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No Ostriches Here

The national narrative about law schools lately has been very negative. The dominant image is of schools with their heads in the sand. The perception is that law schools are in denial that law practice has changed. To many, law schools seem unaware that lawyers and law students face serious challenges with employment, debt, and career satisfaction.

This issue of Washington University Law Magazine tries to capture the many ways our school has been a leader in responding to the new legal environment. Far from being in denial, this school has been responsive and innovative.

Among our initiatives are an intensive focus on individually partnering with our students and mentoring students throughout their job search; the launching of an online LLM in U.S. Law for foreign-trained attorneys, which is the first of its kind among top-tier law schools; the introduction of new and expanded programs focusing on professional development and skills training in New York, Washington, D.C., and internationally; and concerted efforts to shrink the size of the incoming class while increasing scholarship funding and addressing budgetary issues.

Many of these efforts have been done in conjunction with expertise and generous financial support from our alumni for which I am deeply grateful. I hope you will enjoy reading about some of these partnerships with our alumni, as well as a variety of features on alumni who are themselves involved in innovative careers.

As part of our efforts to further the national conversation about the pressing need for law schools to address current and future challenges in legal education, we will be hosting a national symposium on The Law School in the New Legal Environment. The symposium will address whether enough American law schools like this one will embrace needed change rather than avoid it. The symposium builds on the important work of Washington University’s Brian Tamanaha, who is featured in this issue and is among the keynote speakers. Examining the reality of the world faced by new law graduates, Professor Tamanaha’s transformative book, Failing Law Schools, is provoking much-needed soul-searching among legal educators. Details about the symposium’s impressive list of presenters and panels are recounted in this issue as well. The symposium is part of a celebratory weekend honoring Professor David Becker reaching the milestone of 50 years of teaching. We look forward to welcoming one of our largest groups of alumni back on campus for these and other Law Alumni Weekend events, October 26–27.

Other areas of interest at our school, which are highlighted in this issue, include features that encapsulate faculty scholarship, including Professor Rebecca Dresser’s book, Malignant: Medical Ethicists Confront Cancer, and Professor John Inazu’s book, Liberty’s Refuge: The Forgotten Freedom of Assembly; faculty law review excerpts by Professors Mae Quinn and Greg Magarian; our Why I Teach submission by Professor Peter Wiedenbeck; and an End Paper opinion piece by Professor Charles McManis.

As you read this issue, I hope you will join us in the realization that while we have much to celebrate at our school, American law schools are not done changing. In my view, the change we have seen so far pales in comparison to what will be necessary in the coming years to adequately help our students, the profession, and the clients they serve. Some of the change, particularly efforts to contain the cost of law school, will be painful. Washington University School of Law will lead in all efforts toward meaningful change, and by doing so it will continue to thrive. I am proud of the students, faculty, and staff here who are embracing change and thereby continuing to have an outsized impact. There are no ostriches here.
Heads Out of the Sand: Embracing the New Normal

Beginning with the economic crisis of 2008, the national narrative about legal education changed from a self-contained and fairly positive one to a widespread view of schools with their heads in the sand. The predominant narrative shared by the public, Congress, students, practicing attorneys, and many others was one of law schools in denial about many things—the terrible job situation for students; the challenge students have in paying debts given the realistic income prospects they face; and the need for law schools to change and adjust to this new normal.
In the midst of these challenges, Washington University School of Law is working hard to address the current reality and rise above the “head in the sand” narrative. In offering new tools to help graduates compete in a challenging legal market, in bringing an ever-sharper focus on professional skills development, and in deploying new technologies to reach new audiences, the law school is tackling tough issues while setting a brisk pace into the future.
The Changing Law School

For many years, the legal profession enjoyed some built-in protection from economic contraction. Clients needed lawyers as always, sometimes even more than in prosperous times. But the Great Recession that began in 2008 has diminished that historical advantage, as even major firms continue to retrench and job opportunities to shrink.

“As the profession changes, professional legal preparation must change. Nimble law schools innovate,” says Kent Syverud, dean and the Ethan A.H. Shepley Distinguished University Professor. “We are making concerted efforts to reduce costs and become more efficient, while strategically investing in career services and professional development opportunities. We are developing new technologies and dedicating resources to ensuring that our graduates find meaningful work in the law, turning their outstanding legal education into professional success.”

Indeed, the law school offers an array of initiatives designed to equip its graduates for today’s challenging environment. Some are new and represent a significant break with the past, such as the online LLM program for foreign attorneys (see below). Others build on the school’s proven strengths, such as expanded programs in New York, in Washington, D.C., and internationally. All are designed to ensure that recent law alumni can successfully hurdle the Great Recession’s obstacles, and that the school can navigate wisely and well in the new legal landscape.

This is coupled with faculty who are leading reform efforts through their leadership in national organizations and through their groundbreaking scholarship and research. In this vein, while long supporting conferences on cutting-edge topics, the law school will focus specifically on the future of legal education through a symposium this fall convening national thought-leaders. The symposium is part of a celebration honoring David M. Becker, associate dean for external relations and the Joseph H. Zumbalen Professor Emeritus of the Law of Property, for reaching the milestone of 50 years of teaching.

Partnering with Students

On the employment front, the law school has doubled down on placement initiatives, strengthening existing programs and adding new ones. The school’s collaborative model has ensured that job placement is a high priority for everyone at the school—students, faculty, and administrators.

“I’ve made placement my top priority, challenging the Career Services Office (CSO), our faculty, and our alumni to help us continually raise the bar,” Syverud says. “I meet with the CSO every week to track our progress. We take very seriously our efforts to place our students in meaningful careers, which is a core part of the school’s mission. It begins the day a student first enters our halls. We’re working at it literally every day.”

Specifically, the CSO has developed a team approach that culminates with matching each job-seeking recent graduate with a faculty member, a CSO advisor, and an alumnus to drive the

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Law School Launches Innovative Online Program for Foreign Lawyers

@WASHULAW, THE ONLINE VERSION of the law school’s respected LLM in U.S. Law for foreign lawyers, is perhaps the ultimate example of harnessing innovation. While legal education in the future will certainly use technology in previously unimagined ways, the law school has demonstrated its ability to be forward-thinking with this new program. @WashULaw is currently accepting applications for classes that begin in January 2013, expecting to enroll 20 students in the first cohort.

The program is the only online LLM in U.S. Law offered by a top-tier law school. The venture was made possible through the school’s partnership with 2tor, a company that collaborates with leading universities to deliver rigorous, selective degree programs. At the graduate level, 2tor has online programs with Georgetown University in nursing, the University of North Carolina in business, and the University of Southern California in social work and education. Washington University is 2tor’s only law school partner, and 2tor will maintain an exclusive arrangement with the law school for delivery of the online LLM.

“@WashULaw allows us to use cutting-edge technology to train lawyers across the globe—without sacrificing quality or the personal connection of our residential LLM in U.S. Law program,” notes Tomea Mersmann, JD ’91, associate dean for strategic initiatives.
process forward. “We are working hard to place all of our students on a solid path for success,” says Katherine Scannell, assistant dean for career services. “Our detailed self-assessment process facilitates students and recent alumni in finding the right professional fit, based on their specific background, interests, strengths, and geographic preference.”

The individualized approach translates to CSO advisors meeting regularly with law students, as well as emailing opportunities to students whose interest and background line up with job openings. These openings are

(right, above) Career Services Office professionals frequently engage with students about career options through a full range of formal and informal presentations. (right, below) Networking opportunities with alumni and practitioners are a common component to most CSO programming.

and @WashULaw co-director. “The 2tor relationship is permitting us to take on what would otherwise be a cost-prohibitive project. 2tor is providing the technology platform, instructional design, marketing, and infrastructure support, while the law school is maintaining sole responsibility for admissions, academics, curriculum, and faculty.”

Small class size, live classroom settings, streaming video, self-paced content, and interaction with colleagues and faculty are all hallmarks of the program.

The curriculum blends theory and a variety of lawyering skills courses, along with co-curricular activities. Currently Washington University’s only online initiative, @WashULaw can be completed in 12 months full time or in up to 24 months part time.

@WashULaw represents an unprecedented educational outreach to the growing number of foreign lawyers who seek to learn about U.S. law. “As globalization extends into the far corners of the world, lawyers are finding an understanding of American law ever more valuable,” says Melissa Waters, vice dean, professor of law, and @WashULaw co-director. “While the on-campus version of the LLM has been highly successful, online accessibility means that many more foreign-trained attorneys can earn this high-end advanced degree without the disruption and cost of leaving their professional and personal lives behind for a year.”

Daniel Keating, the Tyrrell Williams Professor of Law and the faculty liaison for @WashULaw, is excited about the program’s efforts to adapt the Socratic method to the new online platform, as well as future implications for the new technology. “As the law school embarks on this venture to create a high-value program, we will be able to assess other potential innovations in technology,” he says. “In this sense, the online LLM will serve as a pilot for the law school as we continue to explore opportunities in distance learning going forward.”

For more information, visit: onlinelaw.wustl.edu. |||

—By Betsy Rogers
gleaned from both expanded access to job postings and the legal project bank (see pages 6–7) and specific outreach done by CSO advisors on behalf of students.

Faculty, senior administrators, and alumni are also integral to reaching employers and other alumni who may have or be aware of potential job openings. In an expanded networking effort, fondly known as The Becker Project, the school developed a system for enhanced outreach to alumni to better engage them in the job prospect process. In all of these efforts, law school representatives—CSO advisors, administrators, alumni, and faculty—frequently target employers to introduce individual students and tout their specific strengths.

Along with the CSO professionals, faculty members are excellent resources for information since many are distinguished practitioners and/or researchers in their respective fields,” notes Steve Chiang, JD ’11, now an associate at Oliff & Berridge PLC in Alexandria, Virginia. “They are genuinely interested in helping students and will refer them to colleagues, peers, and friends who may be able to provide further assistance. When working with the CSO and faculty for my own job search, I found it immediately evident that they truly focus on each and every student as an individual.”

Growing Network of Contacts

Although networking has always been an important tool in a job search, it has become paramount in the current market. The CSO has expanded networking opportunities, providing students with access to 3,000 professionals from across the country during the past academic year alone. Almost 300 attorneys visit campus each year, and students can meet and talk with them at events like Corporate Counsel Day, Small Firm Day, Pro Bono Day, Women’s Law Day, the Employer Showcase, and the Government and Public Interest Job Fair, as well as Skype-based informational sessions and career-focused iChats.

“The Career Services Office helped me network when I moved to a new and unfamiliar city,” notes Harry Dorcy, JD ’11, who clerked for the 18th Judicial District Court after law school. “They put me in contact with other Washington University alumni, and they helped me land a clerkship in my...
district of choice. The CSO opened doors for me in Denver that I wouldn’t have been able to find by myself.”

Among its tailored efforts, the CSO sends out more than 1,200 résumé books each semester to firms in 10 cities across the country. The networking and direct contact initiatives are coupled with more traditional programming, including on-campus interviewing, off-campus interviewing, and employer events in key cities.

“The law school’s Career Services Office is probably the most responsive, friendly, and just plain helpful placement office that I have worked with in my many years of entry-level legal recruiting,” says Kim Magee, a recruiting officer at Hunton & Williams LLP in Richmond, Virginia. “I appreciate the open line of communication. The insight that the CSO provides is invaluable to not simply finding a job for each student, but also the right job for each student.”

Dean Syverud acknowledges that while the school is proud of its innovative work partnering with students to place them in meaningful careers, much work is yet to be done. “We will continue to seek improvement in our student and graduate placement efforts,” he stresses. “We welcome ongoing input and support from our students, our faculty, our alumni, and all of our key stakeholders.”

International Opportunities
For decades, the law school has acknowledged and embraced the globalization of the practice of law. The school has developed faculty and student programs around the world, including semester-long student exchange programs, stipend summer

(above) Washington University law students benefit from a diverse set of classmates composed of traditional JD students and international attorneys studying U.S. legal systems.

“Along with the CSO professionals, faculty members are excellent resources for information since many are distinguished practitioners and/or researchers in their respective fields.”

—Steve Chiang, JD ’11
Associate, Oliff & Berridge PLC

Law, completed her first Legal Project Bank assignment for the St. Louis firm of Paule, Camazine & Blumenthal PC. Attorneys at the firm were so happy with her work that they gave her other assignments while she was in school, and they offered her a position after she received her degree.

“We have made the process as simple as possible for both parties,” Scannell says. “It takes five minutes or less to post a project, and the attorney’s company or firm name is confidential.”

While posting an opportunity takes minutes, the benefit for students is long-lasting. Jessica Mendez, JD ’10 and LLM ’11 in Intellectual Property & Technology

The experience was great not only because it led to my first job out of law school, but also because it provided opportunities to work with different attorneys and law offices, ranging from the very small to the very large,” says Mendez, now a second-year associate at Brown & James PC’s St. Louis office. “The relationships I developed are valuable to me. I still keep in touch with the attorneys I worked with through the program. They serve as references and have helped me develop my reputation as an attorney.”

One recent satisfied user was Adam M. Goffstein of Goffstein Law LLC. “The Legal Project Bank helped me get immediate trial assistance with research for a motion in limine,” Goffstein says. “Washington University law students also conducted research on multiple insurance coverage issues to help me resolve a case in mediation for more than $800,000, and they helped me prepare responses to complex federal motions. In all cases, the students have been reliable, professional, and skilled.”

For more information about the Legal Project Bank, call the CSO at (314) 935-6451, email careerservices@wulaw.wustl.edu, or visit law.wustl.edu/legalresearch/projectlist.asp.

—Timothy J. Fox
public-service projects abroad, and faculty teaching and research opportunities with partner schools in Europe and Asia. Currently, two to three law faculty members annually teach in Utrecht as part of the Summer Institute for International Law & Policy, an intensive six-week program in international and comparative law for U.S. and foreign law students.

Drawing upon established relationships with four top law schools in Europe, in 2008 the law school launched the Transnational Law Program (TLP). The TLP is a unique dual-degree program whereby American and European students earn a first law degree from their home country and a master’s in law (LLM) abroad. The TLP partner institutions are the University of Trento in Italy, Utrecht University in the Netherlands, Catholic University of Portugal, and Queen’s University Belfast in the United Kingdom; faculty and students routinely visit and attend these schools. TLP students also receive a partial tuition stipend that is funded in part by a grant from the U.S. Department of Education and the European Commission.

TLP alumni are an impressive group who have gained entry into highly coveted employment opportunities. Denise Yasinow, JD ’11, is working as an associate in the Pittsburgh office of K&L Gates LLP; Yasinow received her offer after clerking in the firm’s Paris office during her TLP studies. Matthew Friedman, JD ’12, will begin work this fall as a capital markets attorney with the London, England, office of Latham & Watkins LLP.

(top) The law school’s innovative Transnational Law Program (TLP) and expanding partnerships with universities abroad have opened new opportunities for global education and professional development, as well as increased employment opportunities. (above) TLP graduate Denise Yasinow, JD ’11, is now working for K&L Gates LLP in Pittsburgh after clerking for the firm’s Paris office as a law student. (below) Clinical and experiential learning opportunities such as that offered through the New York City Regulatory & Business Externship provide students with both vital professional contacts and real-world legal work experience. In addition to the students’ on-site attorney-supervisors, Sasha Polonsky, JD ’06, far right, teaches in the program.
McCall Carter, JD ’10, who interned on two defense teams at the International Criminal Tribunal for the former Yugoslavia as a TLP student, is presently working at the International Criminal Tribunal for Rwanda.

“Shortly after graduating, I found myself on a plane headed to Arusha, Tanzania, to work as a pro bono legal researcher in the Chambers of the International Criminal Tribunal for Rwanda (ICTR), where I now serve as an associate legal officer in the Registry,” Carter says. “In addition to assisting the ICTR perform its functions, I also have had the opportunity to become involved in preparing for the commencement of the various tribunals’ successor, the Mechanism for International Criminal Tribunals. The TLP opened doors for me to be involved in the important work to establish a new institution for international justice.”

**ALSO AS PART OF ITS INTERNATIONAL** reach, the law school is deepening its relationships with several long-standing partners, while seeking new academic partnerships. In 2011, the law school and T.C. Beirne School of Law at the University of Queensland in Brisbane, Australia, announced a dual-degree program whereby students would be able to earn law degrees in the United States and Australia. The first Australian students under this program started their U.S. studies in August 2012.

As the law school explores similar opportunities in France, other recent agreements include those with Bucerius Law School, Germany’s first and leading private law school, and Radzyner Law School at the Interdisciplinary Center in Herzliya, Israel, one of Washington University’s McDonnell Academy partners and a leading law school in Israel. The law school also has growing faculty and student exchange partnerships with National University of Singapore, Hong Kong University, Fudan University in China, National Taiwan University, and Korea University.

“Our challenge is to provide meaningful opportunities for our students to prepare to join a legal profession that has become truly international and transnational,” says Michael Peil, associate dean for international programs, TLP executive director, and lecturer in law. “Our community, which includes a globally engaged faculty and an active corps of alumni all around the world, is rising to meet that challenge.”

**National Externship Programs**

LAUNCHED IN FALL 2011, the New York City Regulatory & Business Externship is another success story. The program places law students in various nonprofit, government, and in-house counsel offices for in-depth professional experiences. The semester-long externships with attorney-mentors range from those at Standard & Poor’s to the Financial Industry Regulatory Authority, the New York Attorney General’s office, and Anheuser-Busch/InBev.

“To compete successfully in a tight job market, law graduates need demonstrable skills honed in hands-on work experience,” says Janet Laybold, associate dean for admissions, career services, and student services. “To that end, the school has ramped up its historically strong efforts to place students in externships, particularly in the concentrated markets in Washington, D.C., while adding programs in other key locations such as New York and Delaware.”

In the New York program, law students hone their skills in research, writing, legal analysis, client interviewing, negotiation, and advocacy. They also make valuable contacts in the financial industry and the New York legal community, including tapping the expertise of attorney Sasha Polonsky, JD ’06, who teaches in the program.

A required three-unit companion course on legal and business ethics, offered in conjunction with the Olin Business School, is also a key part of the program. The course builds on the expanding relationship with the business school, facilitated by Hillary Sale, the Walter D. Coles Professor of Law and professor of management. In addition to her work in New York, Sale helped establish the Corporate Judicial Externship program with the Delaware Supreme Court.
The New York and Delaware opportunities draw from the proven Clinical Education Program model of the long-standing Congressional & Administrative Law Program in Washington, D.C. During the last several years, the law school has been adding significant resources to the 35-year-old program in the nation’s capital. Thanks to a university-wide partnership with the Brookings Institution, law students are benefiting from expanded externship opportunities, as well as new programming available through recently created classroom and office space.

One of the oldest legal externship programs in the capital and one of the law school’s oldest clinical offerings, the D.C. program places third-year students in federal agencies like the Securities and Exchange Commission, executive branch departments like Health and Human Services and the Treasury, congressional committee offices such as the Senate Judiciary Committee and the Committee on Foreign Relations, and in the Brookings Institution itself. Nearly 40 students participate each academic year.

IN ADDITION TO HELPING students strengthen their lawyering skills, these externships immerse participants in legal and business environments, polish key personal management abilities, and help prepare students to transition easily into practice after graduation. “This real-world experience,” says David Myrie, JD ’11, of his New York externship at Standard & Poor’s, “provided the perfect complement to the theoretical training I received in law school.” Thanks to the professional experience and contacts he made, Myrie is currently working in the Big Apple for JPMorgan Chase & Co.’s Management Associate Program.

