Arthur H. Slonim, JD ’50
Gus O. Nations, JD ’52
Byron Backlar, JD ’55
Hon. George T. Swartz, JD ’58

1960s
Joseph A. Lott, JD ’60
Stanley E. Goldstein, JD ’62

1970s
Barbara J. Harris, JD ’75

1980s
Steven D. Miller, JD ’86
Steven Michael Stone, JD ’86
The Legal Market has been changing rapidly, and the after-effects of the current economic downturn are likely to alter the practice of law, and legal education, in profound ways for the future. Law schools, which have benefited greatly from legal practice expansions and general economic prosperity for the past 50 years, are coming to grips with the realities of today. These include contraction in hiring and, in some instances, retrenchment at law firms and other legal employers. Successful law schools of the future will be those that both respond to a changing environment and have sound programs of legal education that are forward-looking.

In many ways, law schools will have to look more deliberately at their programs of legal education and listen more closely to what recent graduates, experienced alumni, and employers think about legal education. In the past few years, some law schools have tried major curriculum “reforms” with less than successful results. In analyzing what went wrong, frequently the “reforms” were driven with a particular endpoint in mind and support for the changes was not strong. Often missing was a thoughtful process leading to a consensus for change that was wide and deep. Indeed, even the use of the word “reform” was, to some extent, counterproductive to the processes at most law schools.

Rather than embarking on “reform,” law schools should engage in ongoing curriculum development. Smart law schools are relying upon some of the best thinking about how to develop a law school curriculum in a thoughtful, effective way. Some law schools, like our own, are embarking on a twofold approach to curriculum development. Schools must first identify and implement changes that can help current students and improve both the program of legal education and the business model of the law school quickly. Second, they must implement a process to develop the curriculum more comprehensively to meet future needs. This should include seeking input from alumni and employers working toward the goal of better preparing graduates to meet client needs.

Three years ago, two important books critiquing U.S. legal education were published. The first, Educating Lawyers, a Carnegie Foundation for the Advancement of Teaching report, concluded that the study of law required emphasis on three apprentice-ships: acquisition of formal knowledge; development of practical skills; and development of professional identity in which formal knowledge and practical skills are integrated to focus on developing ethical, competent legal professionals. The second book, Best Practices for Legal Education: A Vision and a Road Map, primarily authored by Professor Roy Stuckey of the University of South Carolina, recommended a series of steps to better prepare students for the practice of law.

Both Educating Lawyers and Best Practices provide more than a critique of legal education. They advance useful ideas about structuring an effective curriculum-development process. The premise of curriculum development in Best Practices is that the overarching goal of law school is to prepare students for the effective, ethical practice of law. Essential to achieving this goal is the integration of legal analysis and practical skills throughout the curriculum, starting in the first year of law school, as the Carnegie report also recommends.

Best Practices outlines several steps for setting goals for legal education, ways to organize the program of instruction, and best practices for delivering legal instruction. It also stresses three key questions: 1) What outcomes (what graduates should be able to do on their first day of practice) do we expect for our students? 2) What is the best way (the most appropriate educational content and methodologies) for our students to achieve those outcomes? 3) How will we measure student achievement? In the process of identifying goals, effective curriculum planning involves a continuing dialogue with academics, practitioners, judges, licensing authorities, and the general public about how best to accomplish these goals. The first step toward fostering that dialogue usually begins by seeking these groups’ input concerning the lawyering skills and professional values law graduates should possess.

While thoughtful curriculum development has long been a priority at Washington University School of Law, we have redoubled our efforts in this area, including an informative discussion with our National Council last spring. As we move forward, we are continuing to seek input from alumni, practitioners, judges, employers, legal educators, and others. Current economic conditions may have accelerated the need for law schools to review their operations thoroughly, and successful law schools will engage in a healthy examination of curricula and best practices for professional development.

Peter Joy serves as vice dean, professor of law, and co-director of the law school’s Criminal Justice Clinic. His professional affiliations include serving as a member of the ABA Section of Legal Education and Admissions to the Bar’s Accreditation Committee, chair elect of the AALS Professional Responsibility Section, past president of the Clinical Legal Education Association, and former chair of the AALS Section on Clinical Legal Education.