“Both the D.C. and New York programs have been quite successful,” Laybold says. “We’ve even had students from other law schools asking if they can participate. We’ve had to turn them down, but this shows just how coveted these programs are. The attorney-supervisors also have been highly supportive and are impressed with the work our students are doing. Ideally, we would be able to expand this model to other cities in the near future.”

The CSO also helps students find summer internships and clerkships, another avenue for honing skills and acquiring experience. Now third-year law student Jacqueline Emge landed two summer 2012 opportunities with the CSO’s help.

“I appreciate that the CSO has been so actively involved in my job search,” says Emge, who interned for the St. Louis American Parkinson Disease Association and for Rosenblum, Schwartz, Rogers & Glass PC.

**Intensive Intersession Programming**

**OF COURSE, CAREER PREPARATION** starts well ahead of these on-the-ground experiences. Beginning with Orientation, law students are immersed in programming detailing what it means to become a professional. The fall semester is then filled with numerous career-related programs. Then in January, the week-long Intersession for first-year students focuses extensively on career exploration and development. In 2012 alone, Intersession featured more than 50 representatives of law firms from across the country, who showcased their organizations and got to know students. During the immersion program, experts share advice about ways to accelerate professional development.
While the law school is known for its ability to be at the forefront of meaningful curricular reform, a new required Negotiation course for first-year students during Intersession is among its latest additions. While successful negotiation is basic to almost every kind of law practice, only a few schools nationwide provide this kind of required introductory training.

The Negotiation course lays the foundation for upper-level courses that have negotiation components, like Pretrial, clinical courses, and advanced negotiation and mediation courses. “Our program recognizes that lawyers must be well versed in negotiation, problem-solving, collaboration, and creative dispute resolution to practice successfully in today’s world,” says Karen Tokarz, the Charles Nagel Professor of Public Interest Law & Public Service and director of the Negotiation and Dispute Resolution (NDR) Program.

C.J. Larkin, senior lecturer in law and the NDR Program’s administrative director, was one of five faculty members, including Tokarz and Dean Syverud, who taught the first-year Negotiation course in January 2012. “Law is a highly experiential profession,” she observes. “Introducing the students to negotiation skills helps to anchor all that they are learning in their other classes, connects them to the real practice of law, and demonstrates the critical importance of focusing on their professional skills and judgment throughout their law school career.”

Law student Noah Mullin observes: “I believe the course will make me a more well-rounded attorney. It gave me a new skill-set that will allow me to more effectively advocate for my clients.”

For upper-class students, Intersession brings in top attorneys from around the world to teach short courses providing intensive study in topics pertinent to students’ interests and career goals. Bankruptcy, housing, intellectual property, migration and citizenship, property, and tax law are among many subjects these courses explore in depth. The winning combination of a traditional legal education with experiential and targeted courses ensures that students graduate with the right skills.

**Climate of Failing Law Schools**

All these efforts take place within a broader context of upheaval in legal education, which Brian Z. Tamanaha, the William Gardiner Hammond Professor of Law, has laid out with unflinching honesty in his latest book, *Failing Law Schools*.

Tamanaha, a renowned jurisprudence scholar and an expert on law and society, details the realities of the world facing new law school graduates today, after the 2008 economic collapse sent shockwaves of lawyer layoffs through firms. (Indeed, not all the blame can be placed on the recession; he cites one study showing that law firm employment plateaued in 2004, and in the four years following that, the profession shed 20,000 jobs.) Tamanaha notes that according to the National Association for Law Placement, only 64 percent of 2010 law graduates had full-time law jobs, and starting salaries had dropped 20 percent. In a nation with about 20,000 law jobs available each year, law schools are producing more than twice that many graduates, he says. Still, the American Bar Association continues to accredit new law schools—10 of them since 2006, he observes.

For newly minted lawyers, the tough employment market is compounded by the debt with which most graduates leave law school. For most young lawyers, finding good, remunerative positions is not just a matter of personal and professional fulfillment, but of financial necessity.

Tamanaha hopes his book will provoke much-needed soul-searching among law faculties and law school administrators. But law students and recent graduates should find in it an affirmation of their concerns and the reassurance that a leading scholar is paying attention, arguing their case, and looking for creative solutions.

In addition to its innovative approaches to student preparation and job placement, the law school is taking to heart the serious issues being confronted by law schools nationally. Facing the economic climate head on, the school has worked to become more efficient, while reducing budgets and yet still offering top-tier programming. Among the strategies to address these tough issues in the delivery of legal education, the school has made concerted efforts to shrink the size of the incoming first-year class over the last two years. Additionally
the school launched a scholarship initiative aimed at increasing philanthropic support for financial aid.

Among his leadership roles to address these issues nationally, Dean Syverud has been serving as chair of the Board of Directors of Access Group, a student loan originator and service owned by accredited law schools. The group is transitioning to a foundation, while seeking innovative solutions related to student debt and loan access.

New Legal Environment

The new legal environment that Professor Tamanaha also describes in his book is the focus of a conference on “The Law School in the New Legal Environment” planned for the law school’s Alumni Weekend in October 2012. The Becker Symposium, named in honor of veteran law professor David M. Becker, will feature speakers, including current and retired state supreme court justices, respected academics from across the country, and the presidents of the Association of American Law Schools and the Law School Admission Council (see page 53).

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• Member and Past Chair, ABA Section of Administrative Law and Regulatory Practice; Former Advisor, Drafting Committee to Revise the Model State Administrative Procedure Act
• Member and Past Chair, Section on Administrative Law and Section on Legislation, Association of American Law Schools

Daniel Mandelker, Howard A. Stamper Professor of Law
• Member, College of Fellows, American Institute of Certified Planners

Andrew Martin, Vice Dean; Professor of Law; Professor of Political Science; and Director, Center for Empirical Research in the Law
• Member and Past Chair, Association of American Law Schools Section on Law & Social Sciences

Charles McManis, Thomas and Karole Green Professor of Law
• Member, Executive Committee, International Association of Teachers and Researchers of Intellectual Property

Tomea Mersmann, Associate Dean for Strategic Initiatives; Director, Washington, D.C. Programs; Co-Director, @WashULaw; and Lecturer in Law
• Member, ABA Data and Policy Committee, Section on Legal Education and Admissions to the Bar

Michael Peil, Associate Dean for International Programs; Executive Director, Transnational Law Program; and Lecturer in Law
• Member, Board of Directors, International Law Students Association

Laura Rosenbury, Professor of Law
• Board Member, Children’s Healthcare Is a Legal Duty
• Board Member, Association of American Law Schools Section on Trusts and Estates

Leila Nadya Sadat, Henry H. Oberschelp Professor of Law; Director, Whitney R. Harris World Law Institute; and Director, Crimes Against Humanity Initiative
• Member, U.S. Council on Foreign Relations

Vice President, International Law Association (American Branch) and the International Association of Penal Law

Hillary Sale, Walter D. Coles Professor of Law and Professor of Management
• Member, Executive Committee, DirectWomen and Chair, DirectWomen Institute

Kent Syverud, Dean and Ethan A.H. Shepley Distinguished University Professor
• Independent Trustee, Deepwater Horizon Oil Spill Trust

Melissa Waters, Vice Dean and Professor of Law
• Member, ABA Corporate Laws Committee

Karen Tokarz, Charles Nagel Professor of Public Interest Law & Public Service; Director, Negotiation and Dispute Resolution Program; and Director, Civil Rights, Community Justice & Mediation Clinic
• Member, Missouri Supreme Court ADR Commission and U.S. District Court ADR Advisory Committee

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Tomea Mersmann, Associate Dean for Strategic Initiatives; Director, Washington, D.C. Programs; Co-Director, @WashULaw; and Lecturer in Law
• Member, ABA Data and Policy Committee, Section on Legal Education and Admissions to the Bar

Michael Peil, Associate Dean for International Programs; Executive Director, Transnational Law Program; and Lecturer in Law
• Member, Board of Directors, International Law Students Association

Charles McManis, Thomas and Karole Green Professor of Law
• Member, Executive Committee, International Association of Teachers and Researchers of Intellectual Property

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Laura Rosenbury, Professor of Law
• Board Member, Children’s Healthcare Is a Legal Duty
• Board Member, Association of American Law Schools Section on Trusts and Estates

Leila Nadya Sadat, Henry H. Oberschelp Professor of Law; Director, Whitney R. Harris World Law Institute; and Director, Crimes Against Humanity Initiative
• Member, U.S. Council on Foreign Relations

Vice President, International Law Association (American Branch) and the International Association of Penal Law

Hillary Sale, Walter D. Coles Professor of Law and Professor of Management
• Member, Executive Committee, DirectWomen and Chair, DirectWomen Institute

Kent Syverud, Dean and Ethan A.H. Shepley Distinguished University Professor
• Independent Trustee, Deepwater Horizon Oil Spill Trust

Melissa Waters, Vice Dean and Professor of Law
• Member, ABA Corporate Laws Committee
Cutting-Edge Institute and Centers Furthering Dialog, Innovations in Research

TOP LAW SCHOOLS at research universities nationally work to create synergies among the delivery of high-end legal education and support for cutting-edge initiatives to further the rule of law. Washington University School of Law’s three centers and institute not only address important legal topics, but they also provide students with transformative research and leadership experiences.

For example, the Crimes Against Humanity Initiative, led by Professor Leila Nadya Sadat, director of the WHITNEY R. HARRIS WORLD LAW INSTITUTE and the Henry H. Oberstepfel Professor of Law, produced the Proposed International Convention on the Prevention and Punishment of Crimes Against Humanity. The project received support from alumnus Steven Cash Nickerson, JD ’85, MBA ’93; Humanity United; and the United States Institute for Peace, among others. As Cash Nickerson Fellows, law students performed research on the commission of atrocities over the past century and worked on both the proposed convention and a comprehensive book, which was published in 2011 by Cambridge University Press.

Since its founding in 2000, the Harris Institute has sponsored numerous speakers, conferences, and debates on important issues in international law and policy, as well as an ambassador program and expanded student opportunities for work and study abroad—ranging from the Summer Institute for International Law & Policy to Dagen-Legomsky Hague Fellowships to externships with the international criminal tribunals.

“Our students benefit from not only our international program and externships around the world, but also from exposure to and working alongside some of the leading minds in international law,” Sadat says.

THE CENTER FOR EMPIRICAL RESEARCH IN THE LAW (CERL) is at the forefront of a number of major research projects. Each has harnessed, in some way, the expertise of CERL faculty, staff, and students. Some of the projects, such as the Supreme Court Database, provide a rich data resource—to be used by scholars, teachers, students, and the public—to better understand the legal system. Others, like the As the Code Changes project, highlight important interdisciplinary scholarship conducted by CERL core faculty. Each of these major projects possesses a web presence and draws from sophisticated technology. The center has received funding from the National Science Foundation to support a variety of projects, including one regarding litigation in the federal district courts and another that collects data from every constitutional court in the world.

An important mission of CERL is to help support the community of scholars and practitioners who are engaged with empirical legal research, especially at a time when quantitative social scientific information is playing an increasingly important role in litigation and policy efforts. “We approach our mission by offering related workshops for law and social science faculty and courses for law students and doctoral students in the social sciences,” notes Andrew Martin, vice dean, professor of law and political science, and CERL director. “Our training provides the skills necessary for lawyers, policymakers, and others to understand, present, and rebut arguments based on empirical legal research.”

THE CENTER ON LAW, INNOVATION & ECONOMIC GROWTH (CLIEG) is an outgrowth of an earlier center with a new focus driven by current pressing issues at the intersections of law, innovation, and economic growth. In addition to its interdisciplinary conferences, seminars, and workshops, CLIEG annually sponsors a program for doctoral students from national and international law schools to present original research papers.

“CLIEG supports programs designed to stimulate interdisciplinary dialogue and scholarship within the center’s areas of focus,” says Gerrit De Geest, professor of law and CLIEG director. “We aim to create synergies while linking scholars by method, rather than specific topic within theoretical law, economics, and entrepreneurialism.”

Founded in 2000, the Center for Interdisciplinary Studies (CIS) was originally launched to more formally capitalize upon long-standing collaborations among faculty from various departments and schools across the university, while bringing in experts from throughout the world to stimulate scholarly exchange. In more recent years, CIS shifted its focus and its name to the CENTER FOR THE INTERDISCIPLINARY STUDY OF WORK & SOCIAL CAPITAL, with particular attention to the role that social class, race, and gender play in structuring relationships in society.

While CIS facilitates path-breaking research resulting from the dialog among legal scholars and sociologists, economists, social workers, psychologists, historians, and scientists, CIS events are also designed to foster sustained engagement of students and faculty with top policymakers, particularly emphasizing employment policy and labor markets. In 2011, for example, CIS brought (above) Law students have direct access to some of the world’s leaders at prominent legal institutions through work on center and institute research projects, externships, symposia, and speakers series, such as the Whitney R. Harris World Law Institute’s recent hosting of Fatou Bensouda, right, now chief prosecutor at the International Criminal Court.
JUST AS LAW is a profession built on creating and maintaining relationships, the law school’s relationships with its alumni became even more critical during the economic downturn. Alumni support in the form of scholarship aid and Annual Fund contributions, volunteer activities, and student mentoring has long been a stronghold of Washington University School of Law. During the past year, when the law school reached out to alumni to assist with job placement strategies for specific recent graduates, not surprisingly many were eager to help. Alumni support ranged from considering recent alumni for job openings to providing short-term work for newly minted graduates to reaching out to others within their network to match recent graduates with available opportunities.

“Our placement efforts are now predicated on providing significantly more networking opportunities for each student and identifying possible employers and employment opportunities for each, taking into account the student’s skills and geographic preferences,” says Kent Syverud, dean and the Ethan A.H. Shepley Distinguished University Professor. “I am deeply grateful to our alumni who have been extraordinarily helpful in this extensive networking effort.”

Members of the law school’s National Council also have been closely involved in expanding the school’s partnership with alumni for placement strategies, including Alan Bornstein, JD ’81; Howard Cayne, JD ’79; Harry Joe, JD ’75; Doug Kelly, JD ’73; Sandra Moore, BA ’76, JD ’79; Cash Nickerson, JD ’85, MBA ’93; Maury Poscover, JD ’69; Andy Puzder, JD ’78; and William Webster, JD ’49. Other alumni who have joined in targeted student employment efforts include Ruth Kim, JD ’84; Charles Seigel, JD ’84; and Marc Wallis, JD ’85.

Nickerson, principal and chief financial officer at PDS Tech Inc. in Irving, Texas, is currently drawing upon his business and management expertise to help the Career Services Office in devising new strategies for assisting incoming students with an in-depth self-assessment process to better hone their career and job search plans.
When law student Jaclyn Tordo, JD ’12, applied to work at the U.S. Department of Housing and Urban Development (HUD) Office in spring 2011, she looked forward to being part of the law school’s Congressional & Administrative Law Program, or “D.C. clinic,” in the fall.

But as weeks became months after submitting her résumé and cover letter to HUD, Tordo became concerned. She turned to Susan Kaplan, clinic co-director and senior lecturer in law, for guidance. “Susan referred me to Tenille Washburn at HUD,” Tordo recalls. “Tenille and I exchanged a number of emails, and we soon became acquainted with each other.”

Washburn, JD ’01, was herself a former Washington University D.C. clinical student. She is now assistant general counsel for field management and information technology at the federal agency. After checking with HUD’s Human Resources office, Washburn quickly discovered the problem: the agency was swamped with applications for summer positions, and Tordo was applying for the fall.

“I couldn’t believe that someone at HUD wouldn’t be interested in someone with Jaclyn’s skills and experience,” Washburn says. She then talked about Tordo with Camille Acevedo, associate general counsel for legislation and regulations.

Looking forward to my new career

“Immediately after that, I got a call,” Tordo says. “After going through the interview process, I started working for Camille in HUD’s Office of Legislation and Regulations. Associate Dean Tomera Mersmann also mentored me during my time in D.C., helping me to make the most of my experience.”

Co-directed by Kaplan and Mersmann, JD ’91, the clinic is among the oldest legal externship programs in the nation’s capital. Each year, 10–15 percent of the law school’s third-year students participate, gaining valuable experience in public service and government-related legal work.

Tordo says she loved her externship with “Legs and Regs,” as it is affectionately known. In fact, she enjoyed it so much that she decided to apply for HUD’s highly competitive Legal Honors Program. Acceptance in the program would mean full-time work after completing her JD in May 2012. She knew the competition would be fierce: 900 hopeful students had submitted applications for 12 spots—seven in D.C. and five in field offices.

As it turned out, the competition was even more intense for Tordo, since she not only wanted to work in D.C., but wanted to stay in “Legs and Regs”—rather than work in a field office. In early 2012, she got the good news: She had a spot with the Honors Program, but she still had a semester of law school to complete.

Washburn again offered assistance, helping Tordo obtain an externship in HUD’s St. Louis field office while she finished her JD. Her time in the field office gave her another perspective on HUD’s work, she says.
Finally, over the summer she learned that she would indeed be working in the coveted “Legs and Regs” office in fall 2012. “I am looking forward to my new career with HUD,” Tordo says. “I am so grateful to Tenille and to Professors Kaplan and Mersmann for their guidance throughout the process.”

‘I help whenever I can’
Washburn cautions against making too much of her role in Tordo’s securing a position at HUD—“I can’t always intervene, but I keep in close contact with Susan Kaplan and help whenever I can,” she says. Tordo’s participation in the D.C. externship played a role, too, augmenting her credentials, she stresses.

Tordo is part of a growing number of Washington University graduates seeking positions with the federal government. “The D.C. clinic has really helped to introduce more students to government service,” Washburn says. “Another contributing factor is the growing desire for ‘work-life balance.’”

Washburn, who has two small children, says that working for the federal government provides the perfect split of home life and work because government employees don’t bill by the hour. Her advice to students? “Step back and think of your long-term goals.”

‘Interns are a win–win’
Tammy Daub, JD ’02, another Congressional & Administrative Law Program veteran, has also helped place Washington University students in externship positions. Daub is currently an attorney with the Civil Rights and Labor Management Division of the Office of the Solicitor.

A self-described “Washington University fan,” she helps enforce federal employment and labor statutes, including non-discrimination and affirmative action requirements that apply to employers. Unlike Washburn, Daub’s career began with working for a firm shortly after graduation.

“I spent my first summer in law school doing public service work in New York and my second summer working for a large law firm in D.C.,” she says. “I wanted litigation experience, so I went to work for Ross Dixon Bell LLP (now Troutman Sanders), where I focused on general litigation, insurance, and employment law.

“I made the move to the Department of Labor, in part, because I wanted to devote my practice to labor and employment law,” she adds. Daub, who had externed with the Civil Rights Division’s Employment Litigation Section in the Department of Justice, says the D.C. clinic experience influenced her decision to join the Department of Labor (DOL).

Since she began working for the Solicitor’s Office in 2006, Daub has served on her division’s intern committee. She says that clinic participants who are both full-time and third-year law students are a big draw. Daub also helps recruit students for the DOL’s Honors Program.

“The Washington University students we’ve had for externships have been terrific,” she says. “We are limited by the federal budget, and the externs provide the extra assistance we need. In return, the students gain great experience.”

For example, Kiesha Cockett, JD ’10, as a Washington University clinic participant, externed in Daub’s office. Cockett was ultimately hired into a permanent position as an attorney in the Solicitor’s Office.

“It’s great to hear from students that their externship experience helped them find a job,” Daub says.

‘Securing the positions they earned’
Clinic Co-Director Kaplan is grateful for her former students’ willingness to help place graduates. “Both Tammy and Tenille have been extremely responsive to my calls and emails over the years,” Kaplan says.

Another former extern, Travis England, JD ’09, is now a trial attorney in the Civil Rights Division at the Department of Justice (DOJ).

“While Travis is not in a position to make hiring decisions, he has kept in touch and recently sent me an announcement of openings for contract work at DOJ,” Kaplan recalls.

Of course, Kaplan says that at the end of the day the students have to stand on their own. “Obviously, the students have excellent credentials—no phone call or personal meeting can do anything if they don’t—but sometimes when you’re dealing with a big bureaucracy like the federal government, great candidates can get lost in the shuffle.”

Co-Director Mersmann concurs: “We are really grateful to our D.C. clinic alumni who are partnering with us to help these students secure the positions they earned.”

—Timothy J. Fox
Alumni, Faculty Help Students Create Nonprofit Firm for St. Louis Immigrants

NICOLE CORTÈS, JD/MSW ’12, AND JESSICA MAYO, JD ’12, the winners of the 2012 Public Service Student of the Year Award, followed one mission throughout much of law school: serving St. Louis’s immigrant communities.

While most students support personal interests by working pro bono service hours, Cortés and Mayo took their passion to the next level by creating their own nonprofit organization, the Migrant and Immigrant Community Action (MICA) Project.

At its core, MICA will provide basic legal services for St. Louis-area clients, answering immigration questions about securing U.S. citizenship, obtaining resident cards, keeping families together, and formulating removal defense. The project will also work with community partners to help immigrants address their nonlegal needs in areas such as health, education, and social services.

Cortés and Mayo’s journey started midway through law school with a visit to Karen Tokarz, the Charles Nagel Professor of Public Interest Law & Public Service and director of the Negotiation & Dispute Resolution Program. The two students, who were enrolled in Tokarz’s Civil Rights & Community Justice Clinic, informed Tokarz that following law school they hoped to form a solo, nonprofit practice to serve St. Louis’s immigrant community. With Tokarz’s input, Cortés and Mayo mapped out a strategy that included classes in the law, business, and social work schools, as well as various clinics and summer internships.

According to Tokarz, law faculty are committed to the law school’s efforts to “provide our students with as many resources as we can, including relevant courses, clinics, summer internships, alumni mentors, and postgraduate collaborations.”

One of the classes Mayo and Cortés selected, Nonprofit Organizations Planning & Drafting, is taught by Peter Ruger, senior lecturer in law and co-director of the law school’s Intellectual Property & Nonprofit Organizations Clinic. The class helped the two navigate the maze of paperwork needed to incorporate MICA as a 501(c)(3) tax-exempt organization.

“NICOLE AND JESSICA are very unique and exceptional individuals,” says Ruger. “It’s rare to have students who have such a clear vision of what they want to do and the know-how to act upon it midway through law school.”

Another source of inspiration and mentoring support was Stephen Legomsky, the John S. Lehmann University Professor who is currently on leave to serve as chief counsel for the U.S. Citizenship and Immigration Services. “Nicole and I both learned a lot that will be useful to us in MICA from Professor Legomsky’s Immigration Law class. We also picked his brain as we interacted with him outside of class through the Immigration Law Society and other activities,” Mayo recalls. Legomsky says he was happy to assist: “Jessica and Nicole are both special people doing special things. Working with them on MICA and other immigration projects has been a real treat.”

At Olin, Mayo participated in a course called The Hatchery, which led to the development of MICA’s business plan. The plan was so well done that in April they were one of seven

(above) Suzanne Brown, JD ’96, left, and Wesley Schooler, JD ’08, right, are assisting Jessica Mayo, JD ’12, and Nicole Cortés, JD/MSW ’12, second from left, with their newly formed nonprofit organization, the Migrant and Immigrant Community Action Project. Another member of Brown’s firm, Naomi Warren, JD ’08, (not pictured) is also serving as a mentor.

MARy BUTKUS
winners of the annual YouthBridge Social Enterprise and Innovation Competition, sponsored by the Skandalaris Center for Entrepreneurial Studies. They won the $5,000 student award and received a $30,000 grant from the Daughters of Charity Foundation of St. Louis.

Connecting with Alumni

Tokarz also referred them to Suzanne Brown, JD ’96, founder and senior partner at the Law Offices of Suzanne Brown PC, which concentrates its practice on immigration services. As a result, Mayo and Cortés were legal interns in Brown’s office through Tokarz’s clinic. The two graduate students handled several significant cases involving asylum, Violence Against Women Act beneficiaries, and victims of crime, as well as engaged in community education and legislative advocacy.

“They worked with vulnerable people, and they were very dedicated to the task,” Brown says. But that wasn’t all that impressed Brown, who also decided to devote the first floor of her law office in Olivette, Missouri, to their fledgling practice working on immigration issues.

“When I met them, they were well on their way with their nonprofit,” Brown says. “I gave them guidance that came from my own experience having directed a nonprofit legal services program, the Immigration Project in downstate Illinois.”

Brown and the other two alumni attorneys in her practice, Wesley Schooler, JD ’08, and Naomi Warren, JD ’08, also former clinic students, expect to undertake a number of collaborative projects with Mayo and Cortés as early as this fall.

“The people who come to my office who can’t afford the market rate for legal services will be referred to them,” Brown says. “Nicole and Jessica will learn a great deal when they start working in the community and understanding what the community wants from them. They will also have Wesley, Naomi, and myself nearby for mentoring.”

Cortés and Mayo also plan to collaborate on a community project with the Civil Rights & Community Justice Clinic to provide legal assistance to immigrant youth and young adults seeking deferred action status under the new Dream Act.

A Passion for Immigration Issues

Before starting MICA, both women already had impressive credentials in immigrant services. Cortés, who is fluent in Spanish, worked with a community-based organization in Chile. She also was president of the Immigration Law Society, worked extensively with the Law and Social Work Society, and spent a summer internship with the Migrant Legal Assistance Project of the Legal Assistance Foundation of Chicago.

Mayo completed internships at Interfaith Legal Services for Immigrants and Legal Services of Eastern Missouri, as well as volunteered with a number of local organizations from the Immigrant and Refugee Women’s Program to Project REACH at the St. Patrick Center.

Mayo notes: “St. Louis is a good location for MICA because of the diversity of the immigrant groups who have settled here, from Bosnians in south St. Louis City to the more established East Asian community in St. Louis County.”

Like Mayo, Cortés is eager to serve often-disenfranchised populations. “We are working to promote the voice of the immigrant community in St. Louis,” she says.

(above) Ken Harrington, managing director of Washington University’s Skandalaris Center for Entrepreneurial Studies, left, congratulates Nicole Cortés, JD/MSW ’12, center, and Jessica Mayo, JD ’12, on their winning entry in the YouthBridge Social Enterprise and Innovation Competition. The prize money is helping fund their new nonprofit organization.
As Chris Piatt, JD ’10, Has Discovered, it pays to think outside the box, especially outside the traditional, post-law-school, job-market box. And it pays to find just the right mentor.

Although he originally envisioned a different career path, Piatt now utilizes his law training as a campus director in Oklahoma for Vatterott Educational Centers Inc. “I’ve always thought law would be interesting no matter where you ended up, but I was particularly drawn to business defense, including employment law and product liability,” Piatt says. “However, my current job pushed me into a different career path, while still allowing me to use my legal training. It has made me realize that I could step into any job and be successful.”

As a law student, Piatt had completed a summer internship with a Tulsa law firm. Unfortunately, the firm couldn’t afford to hire any of its interns. “The market was tough, especially at the time I was looking for a job,” he recalls.

Now a captain in the Army, Piatt was deployed to Iraq after three semesters of law school, which meant his graduation date was pushed back to December. He soon found himself competing with associates who were also looking for work. “It seemed like I was the only one interviewing for entry-level jobs without three years’ experience,” he says. “Recent graduates had flooded the market.”

Enter Scott Casanover, JD ’00, chief administrator and general counsel at Vatterott, who had approached the Career Services Office about an opening for a student affairs liaison at Vatterott. The position required handling everything from “I don’t like my teacher” to negotiating a settlement when a student breaks x-ray equipment during an externship, Casanover recalls.

“Hiring recent law graduates is a luxury that the current job market allows,” Casanover says. “A decade ago, I couldn’t have afforded to hire a young lawyer for this type of position.”

Despite a fairly narrow job posting and the call to the CSO office, Casanover still received 200 résumés from around

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**Poscover Guides National CLE Transformation**

**Alumnus Inspired by Value of Ongoing Education, Service**

As law schools adopt learning models that incorporate more web-based technologies, those same cutting-edge tools are required of vehicles for postgraduate legal training, says Maury Poscover, JD ’69.

For the past seven years, Poscover has been on the front lines of a significant transformation in the national delivery of Continuing Legal Education (CLE) programs, working to advance both quality and accessibility. By all accounts, those efforts have paid off.

A partner with Husch Blackwell LLP in St. Louis, Poscover has participated in providing CLE as a panelist and presenter for many years. His interest is heightened through his work as a board member of the American Law Institute–American Bar Association’s CLE (ALI–ABA CLE), a joint effort of the ALI and the ABA formed in 1947. After being appointed to the board in 2005, he served as president for three years with his term ending in May 2012.

Then when the long-standing ALI–ABA CLE was recently phased out by mutual agreement, he agreed to serve a one-year term on the new ALI–ABA committee to help guide the transition.

Historically, the most common way to access CLE programs was through on-site instruction, but in recent years, new learning platforms developed quickly and dramatically, Poscover says. “Compared to 2005, about 50 percent of current ALI–ABA CLE revenues come from web-based products and services that didn’t exist seven years ago,” he says. “Now, a practicing lawyer who has an issue come up at 4:30 p.m. on a Friday can, at midnight, go online and watch an hour-and-a-half CLE program, which may have been recorded six months ago, but that provides information and background to permit him or her to better understand a particular area of law.”

It’s a constant challenge to keep up with technologies that permit state-of-the-art delivery, Poscover says, but he stresses that ALI–ABA is remarkably agile. “Because ALI–ABA is so current in technology, if, for example, new regulations are announced tomorrow or there’s a Supreme Court decision on the health care law, we can put a program together drawing on a wealth of...
expertise in less than 10 days,” he says. “In that same time frame, we can have a web-based product available to lawyers whether they’re in New York City or the most remote city in Montana.”

As demand for CLE continues to grow, the ability to deliver immediate, high-quality programs is paramount, Poscover says. Today, most ALI–ABA CLE programs—whether first presented on-site or as distance learning—are available 24/7 online. That is not to say that the in-person, in-depth CLE program is a dinosaur. It has its place and remains a valuable vehicle for providing educational opportunities for lawyers, Poscover says.

Poscover couples his passion for ongoing professional training with service to the law school and the legal community. A longtime law school National Council member, he co-chairs the school’s Scholarship Initiative along with National Council member Howard Cayne, JD ’79. Poscover also has served as chair of the ABA’s Business Law Section, chair of the section’s Commercial Financial Services Committee, and co-chair of the section’s Pro Bono Project. He is a past member of the ABA Board of Governors and currently serves on the ABA House of Delegates. He also is a past president of the St. Louis Bar Association.

In what he calls one of his most challenging and rewarding roles, from 2007 to 2010, Poscover evaluated nominees as a member of the ABA Standing Committee on the Federal Judiciary—two of those nominees included Supreme Court Justices Sonia Sotomayor and Elena Kagan.

Poscover, who served as chair of Husch Blackwell for 10 years, is a frequent mentor for aspiring young attorneys. “If you are a very good lawyer, you can be satisfied,” he tells firm interns, “but a great deal of personal development and satisfaction comes from giving back to the community and the profession.”

—By Janet Edwards
A GROWING NUMBER of recent graduates are securing prestigious judicial clerkships in large part due to the expertise of the Career Services Office (CSO) and the law school’s professional guidance through the highly competitive application process.

“Despite a difficult job market, the total number of Washington University law graduates securing clerkships is on the rise,” notes Rachel Braaf Koehler, JD ’99, judicial clerkship advisor and a former clerk for Judge Stephen N. Limbaugh, Jr., while he was serving on the Missouri Supreme Court. “The number of clerkships has increased by more than 40 percent in recent years.”

Justin Lepp, JD ’12, who will be clerking this fall for Judge Eric Clay on the Sixth Circuit Court of Appeals in Detroit, Michigan, says he is grateful for Koehler’s assistance. “Rachel consistently demonstrated a great deal of expertise with every aspect of the clerkship application process,” Lepp says. “She had excellent advice regarding which individual judges would work out best for me, and was always enthusiastic and supportive during what can be a very challenging process. I can happily say that were it not for her efforts, I would not have been able to secure my clerkship with Judge Clay.”

A former Appellate Clinic student, Lepp also distinguished himself on his application as a member of the winning team in the ABA National Appellate Advocacy Competition, the largest and most competitive competition in the country. He and teammates, Nick Rosinia, JD ’12, and Mikela Sutrina, JD ’12, surpassed 209 teams from 118 law schools to garner the win.

Recent Graduate Jason Batts Lured by Benefits of Small-Town Practice

CLINTON, KENTUCKY, has one signal light and is so tiny that people usually ask what county you live in, not what town. With its population of 1,300 and location about 60 miles southwest of Paducah, Clinton was, however, big enough for Jason Batts, JD ’10, to launch a solo practice. And by practicing in a small town, he’s heading a trend.

The Wall Street Journal recently reported that several Midwestern law schools are advising graduates to “look beyond the lure of high-paying, big-city law firms and consider launching careers in rural towns.” Washington University is among those heralding this change and is working hard to assist students in considering a full range of professional opportunities. Among its many career services offerings, the law school has specific programming to prepare and support students interested in small-firm or solo practice.
Additionally, Lepp had the unprecedented opportunity while in law school to argue an amicus brief before the U.S. Court of Appeals for the Armed Forces.

In recent years, Washington University graduates have been awarded clerkships with U.S. Courts of Appeals judges for the Fifth, Sixth, Seventh, Eighth, and Eleventh Circuits, as well as with U.S. District Court judges in numerous locations, including California, the District of Columbia, Florida, Illinois, Indiana, Missouri, Oregon, Puerto Rico, and West Virginia. Recent graduates also have clerked for justices on a variety of other federal and state courts. In 2011, some 32 graduates secured clerkships.

“The increasing number of clerkships obtained by Washington University law students is proof positive of the growing reputation of this law school and its student body,” says Associate Professor Adam Badawi, the faculty judicial clerkship advisor. “That our students are able to garner so many positions in the midst of an exceptionally competitive hiring environment shows that judges are aware of the high caliber of our students and seek to hire them.”

Alan Simpson, JD ’12, has accepted a two-year clerkship with U.S. Bankruptcy Judge Arthur I. Harris in Cleveland, Ohio. He says he appreciates the advice of Badawi and Koehler, as well as the insights he gained from the externships and related course work he took in law school.

“Applying for a postgraduate clerkship is a daunting enterprise,” Simpson notes. “The guidance, encouragement, and support I received from Rachel Koehler and Professor Badawi substantially improved the overall quality of my applications. They helped me identify specialized clerkship opportunities that were well-suited to my interests and helped me formulate a thorough application plan.”

Simpson says that through detailed reference materials, group meetings, emails, and one-on-one discussions, he was able to avoid common application pitfalls. Additionally, his externship after his second year of law school with U.S. Bankruptcy Judge Jerry W. Venters in Kansas City; externship with the Department of Justice’s U.S. Trustee Program through the Congressional & Administrative Law Program; and the bankruptcy course he took with Daniel Keating, the Tyrrell Williams Professor of Law, were ideal preparation.

“The course gave me the breadth of knowledge I needed to be able to speak intelligently about current topics in bankruptcy law and discuss recent opinions, and the externships allowed me to further develop my knowledge in that area,” he says. “This gave me a decided advantage over other clerkship applicants.”

Batts says he did not need a tailored program to know that he wanted to practice in Hickman County, Kentucky—where Clinton is located and where he grew up. He believes that a rural or small-town practice offers many advantages.

One perk is less stress. Batts, a former editor-in-chief of the Washington University Law Review, lives eight miles from his office in a house surrounded by fields and woods. He drives to work in less than 10 minutes. “If there’s a traffic jam,” he says, “it’s simply because you got caught behind a slow tractor.”

Another benefit is available jobs. “With the last economic downturn,” Batts says, “how students get jobs has changed dramatically. Traditionally a lot of law schools encouraged students to go to larger law firms or law firms in urban areas. And because of that, open legal practice areas in small towns or rural areas across the country were often overlooked by graduates.”

Small-town practices also can be lucrative. “I know several solo attorneys who have been practicing three to five years and are making $140,000 to $200,000 a year,” Batts says. “That’s one thing I think law schools could do a better job of informing their students about. If you are willing to work hard, you can build a good practice. Other attorneys choose to work three days a week, and they’re perfectly okay making $50,000 a year.”

Batts adds that solo practitioners are their own boss and face minimal boredom. “You never know what kind of case a client will bring to you,” he says.

Batts, who underwent basic training this past summer for the Judge Advocate General’s (JAG) Corps in the U.S. Army Reserves, didn’t become a solo practitioner immediately after graduation from law school. He worked 18 months for another attorney before going into solo practice. He recalls his satisfaction after completing the first case in his own practice.

“I did a real estate closing for a farming client,” he says. “After I completed the work, the client said ‘Should I just make this check out to Jason Batts?’ I kind of chuckled and thought for a second and said, ‘Yeah, I guess you do make that check out to me.’”

—Gary Libman
HE LAW SCHOOL welcomes two outstanding faculty members, Elizabeth Sepper and Andrew F. Tuch, and a visiting assistant professor, Goldburn P. Maynard, Jr., in 2012–13. In addition, Russell K. Osgood, former president of Grinnell College and former dean of Cornell Law School, will return for the period of 2012–15 as a distinguished visiting professor.

ELIZABETH SEPPER, associate professor of law, is a health law scholar whose work explores the interaction of morality, professional ethics, and law in medicine. At the law school, she will be teaching Health Law and a Health Law & Policy seminar.

Her most recent article, forthcoming in the Virginia Law Review, challenges the standard account of the role of conscience in health care delivery, which limits conscience to those medical providers who refuse to deliver controversial treatments. She also has published in the areas of human rights, women’s rights, and international health law. Her articles have appeared in the Texas International Law Journal, University of Pennsylvania Journal of International Law, and New York University Law Review.

She clerked for Judge Marjorie Rendell of the U.S. Court of Appeals for the Third Circuit and practiced at Human Rights Watch and New York University School of Law’s Center for Human Rights and Global Justice. Sepper received her BA in 2002 from Boston University and her JD in 2006 and LLM in 2007, both from New York University.

GOLDBURN P. MAYNARD, JR., visiting assistant professor (VAP), is a rising scholar in tax law and trusts and estates. He joins other VAPs Andrew Kim, Bryan Lammon, JD ’08, and Julian Lim. Maynard will be teaching Trusts & Estates and a seminar in Introduction to Critical Tax Theory.

His co-authored article in the Tulane Law Review, “To Pay or Delay: The Nominee’s Dilemma under Collection Due Process,” won the John Minor Wisdom Award for best lead article in the volume. Before joining the law faculty, he served as an estate tax attorney for the Internal Revenue Service in Oakland, California. He also was a tax associate at Skadden, Arps, Slate, Meagher & Flom, LLP in Chicago. He earned his BA in 2002 from Atlantic Union College, JD in 2005 from the University of Chicago, and LLM in 2007 from Northwestern University.
ANDREW F. TUCH, associate professor of law, is an accomplished scholar in the fields of corporate law, securities regulation, and the regulation of financial institutions, especially investment banks. At the law school, he will be teaching Corporations and Securities Regulation.

His scholarship has appeared in the Virginia Law Review, as well as in peer-reviewed journals in the United Kingdom and Australia. His article, “Multiple Gatekeepers,” was named among the “Ten Best Corporate and Securities Articles of 2011” by Corporate Practice Commentator.

Tuch clerked for Justice G.L. Davies of the Queensland Court of Appeal, practiced corporate law at Davis Polk & Wardwell LLP in New York and London, and then was a member of the Faculty of Law at the University of Sydney. He is a member of the New York Bar and is qualified to practice in Australia, England, and Wales.

In 2012, he earned his SJD from Harvard Law School, where he was a John M. Olin Fellow in Law and Economics and a Fellow of the Program of Corporate Governance. At Harvard, his research was twice awarded the Victor Brudney Prize for the Best Paper in Corporate Governance. He received his BCom in 1994 and LLB in 1997, both from the University of Queensland, and his LLM in 1999 from Harvard.


Osgood is the author of multiple articles and books, including Cases and Materials on Employee Benefits (with P. Wiedenbeck); The Law in Massachusetts: The Supreme Judicial Court, 1692–1992; and The Law of Pensions and Profit-Sharing: Qualified Retirement Plans and Other Deferred Compensation Arrangements. He served in the U.S. Navy and worked as a lawyer specializing in employee benefits before entering academia. Osgood received both his undergraduate and law degrees from Yale University.
Why I Teach

T eaching comes naturally to me; it’s certain familially, if not genetic. My father was a professor of physics at the University of Michigan. Over a 40-year career he guided dozens of graduate students to PhD degrees through research in his nuclear spectroscopy lab. But because he had a gift for explaining fundamentals, he was regularly asked to teach the large introductory undergraduate physics courses on mechanics and electricity and magnetism. Recently, the Regents of the University of Michigan named a chair in his honor, in recognition of his research and teaching at all levels. What most struck me, on the one occasion when I observed my father in the classroom, was seeing that when concentrating on some difficult point he would continue the lecture with his eyes closed. At the time I found that habit a little disconcerting, but in retrospect I have to admit that it may be less distracting than my own uncontrollable pacing around the classroom.

Propensity aside, I teach because it’s fun. I enjoyed law practice—had I kept at it, I’m sure that I would have found my career fulfilling. But teaching is way better, at least as measured by the psychic returns that come from the regular interaction with inquisitive, gifted students (more on that later).

PART OF THE FUN of teaching lies in the opportunity to learn. There really is no surer path to understanding than to guide others. By my count, I’ve taught 12 different courses thus far in my career, several outside the tax field. Most faculty members these days prefer more constancy in their teaching assignments, but I relish the occasional challenge of mastering a new subject. Scholarship, of course, feeds the same hunger, but the scholarly inquiry entails a narrower and deeper exploration. Effective teaching, in contrast, generally emphasizes the big picture.

Another reason that teaching is fun has a lot to do with what I teach. While I have taught quite a few subjects, the one that I profess is the basic course in Federal Income Taxation. That course sparks my genuine enthusiasm—sometimes passion—day in and day out, year after year. Because of the highly contingent and contestable nature of tax policy, it can spark passion in the students as well. If by the end of the semester I haven’t outraged every student in the class at least once, I worry that I haven’t done my job.

My approach to the introductory course—like many other tax professors—emphasizes tax policy and statutory interpretation. Tax policy, writ large, addresses who should be required to contribute to the support of our society, and in what proportions. Students frequently dread Federal Income Taxation, but enroll (with a great deal of skepticism) because they’ve been told it’s a course they will need. When students come to appreciate that tax is concerned with fundamental issues of distributive justice, however, many become engaged by the subject in a way that would have shocked their former selves.

ONE OF THE GREAT REWARDS of teaching is seeing the transformation of the idealists and number-phobics in the class as they begin to comprehend that tax law at its core is not a game of looking for loopholes; it’s about fairness (and its limits) in a market economy. The corollary, that fair treatment depends upon the reality of a taxpayer’s situation (the economic substance of the transaction, rather than its form), is one of the big ideas that students take away from Federal Income Taxation—and it’s enormously gratifying to nurture that development.

Detailed knowledge of current tax rules is frequently rendered obsolete (sometimes before law students can graduate) by Congress’s penchant for regular extensive amendment of the Internal Revenue Code. The general principles of tax policy are not so evanescent, however. Despite the political controversy that surrounds tax issues, there is broad agreement across the political spectrum on the policy criteria (including equity,
efficiency, and administrability, defined and subdivided in various ways by different analysts) that are relevant to the design of a good tax system. The difficulty lies in the fact that the policy criteria frequently conflict, and no agreed-upon prioritization of competing norms exists. Hence each swing of electoral politics can usher in a new majority that wants to realign the trade-off between equity and efficiency, for example. Understanding tensions between the criteria and partisan differences in their evaluation makes each new round of re-jiggering, if not predictable, at least readily comprehensible. Instilling a sense of what’s plausible versus what’s not, based in the internal logic of income taxation, is one of my central goals in the basic tax course.

SOME YEARS AGO, near the end of the semester, an exasperated student asked how to keep straight the dozens upon dozens of statutory provisions that we had studied: How was a person to know where to look? Without hesitation I responded, “Well, Mr. X, you’ve got to hear the music of the Code.” It was not a statement I had heard elsewhere, nor a line I’d used before; it just came out of my mouth. The class erupted in laughter (my control was gone that day), but I hadn’t meant to be facetious.

Despite all its permutations the income tax is at any point in time a reasonably coherent (albeit intensively interconnected) and intelligible whole. Near the end of each semester, as students pull their notes together and struggle with the material in preparation for the final exam, I see the lights go on. It’s wonderful to hear a few bars of Mozart faintly in the background.

That said, I suppose that a partial answer to “Why I teach?” is: “I teach ‘why.’” More accurately, it’s the “why” question that most interests me. Teaching and writing allow me to explore this fundamental question. Time and again student questions—in the classroom, in the hallways after class, or in my office—help illuminate the puzzle from new angles. “Why?” opens an investigation into history and purposes, which guide the interpretation and application of the tax Code. Teasing meaning out of a statute demands more than careful reading assisted by application of default norms of construction, it requires an appreciation of objectives. Frequently, Code language is incomprehensible without knowing what Congress was trying to accomplish. That is, tax policy is necessary to inform statutory interpretation. In my view, basic tax is an essential skills course because students who can cope with the Code should be able to master any statute, provided that they remember to ask, “Why?”

"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 Susan Appleton, David Becker, John Drobak, Michael Greenfield, Daniel Keating, and Leila Nadya Sadat. To view these columns, visit: law.wustl.edu/WhyITeach.
his article begins to rethink current conceptions of two of the most significant legal movements in this country—Legal Realism and Feminist Jurisprudence. The story of Legal Realism has been retold for decades. Authors have dedicated countless books, law review articles, and blog posts to the subject. Legal and other scholars repeatedly have attempted to define better the movement and ascertain its adherents.

Although the usual suspects—Karl Llewellyn, Roscoe Pound, and Jerome Frank—are almost always a part of the conversation, surprisingly few agree on the totality of Realism’s personage or parameters. The lists of those considered realists—and there are many—are constantly expanding and contracting. The movement’s teachings and implications are ever-evaluated. In all of this alleged evolution, however, one thing has remained constant: male-centered descriptions of Legal Realism have occupied the center of the discussion.

Arguing that this master narrative should not hold, this article challenges traditional understandings of Realism. It offers a gendered account of the realist enterprise that shifts those in legal history’s margins to the mainstream. Focusing on the realistic work of one such woman, Anna Moscowitz Kross—one of the country’s first women law graduates, practicing lawyers, and judges—this article examines the work of realistic women in law during and after the realist era’s heyday.

LOOKING BEYOND the leading lights of the Ivy League, Ivory Tower, and prestigious courts, this account is interested in the work of women like Kross who were in community trenches and involved with the trial-court benches. Such women, who remarkably have remained under history’s radar, pressed to create their own practical jurisprudence rooted in realistic projects in the first half of the twentieth century.

Like other women of her generation, Kross did not just talk about Realism; she actually did Realism. As outsiders and reformist lawyers, Kross and her cohorts sought to address social problems they believed contributed to the oppression, marginalization, and day-to-day inequality experienced by women, families, and communities. Authentically interdisciplinary and interactive, Kross sought practical solutions for the real issues of real people with whom she personally connected.

While her modes of operating found parallels in the work of her male realist contemporaries, they stood in stark contrast, too. Her less academically driven activities, sustained community-based efforts, and strikingly collaborative approaches differed from the heady, removed, and largely exclusionary work of male realists at the time. Even after being appointed to the bench, Kross found ways to establish agency without entirely adopting the hierarchical and traditional norms of the institutions in which she worked.

Accordingly, her realist legal work—its values, practices, and goals—can be seen as a feminist enterprise. Thus, it can serve to shed new light not only on traditional understandings of realism, but also on feminism. This new history not only offers an account of women as realists, but of realists as activists.

IN THIS WAY, this article serves as a two-way mirror—reflecting on our realist past while looking into our feminist future. It suggests that those who are currently grappling with the realities of feminism and the law—particularly within the academy—may draw some lessons from the life and experiences of Kross and her contemporaries. Like feminists today, in the shadows of constructed categories and lists, Kross and her cohorts also sought to establish their own agency and identities while challenging lived injustice.

And although no path is ever perfect, their generally more rooted, communal, and practical approaches to feminist concerns—through activism and not just academics, doing beyond talking—may provide a potent shot in the arm for those feeling the frustration of feminism’s limited impact on the law and its institutions as lived.

In the end, a return to on-the-ground practices and applied methods that largely focus on pragmatic improvement, inclusion, and humane connection, rather than supremacy of ideas, Ivory Tower acceptance, and ego-driven accolades, may help revive feminist projects that have become increasingly individualistic, inaccessible, and nihilistic. As such, this work suggests a new legal realist history, as well as a new feminist jurisprudence agenda, one that may be called Feminist Legal Realism.
This article begins by sketching the traditional androcentric account of Realism, recounting in Part II the story of the legal realists that focuses on men within the academy and elite courts “searching” for a more practical jurisprudence during the 1930s and 1940s. It explains, however, that despite the group’s purported focus on the pragmatic, its methods were largely removed from real-world experience. And in the course of their intellectual debates, its adherents often engaged in biting critiques that prevented cohesion and forward movement. These features contributed to the program’s less-than-stellar showing, which left much of its work unfinished.

Part III describes how the traditional tale has continued with later critical legal movements—also allegedly committed to change—picking up where the known realists left off. For instance, the Law and Society movement of the 1950s and 1960s is well known as Realism’s first offspring. Critical Legal Studies, which emerged in the 1970s, is considered the progenitor of Law and Society. And Feminist Jurisprudence, it is said, was born of Critical Legal Studies in the 1980s, providing an additional layer in the standard genealogy.

**WHILE ALL OF THESE** movements also sought to deconstruct legal norms and engage in reformatory efforts, like the traditional realists, their members—as if part of an unbroken familial cycle—repeatedly returned to impractical practices of the realist campaign. By retreating to the Ivory Tower, removing themselves from the real world and engaging in wars of words, members of these movements largely worked to reify some of the very structures they sought to challenge.

Part III posits that such replication of hegemonic norms is particularly puzzling in the case of feminists who pledged at the outset of their activities to embrace context, build community, and address lived inequality, while spending a great deal of time expressly distancing themselves from the traditional realists. Indeed, the Feminist Jurisprudence camp sought to reject connections to the realists, arguing they were not part of the same male lineage. Rather, the realist movement was seen by legal feminists as insufficiently radical in its methods and unsuccessful in bringing about real change. In all of this protest, however, legal feminists have failed to consider the possibility of another account of the realist experience—one that acknowledges the work of radical realist women who did change systems and lives.

Part IV begins to offer this alternative account, recovering the history of one forgotten woman in law—Anna Moscovitz Kross. A lawyer, judge, and public official, Kross was part of the realist enterprise working from outside of the law’s elite institutions. But like other women who were engaged in such efforts, she was left off of Realism’s lists and out of legal history’s canon. I argue that her work, and the work of others like her, should be seen as Feminist Legal Realism.

In Part V, I explore some of the implications of this new narrative, suggesting that feminist legal history may serve as an important site of activism not only by rewriting the past of legal movements in this country, but also by helping us to rethink the future. Feminist Legal Realism may offer today’s legal feminists a new way of working for transformation, encouraging them to abandon mere debates about words on paper and unkind attacks on fellow legal feminists. Rather, by embracing Feminist Legal Realism’s commitment to action and activism, contemporary legal feminists may find a new line to their lineage as well as a way forward.


*Mae C. Quinn, professor of law and co-director of the Civil Justice Clinic, is an expert in issues pertaining to criminal and juvenile justice systems. Her most recent scholarship focuses on the role of women lawyers in historic and contemporary legal movements, as well as on legal and ethical issues facing defense attorneys.*

“As outsiders and reformist lawyers, Judge Kross and her cohorts sought to address social problems they believed contributed to the oppression, marginalization, and day-to-day inequality experienced by women, families, and communities.”
SPEAKING TRUTH TO FIREPOWER: HOW THE FIRST AMENDMENT DESTABILIZES THE SECOND

INCE THE Second Amendment’s emergence into academic prominence in the 1970s, and especially since the Supreme Court’s landmark 2008 decision in District of Columbia v. Heller, announced that the amendment protects an individual right to keep and bear arms, courts and commentators have compared and sometimes conflated the Second Amendment right with the First Amendment’s protections for free expression. This trend has intensified since the Court’s 2010 decision in McDonald v. Chicago, in which the Court treated the Second Amendment like the First by extending its scope to encompass state as well as federal encroachments on the right to keep and bear arms.

Courts now face a massive task in elaborating the scope, limits, and substantive content of the Second Amendment individual right. The First Amendment’s extensive judicial development as a guarantor of expressive freedom makes it an attractive starting point for fleshing out the legal concept of an individual right to keep and bear arms. Numerous commentators, encouraged by Heller, have moved far beyond that starting point, invoking specific elements of First Amendment doctrine as templates for parallel proposals in Second Amendment doctrine. By their accounts, what we know about the First Amendment both strengthens the legal case for a strong regime of Second Amendment rights and tells us a great deal about what that regime should do.

Prior scholarship has made no thorough, critical inquiry into how our long experience with the First Amendment should inform our new engagement with the Second Amendment. The high stakes of Second Amendment jurisprudence compel such an inquiry. For the first time in decades, the Court has announced a novel constitutional right. So far we know very little about how that right will affect the many and varied efforts that the federal and state governments make to regulate the possession and use of guns.

COURTS’ ONGOING EFFORTS to fill in the Second Amendment blanks—what standard of review applies to Second Amendment claims, what sorts of interests the Second Amendment protects, what the government needs to show in order to vindicate various gun regulations—carry enormous implications for law and society. Strong reliance on the First Amendment to address these questions has already become a dominant mode of Second Amendment analysis. If we want our legal system to develop Second Amendment law effectively and wisely, we will need to understand how our insights about the First Amendment can, and cannot, usefully inform Second Amendment jurisprudence.

This article examines in depth the First Amendment’s implications for the Second. It advances the novel argument that, far from supporting a robust regime of Second Amendment rights, the First Amendment’s guarantees of expressive freedom strongly destabilize the legal position of the Second Amendment. The Second Amendment’s text, construed in light of First Amendment theory’s extensive engagement with the distinction between collectivist and individualist justifications for rights, indicates that the individual right to keep and bear arms must serve a collectivist purpose.

But the most coherent and familiar collectivist justification for the Second Amendment—the need to deter and, if necessary, violently overthrow a tyrannical federal government—clashes with the First Amendment’s dynamic function of facilitating political change through public political debate. The First Amendment provides a better vehicle than the Second Amendment for dynamic political change, and an embrace of constitutionally sanctioned insurrectionism under the Second Amendment would threaten our commitment to uninhibited political debate under the First Amendment. What we know about the First
Amendment therefore raises serious, perhaps fatal doubts about the vitality of the Second Amendment.

My argument proceeds in three parts. Part I critiques efforts to develop Second Amendment doctrine by analogy to First Amendment doctrine. I begin by emphasizing critical differences between the freedom of speech and the right to keep and bear arms. Descriptively, speech depends on different conceptual principles than keeping and bearing arms, has more complex attributes, and makes for a unitary object of constitutional protection. Normatively, most people, in most circumstances, view speech as a positive and constructive phenomenon while viewing the bearing of arms as at best instrumentally necessary and frequently undesirable.

**FUNCTIONALLY, THE HELLER COURT** showed a much greater willingness to impose categorical limits on the right to keep and bear arms than it has shown in speech cases. *Heller* itself invoked First Amendment comparisons in framing the Second Amendment’s scope, boundaries, and legal pedigree. All of those comparisons muddy far more than they clarify. Post-*Heller* commentators have attempted to reason directly from the First Amendment to the Second, seeking to implicate First Amendment standards of review, First Amendment principles about the scope of rights, and various specific First Amendment doctrines into Second Amendment law. These analogies fail to provide useful guidance because they ignore the critical differences between speech, on one hand, and keeping and bearing arms, on the other.

The article’s two remaining parts advance two distinct but related claims about how courts can sensibly draw upon First Amendment insights to explicate Second Amendment law. Part II contends that a prominent interpretive debate about the purpose of the First Amendment’s protections for expression maps a methodology for understanding the broad purpose of the Second Amendment. *Heller* emphatically rejects the position that the Second Amendment’s preamble limits the amendment to guaranteeing the people’s right, collectively, to constitute an armed state militia. In embracing the contrary position that the Second Amendment protects an individual right to keep and bear arms, *Heller* effectively reads the preamble out of the Constitution.

First Amendment theory suggests a way to accommodate the core holding of *Heller* while restoring a significant function for the preamble. The Constitution can confer rights on individuals, as the First Amendment undeniably does, but as First Amendment theorists frequently have argued—for collectivist rather than individualist reasons. The preamble compels a collective construction of the Second Amendment, requiring justifications for the individual right to keep and bear arms that advance some collective interest. While this article does not contest the core holdings of *Heller* and *McDonald* that the Second Amendment confers an individual right against both the federal and state governments, my interpretive move in Part II challenges those decisions’ primary justification for the Second Amendment: protection of individual self-defense.

**PART III MAKES A CRITICAL** substantive assessment, within the collectivist interpretive framework dictated by Part II, of the individual right to keep and bear arms. The most common collectivist justification for the individual right to keep and bear arms is that the people need guns in order to deter the federal government from becoming tyrannical and to mount an insurrection should tyranny arise. This insurrectionist justification resonates with the First Amendment’s function of protecting robust political debate and dissent. However, drawing on my prior work on the dynamic political value of expressive freedom, I contend that insurrection and debate mark incompatible paths to political change.

Second Amendment insurrectionism falls short of First Amendment dynamism normatively, because debate is more constructive and participatory than violence. Second Amendment insurrectionism also threatens the legal status of First Amendment dynamism, because recognizing a constitutionally permissible path to violent insurrection dramatically increases the cost of constitutionally protecting advocacy of violence. We cannot have both First Amendment dynamism and Second Amendment insurrectionism—and in fact we have made our choice. The Supreme Court spent almost a century developing First Amendment doctrine, with special emphasis on the right to advocate violent revolution, before it bothered to recognize an individual right to keep and bear arms. That disparity embodies our society’s embrace of debate, and rejection of insurrectionism, as the vehicle for dynamic political change.

This article concludes that First Amendment doctrine and theory provide strong reasons to reject both an individualist construction of the Second Amendment and the most familiar and forceful collectivist justification for the Second Amendment. The First Amendment leaves the Second Amendment with little room to develop as a meaningful source of legal authority.

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**If we want our legal system to develop Second Amendment law effectively and wisely, we will need to understand how our insights about the First Amendment can, and cannot, usefully inform Second Amendment jurisprudence.**

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Professor Gregory P. Magarian is a well-known expert in free speech, the law of politics, and law and religion. His recent scholarship focuses on a variety of topics in constitutional law, including free speech theory and doctrine, media regulation, regulation of political parties, the relationship between church and state, and substantive due process.

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Making Connections: Unorthodox Route Leads Meena Elliott to the Top in Wireless Communications

With a history of doing the unexpected, Meena L. Elliott, JD ’88, EMBA ’95, has sought out and excelled at a variety of opportunities, culminating in her current position as senior vice president, general counsel, and secretary at Aviat Networks—a half-billion-dollar, global wireless communications company headquartered in San Francisco.

To understand Meena Elliott’s somewhat unorthodox career path, one needs to appreciate her love of learning and problem-solving, which led to her decision to study law. As a pre-med student at Northwestern University pursuing a biochemistry major, she discovered that a career in medicine was not for her, opting instead to dissect the classics.
She then looked to law school, not as a means to a profession, but as another way of learning and analyzing information. “Law school,” Elliott says, “helps strengthen your analytical abilities and objective thinking. You’re really geared to do almost anything.”

Her law degree led to several what she calls “generalist” positions. None has proven more challenging, nor interesting, than the role she assumed shortly after joining her current company. In March 2006, Elliott began by working for Harris Corporation as general counsel for the Microwave Division. Ten months later, that division merged with direct competitor Stratex Networks, Inc. to form what is now Aviat Networks. Aviat is a leader in wireless communications and specializes in advanced IP network migration, which it then sells to businesses and governments in 135 countries.

ALTHOUGH ELLIOTT HAD PREVIOUS experience with mergers, “this was a very different challenge,” she explains. “It’s not like you’re purchasing another company and you’re adding a division on a product line. That’s actually much easier.”

Elliott describes that time as “a lot of fun because you’re bombarded with a multitude of issues from diverse subject matters with everything requiring a rapid resolution.” From an operations perspective, there were many complicated issues to consider: consolidating different product lines; merging IT, manufacturing, and billing and accounting systems; and meshing two completely different corporate cultures.

The legal department, Elliott explains, is “where people look for objective advice.” Her department essentially became the calm in the storm.

A mere 10 months into Elliott’s tenure, Aviat filed the merger documents and went public in the same week. Two years after joining the company, Elliott was named general counsel. In subsequent years, the legal department would continue to face challenges, including Aviat’s issuing a financial restatement, class action lawsuits, multiple changes in senior executives, and dealing with an activist shareholder—all in addition to ongoing business operations.

Today, Elliott advises on all legal issues, including transactions, divestitures, securities, compliance, intellectual property matters, and other complex litigation. As corporate secretary, she spends significant time on corporate governance issues. She also implements Aviat’s business ethics program.

ELLIOTT RECALLS THAT her role as a generalist actually began when she joined Eveready Battery Company, now Energizer, as in-house counsel in St. Louis, right out of law school. She quickly rose to director of international counsel, having handled joint ventures in Turkey, the Czech Republic, China, and India.

During that time, she also pursued an Executive MBA at Washington University. With the support of the general counsel and the CEO (mirroring his own background), she moved into brand management, where she led cross-functional teams.

By then it was the late 1990s, Silicon Valley was booming, friends had joined that arena, and she thought “I’d like to experience something completely different.”

MAKING ANOTHER BOLD CHOICE, she left the more than 100-year old company and, instead of turning left to the start-up haven of California, she turned right and headed to Washington, D.C. to join XM Satellite Radio. With fewer than 50 co-workers, Elliott describes her first year as “a mad dash trying to do as many things as we could possibly get done, which included launching two satellites.”

However, with the fallout of 9/11 and a faltering economy, the company experienced a slow growth period. Budgets were cut, and the business environment changed completely. Assessing her next career move, she consulted her mentors at Energizer, who advised “as long as you’re in D.C., why not learn the business of D.C.”

She applied for a job at the U.S. Department of Commerce and was hired as chief counsel of the Minority Business Development Agency. Elliott’s big takeaway from the experience was that it gave her “an eagle’s eye view into the workings of the executive branch.” Her next move was to Harris (Aviat) where she remains today.

Through the many twists and turns, Elliott comes back to a few founding principles. She stresses the importance of finding a mentor and is passionate about the benefits of a legal education. “You can do anything with it,” she observes. “You learn a lot besides theoretical and analytical thinking—you increase your self-assurance, confidence, and independent thinking.”

“Law school helps strengthen your analytical abilities and objective thinking. You’re really geared to do almost anything.”
Church and State
Winston Calvert Achieves Landmark Ruling for Embattled Church

Growing up in a Southern Baptist family, with parents deeply involved in church life, Winston Calvert, JD ’05, says religion has always been “an animating idea” for him. In law school, he studied religion law and wrote his note for the Washington University Law Review on “Judicial Selection and the Religious Test Clause.” His religious interests also led to his serving as counsel in a landmark religion lawsuit.

When his employer Armstrong Teasdale LLP agreed to represent the people of St. Stanislaus Kostka Roman Catholic Church in their David-and-Goliath battle against the Archdiocese of St. Louis, Winston Calvert jumped at the chance to join the team. “It became more of a cause than a case for me,” says Calvert. “It changed my career and my life in many ways.”

The St. Stanislaus case has riveted public attention for nearly 10 years, pitting all the might of the Roman Catholic hierarchy in a deeply Catholic city against a historic Polish Catholic parish. St. Stanislaus dates to 1880, a time in American Catholic history...
wants. That’s not impeded by neutral principles. What is impeded,” he adds, “is the idea that he can then enforce that declaration in violation of secular legal rights, in the secular courts.”

In a March 2012 decision, the court ruled for St. Stanislaus and affirmed the parish’s control of its property. The archdiocese has filed an appeal and pledged to take the case to the U.S. Supreme Court if need be, but Calvert doubts that it will go that far. “It’s a matter of state law,” he explains, “and it’s well settled Missouri law.”

THE CONTROVERSY has caused grief in the parish, especially since parishioners, according to Calvert, “have been made out to be radicals, when really, these are just the same people who have been going to St. Stanislaus for generations.”

Calvert adds that this case means so much to him and the parishioners because: “There’s no way to quantify what it means to go to your home church. You can’t put a dollar figure on your religious identity.”

As for his client’s recent successful outcome in the lawsuit, Calvert is quick to credit the entire legal team. “The victory was the product of a seamless team of dedicated lawyers who shared a passion for protecting the unique status of St. Stanislaus,” he says. Led by Richard Scherrer, BSBA ’69, the St. Stanislaus legal team also included Ken Vuylsteke, JD ’80, and George von Stamwitz.

Calvert has worked on a variety of religion-related legal issues for churches, municipalities, and seminaries. He also represents clients in general litigation and environmental law matters.

Interestingly, Calvert’s initial career path was entirely different. As an undergraduate at Southern Illinois University–Carbondale, he majored in clarinet performance and performed with the Southern Illinois Symphony Orchestra. Though he doesn’t play as much as he’d like now, he remains active in community arts organizations, including Prison Performing Arts. The innovative group takes drama into several Missouri correctional centers, exposing prisoners to culture, while teaching them empathy. It also couples as a literacy program.

“My arts education was transformative for me,” Calvert says. “I think it’s important to make sure that others have these experiences.”
Eggie R. Smith, the newly appointed Charles F. Nagel Professor of Employment & Labor Law, made an impassioned call for greater regulation of domestic work worldwide during her installation address on “Regulating Care Work.”

“In a world where work is supposed to be the ‘golden ticket’ to various protections and benefits that will promote our economic and social well-being as well as our health and safety, domestic workers are cast aside, rendered invisible, and denied the workplace rights that so many take for granted,” Smith said.

As many as 100 million people around the world are domestic workers, a group that federal law in the United States defines to include home care workers who provide in-home care for elderly and/or disabled individuals. However, that number is declining while the number of people needing care is growing, Smith said. Low pay, no overtime pay, long hours, and a lack of benefits like health care will add to the challenge of meeting future home care needs.

“For some time now we have dealt with this problem by intensifying efforts to offload home care onto the weary shoulders of low-paid workers, especially immigrant workers,” she continued. “This safety valve of low-wage labor has allowed us to postpone the impending care crisis and has stifled serious contemplation of how we should equitably regulate and organize the provision of care.”

Part of the problem is that society has “failed to conceptualize domestic work as a legitimate occupation,” Smith said. Compared to most workers, who leave their private homes each morning to enter the public world of work, domestic workers labor in isolation within the homes of private families, where regulators have traditionally hesitated to intervene. Smith added:

“The law has yet to envision domestic workers as workers who have needs apart from those of the families for whom they labor.”

—Peggie R. Smith

Syverud, the Ethan A.H. Shepley Distinguished University Professor, stressed Smith’s many contributions as a dedicated teacher and scholar. In praising Smith’s multidimensional research, Syverud said: “Peggie’s groundbreaking scholarship expands the frame with which we look at work and workers. It imagines how we might use law to address not just traditional occupations and definitions of work, but also the reality of work as it is experienced by everybody, including those who work in the home.”

The Nagel professorship was established through the estate of Daniel Noyes Kirby, who received his bachelor’s degree in 1886 and his law degree in 1888, both from Washington University. He was a member of the Washington University Corporation (the predecessor to the Board of Trustees), lecturer in the Law Department (the predecessor to the law school), and a prominent St. Louis attorney.
Annette Appell published “Legal Issues in Lesbian and Gay Adoption” in Adoption by Lesbians and Gay Men: A New Dimension in Family Diversity (eds. D. Brodzinsky & A. Pertman, Oxford University Press). She also published “Introduction to Access to Justice: Mass Incarceration and Masculinity through a Black Feminist Lens” (with A. Davis) in the Washington University Journal of Law & Policy. Appell presented papers on critical childhood jurisprudence and postmodern families at the Fourth International Conference on Adoption and Culture at The Claremont Colleges, Washington University, the Association of American Law Schools (AALS) Clinical Conference in Seattle, and the annual Law & Society Conference in San Francisco. She also served as program chair for the joint session on Poverty Law and Clinical Legal Education Sections at the AALS Annual Meeting and spoke on clinical program design at the AALS Clinical Section Conference in Los Angeles. She continues to direct the Civil Justice Clinic’s Children and Family Defense Project.

Marion G. Crain, the Wiley B. Rutledge Professor of Law and a former Faculty Fellow in the Washington University Office of the Provost, has been named a vice provost. Crain joins Adrienne Davis, the William M. Van Cleve Professor of Law, who previously was named a vice provost. In her expanded role in the provost’s office, Crain will support and encourage educational innovation across the university. More specifically, she will foster interdisciplinary teaching and research, with a particular focus on advancing university-wide priorities.

“I’m pleased that as vice provost, Marion will become even more involved in the leadership of the university,” says Edward S. Macias, provost, executive vice chancellor for academic affairs, and the Barbara and David Thomas Distinguished Professor in Arts & Sciences. “Since joining the provost’s office as a Faculty Fellow, she has been instrumental in helping advance interdisciplinary faculty collaboration, which has become a hallmark of Washington University. I know she will continue to develop new and exciting collaborations across school lines to enhance our educational and research mission.”

Susan Appleton published “Illegitimacy and Sex, Old and New,” American University Journal of Gender, Social Policy & the Law, “Reproduction and Regret,” Yale Journal of Law & Feminism; and her co-authored article, “Sex Therapy in the Age of Viagra: ‘Money Can’t Buy Me Love,’” Washington University Journal of Law & Policy. She co-chaired the Feminist Legal Theory Collaborative Research Network, which organized 10 sessions for the Annual Meeting of the Law & Society Association in Honolulu, where she also presented a paper. Her other presentations include those at the International Academy of Law & Mental Health (Berlin, Germany), American University, and the University of Missouri. Appleton spearheaded the first “class gift” initiative for the American Law Institute’s new Life Members. At Washington University, she spoke at conferences on Immigration & Family Reunification and on Engaging Liberty’s Refuge. With Laura Rosenbury and Liz Chen, JD ’12, she organized Narratives of Law and Life: Using Film to Explore the State’s Role in Constructing Identity, a series of three films and panel discussions supported by a Diversity & Inclusion Grant from the Provost’s Office.

Adam Badawi published “Self-Help and the Rules of Engagement” in the Yale Journal on Regulation. He presented papers at the 2011 annual meetings of the American Law and Economics Association, the Southeastern Association of Law Schools, the Midwest Law and Economics Association, and the 2012 meeting of the Institute of Law and Economic Policy. In addition, he gave talks at Cornell University, the University of Illinois, and the University of Missouri. His current work, in conjunction with the Center for Empirical Research in the Law, examines the effect of corporate litigation in Delaware on the financial performance of firms.
peering economics journal. His other co-authored article, “A Dynamic Model of Doctrinal Choice” (with P. Kim), will appear in the Journal of Legal Analysis, a peer-reviewed law and economics journal. In addition, he presented his scholarship at the American Law and Economics Association meeting, University of Chicago, and University of Virginia, as well as at the University of Michigan’s law and economics workshop series. This fall he will be a visiting fellow at the Becker Friedman Institute for Research in Economics at the University of Chicago.

David Becker (with D. Gibberman) published semiannual supplements to Legal Checklists in 2011 and 2012. He also looks forward to publishing his article on teaching, “To Tweet or Not to Tweet, That is the Question.” On May 18, 2012, Washington University awarded him an honorary doctorate of humane letters during Commencement.

Cheryl Block was on research leave working on her forthcoming book, Overt and Covert Bailouts: Developing an Effective Public Policy. She expects the book to be published in 2013 by Cambridge University Press. Her article, “Letting Go of Binary Thinking and Too-Big-to-Fail: Preserving a Continuum Approach to Systemic Risk,” is forthcoming in the Journal of Corporate Financial & Commercial Law. Block also presented her scholarship on equitable distribution and on systemic risk at various conferences and workshops. Additionally, she serves on the Academic Advisory Board of the Theodore Tannenwald, Jr. Foundation for Excellence in Tax Scholarship and continues to read on a weekly basis to underprivileged pre-school children through the St. Louis Ready Readers program.

Kathleen Brickey published several works that continue to focus on white collar crime and corporate criminal liability. The 2012-13 supplement to her three-volume treatise, Corporate Criminal Liability, was published in November, and the second edition of her book, Environmental Crime: Law, Policy, Prosecution, is in press. The new edition of the Environmental Crime book includes, among other important developments, extensive coverage on the BP oil spill. She also continues working on her Corporate Fraud Prosecution Project—which includes an original database, Major Corporate Fraud Prosecutions, March 2012-13, and on a major article on corporate criminal liability. A Spanish translation of her article, “In Enron’s Wake: Corporate Executives on Trial,” will appear in the second edition of the Economic and Business Criminal Law Annual, which is published by El Centro de Estudios de Derecho Penal Económico y de la Empresa.

Kathleen Clark is serving as Associate Reporter for the American Law Institute’s Principles of Government Ethics and drafting a treatise on anti-corruption standards. As Special Counsel to the Attorney General of the District of Columbia, she wrote an Ethics Manual and provided advice on ethics, transparency, and campaign finance. Her report on government contractor ethics became the basis for a federal recommendation of new ethics standards, and the Federal Acquisition Regulatory Council issued a regulation imposing such standards. She published “Fiduciary Standards for Bailout Contractors: What Treasury Got Right and Wrong in TARP,” Minnesota Law Review, and “Ethics, Employees and Contractors: Financial Conflicts In and Out of Government,” Alabama Law Review. Clark also evaluated Tanzanian anti-corruption legislation for the U.N. Development Programme. She made presentations at Bocconi University (Milan), the University of Maryland, Penn State, and Duquesne University, as well as at meetings of the Council on Government Ethics Laws, National Contract Management Association, and Association of Professional Responsibility Lawyers.

In 2011-12, Kevin Collins published two articles. As part of a symposium issue on the U.S. Supreme Court’s opinion in Bilski v. Kappos, he wrote “Bilski and the Ambiguity of ‘An Unpatentable Abstract Idea’” for the Lewis & Clark Law Review. He also published an article on patent protection for improvements, “Getting into the ‘Spirit’ of Innovative Things: Looking to Complementary and Substitute Properties to Shape Patent Protection for Improvements,” in the Berkeley Technology Law Journal. Throughout the year, he gave presentations at conferences at the University of Illinois at Champaign-Urbana, Cardozo Law School, DePaul University, and the University of Indiana-Indianapolis.

Marion Crain completed a three-year term as a Faculty Fellow to the Provost, a role in which she developed pilot programs to support cross-disciplinary teaching and multidisciplinary scholarly initiatives, conducted through collaborations between Washington University centers. She is now serving as vice provost. As director of the Center for the Interdisciplinary Study of Work & Social Capital, she partnered with centers in Arts & Sciences and the Brown School to organize a symposium on Work & Livable Lives. She and her co-author presented “After Unions,” a paper proposing reinvigoration of American labor unions through repeal of the National Labor Relations Act and substitution of a new civil-rights-based regime protecting collective action by workers. Crain also presented “Consuming Work,” a paper challenging the traditional dichotomy between consump-
tion and work, at Vanderbilt University and at the biannual conference of the Labor Law Group, which Crain chairs.

Adrienne Davis continued her work as vice provost and as co-director of the Law, Identity & Culture Initiative and Black Sexual Economies Project. She published articles in the Yale Journal of Law & Feminism and Washington University Journal of Law & Policy, in which she co-edited a symposium on mass incarceration (with A. Appell). Davis lectured and/or presented papers on polygamy and sexual politics at Columbia Law School, the Cornell Institute for Comparative Modernities, Vanderbilt University, Brandeis University, the University of California, Irvine, and the University of Southern California. She commented on papers at the Duke Law School Culp Colloquium and Berkshire Conference of Women Historians, and she participated in a working group on critical race theory and empirical methods at Hastings College of Law. Her article on the sexual economy of slavery was showcased at a University of Michigan workshop, co-sponsored by that law school and the Institute for Research on Women and Gender. Finally, she co-taught a course at Harvard’s Institute for Global Law and Policy.

Gerrit De Geest’s article, “Who Should Be Immune From Tort Liability?,” is forthcoming in the Journal of Legal Studies. Another paper, “The Rise of Carrots and the Decline of Sticks” (co-authored with G. Dari-Mattiacci), is forthcoming in the University of Chicago Law Review. He gave presentations at conferences at Ghent University, Washington University, and the University of Minnesota. He also co-organized the Second Annual Workshop on International and Comparative Law (with M. Peil and P. Cramer), as well as a congress on Theoretical Law and Economics (with S. Baker). He is currently working on a project on income inequality.

Deborah Dinner published “The Costs of Reproduction: History and the Legal Construction of Sex Equality” in the Harvard Civil Rights-Civil Liberties Law Review. In spring 2012, she received her PhD from the Department of History at Yale University for her dissertation, “Pregnancy at Work: Sex Equality, Reproductive Liberty, and the Workplace, 1964–1993.” A chapter of the dissertation was selected in competition for presentation at the Junior Faculty Forum at Harvard Law School. Dinner also presented portions of the project at the University of Virginia Legal History Workshop; the Association for the Study of Law, Culture and Humanities annual conference; the American Society for Legal History annual meeting; the Berkshire Conference of Women Historians; and various workshops at Washington University.

Rebecca Dresser’s edited book, Malignant: Medical Ethicists Confront Cancer, was published in March. The book was reviewed by The New York Times and The New Republic, as well as other publications. During the academic year, Dresser also wrote three articles for the Hastings Center Report, including “Bioethics and Cancer: When the Professional Becomes Personal.” She was appointed to a four-year term on the National Institutes of Health Recombinant DNA Advisory Committee and was elected vice chair of the Hastings Fellows Council. She also gave several presentations as the 2012 Ryan Bioethicist in Residence at Southern Illinois University’s School of Law and Medicine. Additionally, Dresser gave presentations at the University of Minnesota, Georgetown University, Wake Forest University, the National Cancer Institute, and the annual conference of the American Society for Bioethics and Humanities.

John Drobak visited at the University of Paris, where he delivered three lectures at the Sorbonne and Nanterre drawn from his book manuscript, Courts, Cooperation, and Legitimacy. He taught a short graduate course at the Nanterre campus on Law and the New Institutional Economics. Drobak also lectured on “Reactionary Regulation: The Unintended Consequences of Government’s Response to Crisis” at a conference in Lyon, France, marking the formal opening of the Lyon Bar Association’s new year. He spoke at the opening plenary session, along with the director of the French SEC, to about 250 lawyers and business leaders in the former trading hall of the Lyon Bourse. His lecture will be published in French later this year. Drobak also presented “Thrainn Eggertsson and the Problem of Knowledge: The Effectiveness of Conveying Information in the Electoral and Financial Markets” at the University of Iceland for a conference in honor of the retirement of Eggertsson. Drobak was the first academic speaker, following the President of Iceland’s introductory remarks.

Dan Ellis continued to serve as the academic director for the law school’s Transnational Law Program (TLP), which has just admitted its sixth international class. Ellis participated in a summit with representatives of the four European TLP partner schools in Utrecht in February and taught International and Comparative Antitrust Law at the law school’s Summer Institute for International Law & Policy in summer 2012. He completed his term as chairman of the board of Maryville College in Tennessee, but he continues to serve on the board as immediate past chairman. He also has completed his term as a member of the board of the St. Louis Chamber Chorus.

In 2011–12, Frances Foster continued to focus her scholarship and teaching on comparative law, inheritance, and trust law issues. She currently is working on an article on environmental trusts.

Michael Greenfield chaired the Writing Competition Committee of the American College of Consumer Financial Services Committee, which presented awards for the best written work on the law governing consumer financial services. Greenfield also spoke at the inaugural conference of the National Association of Tax Debt Resolution Companies. He is now working on the sixth edition of his Consumer Transactions casebook.

Rebecca Hollander-Blumoff was awarded tenure by Washington University, effective July 1. This spring, she was elected to the American Law Institute. She published “Crime, Punishment, and the Psychology of Self-Control,” Emory Law Journal, and “The Psychology of Procedural Justice in the Federal Courts,” Hastings Law Journal. She also authored two articles in symposium issues, “Procedural Justice and the Rule of Law: Fostering Legitimacy in Alternative Dispute Resolution” (with T.R. Tyler), Journal of Dispute Resolution, and “Intrinsic and Extrinsic Compliance Motivations in Law: Comment on Feldman,” Washington University Journal of Law & Policy. She presented her work at Loyola Law School–Los Angeles, the University of Oregon, and the University of Illinois Urbana-Champaign. She continues to serve on the Executive Committee of the Association of American Law Schools Section on Civil Procedure and organized the Junior Faculty Regional Workshop Series. Hollander-Blumoff received her PhD in social psychology from New York University in fall 2011.

John Inazu's book, Liberty's Refuge: The Forgotten Freedom of Assembly, was published by Yale University Press. He also organized an interdisciplinary conference on theological argument in the law and served as the special editor for the conference papers, which will be published in Law and Contemporary Problems. His contribution to that volume uses the work of theologian Stanley Hauerwas to critique Ronald Dworkin’s theory of interpretation. Inazu also published an article in the Hastings Law Journal. He participated in conferences or symposia at law schools at the University of Notre Dame, University of Oklahoma, and Pepperdine, Northwestern, and Duke Universities, as well as symposia on his book hosted by Washington University, the Federalist Society, and the American Enterprise Institute.

Peter Joy published an article on government interference with law school clinics in the Case Western Reserve Law Review, and he wrote articles concerning the ethics of excessive caseloads for public defenders in the Missouri Law Review and Washington University Journal of Law & Policy. He co-authored a chapter on ethics issues in The State of Criminal Justice – 2011, and he is a contributing editor for ABA Criminal Justice. Joy lectured at the University of Northumbria in the United Kingdom and gave presentations at the SUNY Buffalo Law School and University of Baltimore School of Law. He serves on the Association of American Law Schools (AALS) Section on Professional Responsibility's Executive Committee, which he chaired in 2011; the AALS Standing Committee on Clinical Legal Education; ABA Accreditation Committee; and Society of American Law Teachers board. He chaired the Planning Committee for the AALS 2012 Conference on Clinical Legal Education.


John Inazu's book, Liberty's Refuge: The Forgotten Freedom of Assembly, was published by Yale University Press. He also organized an interdisciplinary conference on theological argument in the law and served as the special editor for the conference papers, which will be published in Law and Contemporary Problems. His contribution to that volume uses the work of theologian Stanley Hauerwas to critique Ronald Dworkin’s theory of interpretation. Inazu also published an article in the Hastings Law Journal. He participated in conferences or symposia at law schools at the University of Notre Dame, University of Oklahoma, and Pepperdine, Northwestern, and Duke Universities, as well as symposia on his book hosted by Washington University, the Federalist Society, and the American Enterprise Institute.

Daniel Keating published the fifth edition of his UCC Article 2 casebook, Sales: A Systems Approach. Dean Kent Syverud appointed him to serve as faculty liaison for the new online LLM program for foreign lawyers, @WashUlaw. In that capacity, Keating will chair the Faculty Oversight Committee for the new program, which is scheduled to offer its first class in January 2013. Last year, Keating served as the faculty representative to the Washington University Board of Trustees Educational Policy Committee, which gives final approval to tenure cases from schools across the university. Keating continued his service as a board member for the Lawndale Christian Legal Center (LCLC) in Chicago. The LCLC represents low-income individuals regardless of their ability to pay. He was also a member of the endowment committee for St. Laurence High School in Chicago.
of Labor and Employment Law, held at the University of Wisconsin Law School. Her paper, “A Dynamic Model of Doctrinal Choice” (co-authored with S. Baker), was selected for presentation at an interdisciplin ary law and political science conference on Judicial Collegiality: Positive Theories and Empirical Analyses, held at the University of Southern California Law School. The paper will be published in the Journal of Legal Analysis. Kim also presented a paper on “Electronic Privacy and Employee Speech” at Georgia State University’s College of Business. The paper, an adaptation of the Kenneth M. Piper Lecture that she delivered in April 2011, is forthcoming in the Chicago-Kent Law Review. She also spoke about “Asian Americans in the Law” at the Central Region Conference of the National Asian Pacific American Bar Association.

David Konig continues with the final editing of The Legal Commonplace Book of Thomas Jefferson for the Papers of Thomas Jefferson. In his ongoing research, he has assembled a comprehensive database that reconstructs Jefferson’s legal career and the nearly one thousand cases and client contacts he had before entering politics. Konig’s other documentary projects include consulting on a digital edition of student notebooks of the nation’s first law school, in Litchfield, Connecticut, and on a digital online database of freedom suits brought by enslaved persons in Antebellum St. Louis. His article, “John Adams, Constitution Monger,” will appear in a volume on major figures in western constitutionalism (Oxford University Press). He also delivered a paper on Thomas Jefferson and judicial independence at the American Society for Legal History (ASLH) annual meeting and was a featured speaker at the commemoration of Constitution Day, University of Nevada-Las Vegas. In November, he will chair the Local Arrangements Committee for the ASLH annual meeting in St. Louis and at the law school.

Robert Kuehn published his co-authored articles: “Lessons from Forty Years of Interference in Law School Clinics,” Georgetown Journal of Legal Ethics; “The Status of Clinical Faculty in the Legal Academy,” Journal of the Legal Profession; and “The 2010–11 Survey of Applied Legal Education.” His presentations included “The Status of Clinical Educators—Today and Beyond,” Association of American Law Schools (AALS) Section on Clinical Legal Education Annual Conference on Environmental Justice: Engagement from the Perspective of Communities. He was a moderator at the Public Interest Law Center Symposium on Equality and presented “Law Clinics Under Siege—An Examination of Lawyer Training, Access to Justice, and Academic Freedom” at the Southeastern Association of Law Schools Annual Conference. He also served as immediate past president of the Clinical Legal Education Association and co- chair of the Political Interference Group of the AALS Section on Clinical Legal Education.

Bruce La Pierre spent the fall semester teaching and lecturing at leading law schools in China and at the Universidade Catolica Portuguesa (UCP) in Lisbon, Portugal. He also was a visiting professor at Fudan University in Shanghai, where he taught a constitutional law class and lectured on federalism. His lecture focused on “The Supreme Court’s Next ‘Big’ Case: President Obama’s Health Care Legislation and the Federal System of Government in the United States.” Using Fudan as his base, he lectured and met with students, faculty, and deans at seven other law schools: Renmin University of China School of Law in Beijing; Shantou University Law School; Xiamen University Law School; Nanjing Normal University Law School; Zhejiang University’s Guanghua Law School in Hangzhou; East China University of Political Science and Law in Shanghai; and Jiao Tong University’s KoGuan Law School of Shanghai.

La Pierre then traveled to UCP, where he taught a two-week intensive course, Introduction to Anglo-American Law.

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

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Robert Kuehn
Associate Dean for Clinical Education; Professor of Law; and Co-Director, Interdisciplinary Environmental Clinic

Robert Kuehn published his co-authored articles: “Lessons from Forty Years of Interference in Law School Clinics,” Georgetown Journal of Legal Ethics; “The Status of Clinical Faculty in the Legal Academy,” Journal of the Legal Profession; and “The 2010–11 Survey of Applied Legal Education.” His presentations included “The Status of Clinical Educators—Today and Beyond,” Association of American Law Schools (AALS) Section on Clinical Legal Education Annual Conference on Environmental Justice: Engagement from the Perspective of Communities. He was a moderator at the Public Interest Law Center Symposium on Equality and presented “Law Clinics Under Siege—An Examination of Lawyer Training, Access to Justice, and Academic Freedom” at the Southeastern Association of Law Schools Annual Conference. He also served as immediate past president of the Clinical Legal Education Association and co-chair of the Political Interference Group of the AALS Section on Clinical Legal Education.

Stephen Legomsky
John S. Lehmann University Professor

Since October 2011, Steve Legomsky has been on leave serving as Chief Counsel of U.S. Citizenship and Immigration Services (the successor agency to the I.N.S.) in the Department of Homeland Security. He manages an office of 160 attorneys, provides legal and policy advice to the agency director and the department, and is part of the agency’s leadership team. In the past year, Legomsky has published book chapters on undocumented students and on irregular migration, as well as law review articles on European family immigration and on effective assistance of counsel in deportation proceedings. His

David Law
Professor of Law and Professor of Political Science

Ronald Levin recently testified before a U.S. House subcommittee about reform of Federal Communications Commission rulemaking. He also drafted comments that the ABA Administrative Law Section submitted to the House Judiciary Committee about proposed amendments to the Administrative Procedure Act. He discussed these and other regulatory reform proposals in presentations to the Federalist Society, an ABA Regulatory Practice Institute, and a symposium sponsored by the Administrative Law Review. Levin received the ABA Administrative Law Section's 2011 Award for Outstanding Volunteer Service. He also spoke about “Judicial Review in the Roberts Era” at the Administrative Law Section’s fall conference. Additionally, Levin spoke at an international conference in Shanghai, explaining recent developments in the U.S. law of judicial review. He has been appointed to chair the Committee on Judicial Review of the Administrative Conference of the United States.

Andrew Martin, vice dean, professor of law and of political science, and founding director of the Center for Empirical Research in the Law (CERL), has been unanimously named a Fellow of the Society for Political Methodology. The society is the Political Methodology Section of the American Political Science Association, headquartered in Washington, D.C.

“Professor Martin has accumulated a distinguished record of achievement in political methodology, applied statistics, and American politics,” says Robert Franzese, president of the Society for Political Methodology and professor and associate chair of the Department of Political Science at the University of Michigan. “He has substantially furthered political methodology in a practical and important way through his program for training sitting United States judges to understand statistics as introduced in the courtroom.”

Martin’s expertise is in the empirical study of judicial decision-making, with special emphasis on the Supreme Court of the United States and lower federal courts. He also regularly offers workshops on social science research methods for judges, prosecutors, and legal academics, and his work has been published in all of the leading political science journals.

He is well known for his groundbreaking work with Professor Kevin Quinn, University of California–Berkeley, to develop the Martin-Quinn Scores, used to measure ideology of Supreme Court justices. He is a collaborator on CERL’s Supreme Court Database project, which makes accessible an extensive range of the court’s data to a wide number of scholars. He is also a contributor to CERL’s database project, The Discography: Legal Encyclopedia of Popular Music, comprised of 2,400 court opinions rendered over about 200 years of the music industry.
Andrew Martin is serving as one of two new vice deans. He published “Who Controls the Content of Supreme Court Opinions?,” American Journal of Political Science; “Does Public Opinion Influence the Supreme Court?: Probably Yes (But We’re Not Sure Why),” University of Pennsylvania Journal of Constitutional Law; and two pieces on empirical methodology in the Journal of Statistical Software. Martin presented his research at New York University, the University of Southern California, the University of Texas at Austin, and the annual convention of the Midwest Political Science Association. Martin and other Center for Empirical Research in the Law collaborators continue to work on the Supreme Court Database (supremecourtdatabase.org) and a study of institutional legitimacy of constitutional courts across the globe (comlaw.wustl.edu). Both of these projects are funded by the National Science Foundation.

Charles McManis is engaged in a major research project that explores the role of sustainability standards and certification marks for building materials (eco-labels) in reducing the environmental impact of building construction in the United States and elsewhere. Initially funded by the Washington University–Brookings Institution Joint Venture Fund, the project also received support from the university’s Skandalaris Center for Entrepreneurial Studies. The research team includes university faculty and students from the schools of architecture and law, as well as Brookings Institution researchers. McManis’s paper, “The Impact of the Bayh-Dole Act on Genetic Research and Development,” appeared in Perspectives on Commercializing Innovation (eds. F.S. Kieff & T. Paredes, Cambridge University Press). He has submitted for publication co-authored book chapters on catalyzing the development of technology through university research, on compulsory licensing of intellectual property, on legal aspects of bio-cultural collections, and on the proposed Anti-Counterfeiting Trade Agreement. Also forthcoming is the 7th edition of his book, Intellectual Property & Unfair Competition Law in a Nutshell.

Kim Norwood taught a comparative products liability course in Utrecht in summer 2011. In the fall, she added a new course to the law school curriculum, Public Education K-12: Social Policy & the Law. She also organized a symposium commemorating the 40th anniversary of a landmark desegregation case in St. Louis. Her symposium paper on the state of public education in St. Louis will be published in the Washington University Journal of Law & Policy. She also published a short essay for the National Bar Association and continues her high school pipeline work. Norwood was appointed by the Missouri Supreme Court as a member of the Disciplinary Committee for the Office of the Chief Disciplinary Counsel. Finally, she is working on an anthology, both as a contributor and an editor. The project is titled Color Matters: Skin Tone Bias & The Myth of a Post-Racial America.

Mae Quinn published “Feminist Legal Realism” in the Harvard Journal of Law and Gender. Her invited symposium paper, “The Fallout from our Blackboard Battlegrounds: A Call for Withdrawal and a New Way Forward,” was published in the Iowa Journal of Gender, Race & Justice. She gave talks at New York University School of Law and the University of Georgia, trained Missouri juvenile justice professionals about the Safe Schools Act, and was one of a handful of experts convened at Columbia Law School for a day-long roundtable discussion about the future of problem-solving courts. Organizer of this year’s Access to Equal Justice Colloquium, which focused on youth law and advocacy, Quinn authored the introductory essay, “Evolving Standards in Juvenile Justice,” for a related symposium issue published in the Washington University Journal of Law & Policy. During a spring sabbatical, she conducted research as a visiting scholar at Columbia Law School. Quinn also continues to direct the Civil Justice Clinic’s Juvenile Rights and Re-Entry Project.

Laura Rosenbury continues her work exploring the intersection of family law, employment law, and feminist legal theory. She published “Working Relationships” in the Washington University Journal of Law & Policy; presented “Work Wives” at the 2011 Law & Society Conference and at the University of Virginia; and presented “Rereading Family Law: Beyond the Home” at the 2012 Law & Society Conference. She also continues to serve as a co-author of the Feminist Jurisprudence casebook. As associate dean, Rosenbury developed...
initiatives designed to promote the production and dissemination of faculty scholarship. She also worked with Peter Joy, Elizabeth Walsh, and Troy DeArmitt to devise a new course scheduling system that enables faculty members to better balance teaching and scholarly presentations, thereby reducing the need for make-up classes. Rosenbury will be visiting at Harvard Law School during 2012–13.

Adam Rosenzweig published “Thinking Outside the (Tax) Treaty” in the Wisconsin Law Review. He presented his essay, “A Tax-CUT for the New Economy,” at the University of Illinois and Washington University. Rosenzweig is currently working on an empirical study of effective corporate tax rates in response to statutory tax rate changes (co-authored with N. Jensen), as well as a paper studying the taxation of offshore partnerships such as hedge funds. The 8th edition of his casebook, Problems and Materials in Federal Income Tax (co-authored with P. Postlewaite and S. Guerin), will be published in fall 2012. He received tenure from Washington University on July 1.

In addition to her work as Harris Institute director, Sadat published Forging a Convention for Crimes Against Humanity (Cambridge University Press), which was named Book of the Year by the International Association of Penal Law (American Branch). The book contains the text of a Proposed International Convention on the Prevention and Punishment of Crimes Against Humanity. In summer 2011, Sadat finished her year as the Alexis de Tocqueville Distinguished Fulbright Chair in Paris, lecturing widely in Paris and throughout Europe. She published “Avoiding the Creation of a Gender Ghetto in the International Criminal Court,” International Criminal Law Review, and several essays on the crimes against humanity convention. She served as the Distinguished Discussant for the prestigious Grotius Lecture at the American Society of International Law annual meeting; lectured at Columbia University on the International Criminal Court and University of Pittsburgh on the Special Court for Sierra Leone; and participated in a panel debate commemorating the 100th Anniversary of Raoul Wallenberg’s birthday at the Raoul Wallenberg Institute in Lund, Sweden.

Hillary Sale published “Judges Who Settle,” Washington University Law Review; and “The ‘New’ Public Corporation,” Law and Contemporary Problems. Corporate Practice Commentator named her public corporation article one of the Top Ten Articles for 2011 (the third time she has received this honor). She also published the 12th edition of Federal Securities Regulation (with J. Coffee). Sale is currently working on an article on public pay. She is an organizer, along with the Institute for Law and Economic Policy, of the Hodge O’Neal Symposium and presented her scholarship at a variety of conferences, workshops, and symposia throughout the year. Recipient of a Missouri Lawyers Media Scholarship at a variety of conferences, she continues her work on interdisciplinary initiatives with the Olin Business School, including the Executive Education Program and the New York City Regulatory & Business Externship. She also taught in Olin’s Women’s Leadership program.

In spring 2012, Peggie Smith was installed as the Charles F. Nagel Professor of Employment & Labor Law. She published “The Future of Family Caregiving: The Value of Work-Family Strategies that Benefit Both Care Consumers and Paid Care Workers” in Confronting the “Opt-Out Revolution”: Women in Today’s Workforce (New York University Press). Smith presented her scholarship at a variety of conferences and symposia, including at the Law & Society Conference in San Francisco, Thurgood Marshall School of Law, Indiana University, St. Thomas University, Temple University, University of Richmond, and Washington University. She serves as Executive Committee secretary for the Labor Law Group and is chair elect for the Association of American Law Schools Section on Labor Relations and Employment Law. She also continues her work as a member of the editorial board of the Employee Rights and Employment Policy Journal.

Kent Syverud became chair of the ABA Section on Legal Education and Admissions to the Bar in August. The section oversees the accreditation of law schools in the United States. He continues to serve as one of two individual trustees of the $20 billion Deepwater Horizon Oil Spill Trust. In addition to teaching his Negotiation course each semester, Syverud taught a section of the course to first-year students during Intersession. He published an article on cooperative work with the Saint Louis University School of Law in St. Louis Lawyer. In the last six months, Dean Syverud gave a convocation address at Syracuse University, presentation to faculty at the University at Buffalo, and plenary addresses at the Mediation in Asia Conference in Seoul, the National PreLaw Advisors Conference in Washington, D.C., the New Law Deans Conference, and the Associate Deans Conference. Dean Syverud also completed his three-year term of service as associate vice chancellor for the university’s Washington, D.C., programs.

Brian Tamanaha was installed as the William Gardiner Hammond Professor of Law in fall 2011. He published his new book, Failing Law Schools (University of Chicago Press), and four articles: “A Vision of Socio-Legal
Sadat Named to Prestigious Council on Foreign Relations

Leila Nadya Sadat, the Henry H. Ober- schleip Professor of Law and director of the Whitney R. Harris World Law Institute, was recently invited to become a member of the Council on Foreign Relations (CFR).

“The CFR is very influential, and it is a great honor to be selected,” Sadat says. “I am looking forward to participating in council activities, and bringing my expertise in human rights and international criminal justice to CFR projects and activities.”


Melissa Waters is serving as vice dean and co-directing the new online LLM program for foreign lawyers, @WashULaw. A Treiman Fellow for 2011–12, she has been conducting research for a book examining the influence of European institutions in the evolution of international legal norms prohibiting the death penalty. She also published her article, “Lawfare in the War on Terrorism: A Reclamation Project” in the Case Western Reserve Journal of International Law, and a book review, “Constitutional Engagement in the Transnational Era,” in the American Journal of Comparative Law. She presented her scholarship at a variety of forums, including at the American Society of International Law, the University of Tulsa, Case Western Reserve University, and Washington University. Waters also lectured on human rights law for the U.S. Department of State Office of Global Women’s Issues Iraq Project. She continues to serve as a member of the Public International Law & Policy Group, ABA International Legal Education Committee, and ABA Global Administrative Law Committee.

Sadat, a former member of the United States Commission on International Religious Freedom, is known internationally for her work on crimes against humanity, war crimes, and genocide. Recently the Alexis de Tocqueville Distinguished Fulbright Chair at the University of Cergy-Pontoise in Paris, Sadat is one of the world’s leading experts on the International Criminal Court.
Despite her own personal battle, Rebecca Dresser doesn’t view herself as a cancer “survivor.” “Many people who have faced the disease are very courageous, but in terms of defeating cancer, really we were just lucky,” says Dresser, the Daniel Noyes Kirby Professor of Law and professor of ethics in medicine.

Dresser, the editor of and contributor to a new book on medical ethics and cancer, was diagnosed with head and neck cancer six years ago. While she has written and taught extensively about the legal and ethical dimensions of a variety of medical topics, personally enduring intense radiation and chemotherapy treatments spurred her interest in the ethics of cancer and cancer medicine.

For perspective, she reached out to other medical ethicists who had either had cancer themselves, or had a spouse diagnosed with the disease. One of them had experienced both. The group met twice at the university. Those meetings were tape-recorded and then transcribed. The transcript became the basis for their book, *Malignant: Medical Ethicists Confront Cancer*, published by Oxford University Press.

**IN AN ESSAY PUBLISHED** in the *Hastings Center Report*, Dresser also reviewed six themes that surfaced as she and the other members of the group talked and wrote about their experiences. First, she realized that “cancer patients and caregivers operate in crisis mode.” “Cancer knocked us off our feet,” she writes. “We were disoriented and unsure how to proceed.” In that vulnerable state, cancer patients and their families sometimes make decisions that caregivers and others don’t understand, she notes. “Before facing cancer, we didn’t fully appreciate the psychology of patient decision-making,” writes Dresser.

Complicating things further, the many treatment options available—with their side effects and uncertain outcomes—often confuse cancer patients and their families. Combined with the pressure to act quickly, patients may take a “leap of faith” when selecting treatment options. As Dresser puts it, “We now have a better sense of the real obstacles patients encounter in trying to make informed medical decisions.”

Patients in the group become painfully aware that they have given up a good deal of autonomy to the disease and those working to defeat it. “Despite being privileged patients with good health insurance and insider status, we were at the mercy of an overburdened and highly imperfect health care system,” she writes.

**ANOTHER THEME** that emerged was how seemingly mundane decisions on the part of health care providers took on ethical dimensions. Does the doctor make eye contact when describing a treatment’s risks and side effects? Does he or she listen and respond when patients complain about those side effects? These seemingly minor behaviors take on an added dimension when the stakes are life and death.

Of course, not every patient responds to the disease in the same way; each patient brings to the table his or her own medical
history, tolerance for pain or discomfort, and past experiences with the medical establishment. Medical professionals need to be willing to adapt to meet the needs of each patient.

Finally, there is also considerable variation in how ordinary people and family members react to patients. While some are incredibly helpful and understanding, “a fair number of them have no idea how to behave toward seriously ill patients and their families.” Reactions by these people range from denial to simply ignoring the patient.

“Death and dying may have a bigger public presence than they once did, but too many people remain ill equipped to respond when serious illness strikes someone they know,” Dresser writes. “Malignant intends to begin a conversation about the ethics of illness in everyday life. We hope it will encourage colleagues to turn their attention to this neglected topic.”

Another broader response Dresser hopes her book will have is to raise the possibility of practicing “first-person bioethics.” While bioethics typically strives to be objective and dispassionate, facing the grim reality of a disease like cancer can make even the most analytical academic confront the fact that he or she is ultimately at the mercy of the medical establishment and a good portion of “luck.”

“Bioethics operates in the shadow of death,” Dresser writes. “A bioethics that fails to recognize and respond to the experience of illness will have limited value for patients and their families.”
In his 1941 State of the Union Address, President Franklin D. Roosevelt identified “four essential human freedoms” for the American people: freedom of speech and expression, freedom of religion, freedom from want, and freedom from fear.

Roosevelt’s “Four Freedoms” caught hold. With the Great Depression lingering on, political unrest brewing in Europe, and Japan’s bombing of Pearl Harbor less than a year away, it is understandable why “freedom from want” and “freedom from fear” captured the American imagination in the decades following Roosevelt’s speech.

However, American politics and jurisprudence had long championed a different set of four freedoms, those explicitly enumerated in the Constitution: freedom of speech, religion, assembly, and the press. Roosevelt himself appealed to those four freedoms on numerous occasions before switching to the new formulation in his State of the Union Address.

In his new book, *Liberty’s Refuge: The Forgotten Freedom of Assembly*, John Inazu, associate professor of law, explores what was lost when the people’s “right peaceably to assemble” all but disappeared from political discourse and was replaced with a new freedom, “freedom of association.”

While the right of assembly is found in the text of the Constitution, the constitutional right of association was “invented,” Inazu writes, in the 1958 Supreme Court case *NAACP v. Alabama*.

Alabama wanted the NAACP out of the state because the organization had been staging protests, boycotts, and other activities. The NAACP complied with the state’s requests to turn over numerous documents, but drew the line at turning over its membership list. A state court found the NAACP in contempt and fined the group $100,000.

In overturning the state’s fine, the Supreme Court ruled that Alabama would violate the right of association by disclosing the names of the NAACP’s members, who then might face violence and other reprisals.

Historically, the *NAACP v. Alabama* ruling came at a critical time, as the nation confronted both communist and civil rights groups that sought to claim broader constitutional protections. As the courts navigated through these contentious times, they adapted, adopted, and interpreted the “right of association” in ways that have actually weakened the constitutional protections for groups, especially groups that are outside the mainstream.

In *Liberty’s Refuge*, Inazu writes, “The shift in the constitutional framework from assembly to association (1) diminished protections for dissenting and destabilizing groups; (2) marginalized political practices of these groups by narrowing the scope of
what counts as ‘political’; and (3) obscured the relationship between the practices and expression of these groups. The forgetting of assembly and the embrace of association thus marked the loss of meaningful protections for the dissenting, political, and expressive group.”

Inazu’s argument is important today as groups at extreme ends of the political spectrum—from the Occupy movement on the left to the Tea Party on the right to various groups in between—vie for the right not only to exist but to spread their message and participate in the political process.

Though Inazu’s book was written before the Occupy movement began, a review of Liberty’s Refuge in The New Republic magazine explores how the “freedom of association” has been used to deny to groups the freedom it was originally intended to protect. In allowing the owners of Zuccotti Park to enforce, for the first time, rules about camping in the park and other activities, a justice of the Supreme Court of the State of New York found that those rules were not “unreasonable” and did not infringe on the group’s ability to share and express its views—its right of association.

The remedy, Inazu concludes, is “to look past association and recover assembly.” Only by doing so can we avoid “losing touch with our past recognition of the freedom of assembly and the groups that have embodied it.” Otherwise, we “risk embracing too easily an attenuated right of association that cedes to the state the authority over what kinds of groups are acceptable in the democratic experiment.”
Alumnus Discovers Long-Lost Family Link to School

By Timothy J. Fox

HEN PHILIP CANTWELL, JD ’12, decided to pursue a career in law, he was inspired by his great-great grandfather, an 1888 alumnus of the law school who argued a case before the Supreme Court of the United States.

“I knew there were a few lawyers in the family tree, but I had no clue that a family member—a Washington University grad at that—had argued before the Supreme Court,” Cantwell says. “It’s a pretty neat discovery.”

Philip Cantwell’s uncle, Jim Cantwell, BA ’73, serves as the Cantwell family historian. In his research, he discovered that Philip Cantwell’s great-great grandfather, Harry James Cantwell, Sr., graduated from the St. Louis Law Department (the predecessor to Washington University School of Law) in 1888.

HARRY CANTWELL LIVED in Mississippi County, Missouri. In addition to his legal training, he was active in lead mining activities in southeast Missouri. He apparently drew on both aspects of his life—the law and the lead mine—when he found himself arguing before the Supreme Court in 1905.

“This was after Missouri passed the 40-hour work week,” Philip Cantwell explains. “He was convicted and fined $25 because he worked the miners longer than eight hours per day. He challenged the law, charging that it interfered with his mine’s right to contract. He took the case to the Supreme Court of Missouri, which stated that the ‘right to contract’ was subject to public safety considerations.”

Unfortunately for Harry Cantwell, the U.S. Supreme Court agreed with the Missouri court’s ruling. He then returned to Missouri to resume his mining work and help run the family’s orchard in Washington County.

While Philip Cantwell can’t say for sure that he will follow his great-great grandfather’s footsteps to the nation’s highest court, he is well on his way. He is currently clerking for Judge Deborah Cook of the U.S. Court of Appeals for the Sixth Circuit in Akron, Ohio. Following his clerkship, he will work for Cleary Gottlieb Steen & Hamilton LLP in New York City.

In the meantime, Harry Cantwell would be proud of his great-great grandson’s accomplishments. Philip Cantwell—who served as the Voice of the Class for the law school’s 2012 Commencement—was recognized earlier with a Carmody MacDonald Legal Practice Excellence Award. He also served as an editor of the Washington University Law Review and was a research assistant for Hillary Sale, the Walter D. Coles Professor of Law and professor of management.

In spring 2012, the Harvard Law & Policy Review published his article, “Relevant ‘Material’: Importing the Principles of Informed Consent and Unconscionability to Analyze Consensual Medical Repatriations.” The article began as a paper for a seminar taught by Stephen Legomsky, the John S. Lehmann University Professor.

“I had been refining the article to use as a writing sample for my clerkship applications,” Philip Cantwell explains. “Then I found a journal that accepted student submissions,” he adds, noting that his was the only student “comment” in that issue.

THE ARTICLE PROPOSES a “two-step test” for judges faced with deciding challenges to medical repatriations. Hospitals must provide care when an uninsured immigrant patient arrives with an emergency medical condition, but they cannot receive federal funding for necessary continued care after the immigrant is stabilized. Federal regulations bar the hospital from “patient dumping,” so it faces the question of whether to incur the cost of continuing to treat a patient who is often unable to pay, or to use third-party companies to send the patient back to his or her home country for further care. Cantwell’s two-step test involves use of “informed consent” and “unconscionability”—“familiar tools for judges,” Cantwell wrote—to make that difficult decision.

Among the other highlights of his law school career, Cantwell cited his volunteer work with the Big Brothers, Big Sisters program. As a first-year law student, he was matched with a middle school student for whom he served as a mentor throughout law school.

“I enjoyed being able to give back to the community,” he says. “It gave me perspective, and as my great-great grandfather shows, you never know when you might be influencing future generations.”
A Long, Strange Trip
Alumnus Writes Innovative Guide for New Law Students

In a genre that is traditionally dull, dry, and dusty, Ben Weiss’s book, Malice in Wonderland: What Every Law Student Should Have for the Trip, is an oasis.

Weiss, JD ’09, penned the 128-page book to set the record straight about what students should—and should not—expect in law school.

“Malice in Wonderland was written for readers looking for a concise, honest, and practical take on the first year of law school,” Weiss says. “There are plenty of dense, 400-page reference books. I felt that rising 1Ls would appreciate a different take and a different voice.”

Writing under the pen name, Thaddeus Hatter, Weiss adopts the persona of “Uncle Malice” to guide hopeful law school students through the “Wonderland” of law school. It soon becomes clear that readers have gone “through the looking glass.”

Uncle Malice explains why mistakes in class are like bad Oscar speeches, what “gunners” are and why they never have weekend plans, and how to “launch a preemptive strike” against a professor. Fictitious cases like Kardashian v. Dignity are invented for “case studies,” and the book is peppered with new terminology Uncle Malice coins for his tour.

“I hope readers come away from Malice feeling more relaxed about the first year,” Weiss says. “I wanted the book to alleviate some of the initial stress that comes from not knowing what to expect. Malice is not designed to intimidate or frighten, but rather to empower.”

Weiss notes that about 140,000 students attend law school each year, and that hundreds of thousands of college students consider pursuing it at some point.

Weiss, who received numerous honors in law school, practiced in corporate and securities law for Thompson Coburn LLP in St. Louis. Earlier this year, he attended the prestigious Ira Sohn Investment Conference in New York as one of four finalists for the Ira Sohn investment contest prize. He currently lives in New York City.

Malice in Wonderland, published by Fine Print Press, is available from Amazon.com and all major retailers.

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Carrots from Uncle Malice

- Accept that you are going to have at least one bad Socratic incident. Don’t make it worse by making a scene.
- Don’t try to B.S. your way through an answer when you are unprepared; your professor will know and can use the opportunity to make an example out of you.
- If the thought of speaking in class makes you break out in a cold sweat, do what you can to blend in and remain inconspicuous.
- Use preemptive strikes to put the ball back in your court and regain some control over the process.
- If you get called on when you are not paying attention, stay calm, follow the Socratic Fire Drill, and you will survive.
- Don’t be an answer hog. Gunners never have weekend plans.
- At the end of the day, your relative ineloquence during a class discussion doesn’t really matter. It will have no effect on your final grade, won’t prevent you from being a successful attorney, and no one will remember. Relax, do your best, then forget about it.
HOMAS R. GREEN, JD ’58, received the Dean’s Medal from Dean Kent Syverud at the law school’s Distinguished Alumni Awards event on April 20, 2012.

The Dean’s Medal is the highest honor a dean can bestow. Selected entirely by the dean, the award recipient is recognized for his or her extraordinary contributions to the law school, including inspiring others and enhancing the school’s progress. Since its creation, only a select few recipients have been awarded the Dean’s Medal.

A longtime friend of the law school and a member of the National Council, Green received the school’s Distinguished Alumni Award in 1995 and Washington University’s Distinguished Alumni Award in 2004. He previously served as chairman of the Kresge Challenge for Anheuser-Busch Hall and co-chair of the law school’s fundraising effort for Seigle Hall. He also established the Thomas and Karole Green Professorship in 2002.

Green is an attorney at the Law Offices of Thomas R. Green, a real estate developer, and a businessman in St. Louis. He is also the founder, director, and majority shareholder of Royal Bancshares Holding Company. He served as an Assistant Attorney General for the state of Missouri and Assistant County Counselor for St. Louis County. He has held leadership roles in numerous community, civic, and religious organizations, including the Jewish Federation of St. Louis, the United Jewish Appeal, the United Israel Appeal, the Jerusalem Foundation, and the Jewish Agency.

Green is also a recipient of both the National Conference Brotherhood Award and the Israel Peace Medal. The medal is recognized as “Israel’s highest civilian honor awarded to individuals who distinguish themselves through their humanitarian service, community leadership, and through dedicated support of Israel’s continuing effort to build a strong economy and achieve everlasting peace.”

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Becker Symposium to Examine the Law School in the New Legal Environment

IN CELEBRATION of Professor David M. Becker’s 50th year of teaching, a special Becker Symposium will focus on The Law School in the New Legal Environment. The event is being held in association with Law Alumni Weekend, October 26–27, along with a number of celebratory Becker events.

The symposium, which is eligible for 5 MCLE credits in Missouri, will run from 9 a.m. to 2 p.m. on October 26. Dean Kent Syverud will offer opening remarks followed by a plenary session on “Change and the New Legal Environment.” The plenary session will feature presenters Andrew F. Puzder, JD ’78, CEO of CKE Restaurants Inc.; Brian Tamanaha, the William Gardiner Hammond Professor of Law and author of Failing Law Schools; and Lauren Robel, president of the Association of American Law Schools and the Val Nolan Professor of Law, interim provost, and executive vice president, Indiana University—Bloomington.

Attendees will then choose between sessions on either “Affordability and Access to Legal Education in the New Legal Environment” or “The Future of Faculty in the New Legal Environment.” The next set of concurrent sessions will be “Preparation for Practice and Placement in the New Legal Environment” or “How Will Online Education Change Law Schools in the New Legal Environment?” The lunch session will feature the topic “Five Highest Priorities for Change.”

“It is entirely fitting that our tribute to David Becker looks forward more than it looks back, because David spent his career anticipating ‘what comes next’ and keeping himself and his students abreast of the latest in legal thought,” says Kent Syverud, dean and the Ethan A.H. Shepley Distinguished University Professor. “The Becker Symposium will bring some of the brightest legal minds to the law school for discussions that are designed to continue long after the symposium has ended.”

In addition to the plenary session presenters, speakers, and commentators will include Mary Beth Beazley, Moritz College of Law, The Ohio State University; Daniel Bernstine, Law School Admission Council; Chris Chapman, Access Group Inc.; Chief Justice Christine Durham, Utah Supreme Court; Michael Fitts, University of Pennsylvania School of Law; William D. Henderson, Center on the Global Legal Profession, Maurer School of Law, Indiana University; Kyle McEntee, Law School Transparency; Retired Chief Justice Ruth McGregor, Arizona Supreme Court; Deborah Jones Merritt, Moritz College of Law, The Ohio State University; Cynthia Nance, University of Arkansas School of Law; John F. O’Brien, New England Law School; Michael A. Olivas, Institute of Higher Education Law & Governance, University of Houston Law Center; Jerry Organ, University of St. Thomas School of Law; Roy Stuckey, University of South Carolina School of Law; Ian Weinstein, Fordham University School of Law; and Steve Willborn, Lincoln College of Law, University of Nebraska.

Other Becker festivities include a gala dinner and “Becker Office Hours.” For more information on the events, to register for the symposium, or to submit a Becker memory or photo, visit: law.wustl.edu/becker50.
Nine Firms Achieve 100% Participation in 2012 Challenge

Eight Additional Firms Join Challenge

The Law School’s 2012 Firm Participation Challenge set several records during the 2012 fiscal year. Nine firms achieved 100 percent alumni participation, up from the previous record of seven in 2011. In total, 66 percent of alumni employed at participating law firms made gifts to the Annual Fund, up from the prior record of 63 percent in 2011.

Firm agent Steve Jones, JD ’82, a partner at Armstrong Teasdale LLP, feels strongly about participating in the challenge. “I want to be one more of the many who support the school because we believe in the value and leadership of the institution,” he notes. “As supporters, we believe that appreciation, at any level, should not be silent. I also want to help the law school attract and support excellence in its student body, faculty, and facilities so that the contribution to our society by the lawyers from Washington University is a greatness that continually evolves. This is our way of saying ‘thank you.’”

Jones notes that the challenge gives alumni the opportunity for cumulative appreciation and leveraged support. “If I can help my colleagues show appreciation, I have said ‘thanks’ in yet another way,” he notes. “And if 100 percent of the alumni at our firm participate, it may encourage alumni at other firms to do the same.”

Elizabeth Kaul, law school director of development and Firm Participation Challenge administrator, says, “The Firm Participation Challenge is helpful in numerous ways, far beyond the boost given to alumni participation rates and the actual gifts given. It gets alumni talking about their law school and raises awareness of…

“...”As supporters, we believe that appreciation, at any level, should not be silent. ... This is our way of saying ‘thank you.’”

—Steve Jones, JD ’82

Firms Exceeding Law School’s National Average of Alumni Participation

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<th>Group I: 40+ Alumni</th>
<th>Alumni Participation</th>
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<tr>
<td>Bryan Cave LLP</td>
<td>76%</td>
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<tr>
<td>Greensfelder Hemker &amp; Gale PC</td>
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</tr>
<tr>
<td>Husch Blackwell LLP</td>
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</tr>
<tr>
<td>Polsinelli Shughart PC</td>
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<td>Thompson Coburn LLP</td>
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<td>DLA Piper</td>
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</tr>
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<td>Kirkland &amp; Ellis LLP</td>
<td>88%</td>
</tr>
<tr>
<td>Lathrop &amp; Gage LLP</td>
<td>65%</td>
</tr>
<tr>
<td>Lewis Rice &amp; Fingersh LC (4 years)*</td>
<td>100%</td>
</tr>
<tr>
<td>Ropes &amp; Gray LLP**</td>
<td>41%</td>
</tr>
<tr>
<td>SNR Denton (2 years)*</td>
<td>100%</td>
</tr>
<tr>
<td>Stinson Morrison Hecker LLP**</td>
<td>37%</td>
</tr>
<tr>
<td>Winston &amp; Strawn LLP</td>
<td>71%</td>
</tr>
</tbody>
</table>

<table>
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<tr>
<th>Group III: 3–15 Alumni</th>
<th>Alumni Participation</th>
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<tbody>
<tr>
<td>Cordell &amp; Cordell PC (4 years)*</td>
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<tr>
<td>Dearing &amp; Hartzog LC**</td>
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<tr>
<td>Drinker Biddle &amp; Reath LLP</td>
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</tr>
<tr>
<td>Edwards Wildman Palmer LLP</td>
<td>50%</td>
</tr>
<tr>
<td>Foley &amp; Lardner LLP</td>
<td>50%</td>
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<tr>
<td>Frankel Rubin Bond Dubin Siegel &amp; Klein PC</td>
<td>50%</td>
</tr>
<tr>
<td>Freeborn &amp; Peters LLP</td>
<td>40%</td>
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<tr>
<td>Goffstein Raskas Pomerantz Kraus &amp; Sherman LLC</td>
<td>45%</td>
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<td>Goodwin Procter LLP**</td>
<td>63%</td>
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<tr>
<td>Jones Day</td>
<td>50%</td>
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<tr>
<td>K&amp;L Gates LLP</td>
<td>46%</td>
</tr>
<tr>
<td>Laner Muchin</td>
<td>33%</td>
</tr>
<tr>
<td>Lashly &amp; Baer PC</td>
<td>42%</td>
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<tr>
<td>Margulis Grant &amp; Margulis PC**</td>
<td>100%</td>
</tr>
<tr>
<td>Mayer Brown</td>
<td>50%</td>
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<tr>
<td>McDermott Will &amp; Emery**</td>
<td>67%</td>
</tr>
<tr>
<td>Morrison &amp; Foerster LLP**</td>
<td>40%</td>
</tr>
<tr>
<td>Polster Lieder Woodruff &amp; Lucchesi LC (2 years)*</td>
<td>100%</td>
</tr>
<tr>
<td>Rosenblum Goldenhersh Silverstein &amp; Zafft PC (4 years)*</td>
<td>100%</td>
</tr>
<tr>
<td>Sandberg Phoenix von Gontard</td>
<td>57%</td>
</tr>
<tr>
<td>Senninger Powers (2 years)*</td>
<td>100%</td>
</tr>
<tr>
<td>The Stolar Partnership LLP</td>
<td>67%</td>
</tr>
<tr>
<td>Tueth Keeney Cooper Mohan &amp; Jackstadt PC**</td>
<td>67%</td>
</tr>
</tbody>
</table>

* Number of years at 100% participation
** New additions to the Firm Participation Challenge
the importance of giving back to benefit the next generation of our students. Our alumni leadership makes all the difference. They inspire the giving.”

Now in the sixth year of the challenge, 44 law firms banded together to encourage alumni colleagues to make gifts to the law school’s Annual Fund, resulting in 476 alumni gifts that totaled $225,626 in much-needed unrestricted support for the law school and students. This is more than has ever before been attributed to alumni of participating firms.

“Now in the sixth year of the challenge, 44 law firms banded together to encourage alumni colleagues to make gifts to the law school’s Annual Fund, resulting in 476 alumni gifts that totaled $225,626 in much-needed unrestricted support for the law school and students. This is more than has ever before been attributed to alumni of participating firms.

THE LAW SCHOOL IS ALSO ON THE UPSWING RELATED TO OVERALL ALUMNI PARTICIPATION IN THE LAW ANNUAL FUND, MOVING UP FROM 26.9 PERCENT LAST YEAR TO 28.2 PERCENT THIS YEAR, AND THE 2012 LAW FIRM PARTICIPATION CHALLENGE WAS A BIG PART OF THAT INCREASE,” SAYS GINA SHOLTIS, LAW SCHOOL SENIOR DIRECTOR OF DEVELOPMENT. “WE THANK ALL OUR ALUMNI WHO SUPPORT THE LAW SCHOOL PHILANTHROPICALLY, AND PARTICULARLY OUR ALUMNI VOLUNTEERS WHO ALSO LEND THEIR LEADERSHIP TO THIS EFFORT. THEIR SUPPORT AND INVOLVEMENT IS INVALUABLE TO THE SCHOOL AND OUR STUDENT BODY.”

St. Louis now has its first Hispanic bar association, thanks to several Washington University School of Law alumni and others who are seeking to increase diversity in law firms and legal departments in the city.

Serving as president of the Hispanic Bar Association of St. Louis (HBAstl) is Patrick Chavez, JD ’98, of Williams Venker & Sanders LLC. Joseph Lambson, JD ’09, of Hais, Hais, Goldberger & Coyne PC is president-elect, and Jessica Mendez, JD ’10, LLM ’11, of Armstrong Teasdale LLP, is vice president.

“Our mission is to promote Hispanics and Hispanic involvement in the legal profession in both the public and private sectors,” Chavez says. “The organization will serve the Hispanic and non-Hispanic community of St. Louis, while supporting Hispanic leadership in public and private life. We also will strive for full, fair, and equal opportunities for minorities in the St. Louis metropolitan area’s legal community.”

Lambson added that HBAstl will work with other bar associations and civic organizations in St. Louis and southern Illinois to promote diversity and inclusion in the legal profession while serving the legal needs of the Hispanic community. “We are coordinating with the Hispanic Chamber of Commerce and St. Louis Hispanic Chamber of Commerce to work directly with their members and the Hispanic community at large to serve this growing and diverse population.”

In addition to holding regular meetings, HBAstl participated in the 12th Annual Unity Dinner in April, alongside the Missouri Asian Bar Association, Women Lawyers’ Association of Greater St. Louis, Mound City Bar Association, and Lawyers for Equality.

For more information on HBAstl, contact Chavez at pchavez@wslaw.com or (314) 345-5072.
FIRM: ELROD-HILL LAW FIRM LLC, Peachtree Corners, Georgia
www.elrod-hillfirm.com

ATTORNEY: Patricia Elrod-Hill, JD ’89

AREAS OF PRACTICE: Estate Planning, Elder Law, and Disability Law

YEAR FOUNDED: 2003

BRIEF BACKGROUND: Patricia Elrod-Hill, CELA, is Certified as an Elder Law Attorney by the National Elder Law Foundation. She was admitted to practice law in Georgia in 1989. Before launching her solo practice, she was a staff attorney in the Office of Regional Counsel, Department of Veterans Affairs (VA) from 1990 to 2002. At the VA, she practiced health care law, medical malpractice, employment law, and information law. She now concentrates her practice in the areas of estate planning and elder and disability law. She counsels clients in many complex areas of estate planning, including wills and trusts, estate tax, special needs, and Medicaid and VA benefits.

Q: Why did you decide to form a solo firm?
A: After practicing law for 13 years, I wanted to control my own schedule, clients, and case load. I realized that my favorite part of practicing law was client contact—I wanted to develop close relationships with my clients and wanted them to see me as a counselor. A solo firm would allow me to develop those relationships.

Q: Why did you choose your particular area of practice?
A: When I decided to leave the VA, I thought a lot about what I loved about practicing law and what strengths I had developed, as well as what I did not like about practicing law. I realized that I had a lot of experience with elderly veterans and their health care and legal and financial issues. I also realized that I wanted to help older clients who had some real fears and concerns about facing the future with declining capacity and limited resources to pay for their increasing health care challenges. I had a good deal of experience interpreting regulations and rules, and I thought that an elder law and estate planning practice would allow me to have a lot of time one-on-one with clients. I also was eager to apply the skills I had developed in interpreting regulations and working with government rules and bureaucracies. I knew I no longer wanted to do litigation, so I chose an area of practice where I did not have to litigate too much.

Q: What aspects of your education at Washington University prepared you for your career?
A: I took many tax classes and at least one estate planning class, and those courses helped tremendously. I also participated in the Client Counseling Competition, which introduced me to strategies for getting information from clients efficiently, while also developing relationships with them. In addition, the pieces that I wrote for the first-year legal writing class and for the Law Review were about VA benefits and about housing regulations; both are subjects that I deal with daily in my practice. Additionally, since my small firm is also a business, the course I took on forming business entities and taxation of business entities has been very valuable to me.

Q: What advice would you have for someone interested in pursuing this area of law?
A: Study as much property, real estate, tax, and estate planning law as you can, and visit—or better yet volunteer—at assisted living facilities and nursing homes to develop an idea of the real problems your clients will have. Then try to work for pay or volunteer at a legal clinic or law firm where you may be required to assist with housing, Social Security, and health care issues for persons with disabilities. I also would recommend joining the National Academy of Elder Law Attorneys (NAELA) as a student and attending the conference for Basics Day that is held in the spring. (Next year, the NAELA conference will be here in Atlanta.)

Q: What has been the most rewarding aspect of your practice or case you have handled?
A: Every day I am rewarded when I sit with a family facing a crisis in caring for a loved one with a disability or a health care issue, and I am able to offer them some hope and some solutions.
1972

**Michael G. Goldstein** (LLM in Taxation) has published the second edition of *Taxation and Funding of Non-Qualified Deferred Compensation: A Complete Guide to Design and Implementation* (ABA). A national authority on executive compensation, taxation, estate planning, and corporate law, Goldstein is president and CEO of Summit Alliance Executive Benefits LLC in Newport Beach, California.

**Peter Scott** (JD '72, LLM '80 in Taxation) has joined Otis Coan & Peters LLC in Denver, Colorado. As senior counsel, Scott focuses on estate planning, business succession planning, and complex tax matters.

1976

**Michael Shindler** was appointed to the National Advisory Board of Carolina Performing Arts (CPA) by Chancellor Holden Thorp of the University of North Carolina at Chapel Hill. For its 2012–13 term, CPA will explore through performances the historic and artistic significance of Stravinsky's *Rite of Spring*, in recognition of the work's centennial.

1977

**Sally Newton Fairbank** received the Outstanding Full-Time Faculty Award for 2011–12 at the College of DuPage in Glen Ellyn, Illinois. She is a professor of paralegal studies in the Business & Technology Division, having joined the faculty in 2006. Fairbank is also the college's nominee for the Outstanding Faculty Member award given by the Illinois Community College Trustees Association.

**Barbara Atkinson Seely** is serving as the regional attorney of the U.S. Equal Employment Opportunity Commission's St. Louis District Office.

1978

**Joe Pereles** is vice chair of the Board of Governors of the American Red Cross. He is serving in his seventh year on the board. He also is vice president of development and general counsel for Drury Hotels Company LLC in St. Louis.

1980

**Randall S. Rich** was named the leader of the Energy Group at Pierce Atwood LLP. He is also the partner in charge of the Washington, D.C., office.

1982

**Steven L. Daniels** was elected regional board chair for the Florida Region of the Anti-Defamation League. He will serve for a two-year term.

**Glenn Davis** is a partner at HeplerBroom LLC in the firm's St. Louis office. Davis was formerly litigation chair of Gallop, Johnson & Neuman LC.

**Paula M. Young** was promoted to the Appalachian School of Law to full professor of law with tenure.

1983

**Jacqueline B. Bechek** is director of national events for the BMW Car Club of America in Greenville, South Carolina.

1986

**Kelly H. Kolb** represents employers and managers in labor and employment matters in Texas and Florida. He lives in Ft. Lauderdale.

1989

**Randi val Morrison** has been admitted to the DirectWomen Institute, an organization dedicated to educating women attorneys about public company boards.

1991

**Steve Ockerman** received the United Family Services’ Commitment of Justice Award for his work in the agency’s Legal Representation Project. Begun in 2009, the project has served more than 650 victims of domestic violence by providing free legal representation in obtaining domestic violence restraining orders. Ockerman is an attorney with Wishart Norris Henninger & Pittman PA in the Charlotte, North Carolina, office.

1993

**Andrew G. McCabe** was named assistant director of the FBI’s Counterterrorism Division. He recently served as the division’s deputy assistant director. Before entering the FBI in 1996, McCabe worked as a lawyer in private practice. He is certified by the director of national intelligence as a senior intelligence officer.

1994

**Kelly Moore** (JD '94, LLM '98 in Taxation) received the Outstanding Professor of the Year award for his third consecutive year at the University of Toledo College of Law. He was also promoted from assistant professor to associate professor. Moore is a former lecturer in law and former director of the Graduate Tax Program at Washington University School of Law.
1995

Shirley Padmore-Mensah was named a U.S. Magistrate Judge for the U.S. District Court, Eastern District of Missouri. Padmore-Mensah previously was a partner with Husch Blackwell LLP in Clayton, Missouri.

1996

Christine Schnarr Chiarello is a member of The Bayne Law Group in Princeton, New Jersey. She formerly was in the pharmaceutical industry, where she served a diverse client base in the areas of licenses, collaborations, joint ventures, mergers and acquisitions, commercial contracts, and general corporate representation.

1997

Edward I. Herman has been named partner at Brown & Crouppen PC in St. Louis. He specializes in personal injury cases.

1999

John C. Crossley is a partner in Husch Blackwell LLP’s Kansas City office. He focuses on representing clients in the development, construction, financing, and acquisition of energy projects across the country, involving both traditional and renewable energy sources. In 2011, Kansas City Mayor Sly James selected Crossley for his transition team “because of his deep knowledge of community and economic development and because of his passion for promoting a strong metropolitan region.” Crossley also has served on the Board of Directors for the Brush Creek Community Partners since 2008.

2000

Jovita M. Foster, a partner in Armstrong Teasdale LLP’s Litigation Practice Group, was honored by Sister Salute, a newly formed organization that celebrates women of color. She is a member of the firm’s diversity committee, and chair of its 2011–12 United Way campaign. Foster was also recently elected to the board of the Urban League of Metropolitan St. Louis, which helps African Americans secure economic self-reliance, social equality, and civil rights.

2001

Sreenivasa Rao Dandamudi was selected by the American Council of Young Political Leaders (ACYPL) as a delegate to Mainland China and Taiwan for a 14-day political exchange program. Dandamudi worked with eight other young political and policy leaders studying the political systems of China and Taiwan.

2002

Bryan M. Westhoff has been named of counsel in Kaye Scholer LLP’s Complex Commercial Litigation Department in Chicago.

2003

Christopher Macchiarioli has joined the Criminal Section of the U.S. Attorney’s Office for the District of Columbia.

2004

Brian D. Bewley has joined the Kansas City, Missouri, office of Husch Blackwell LLP as a partner. He previously was senior counsel in the Department of Health and Human Services’ Office of Counsel to the Inspector General, where he received the Inspector General Exceptional Achievement Award in 2009–11. He also served as a Special Assistant United States Attorney.

William H. Joyce and his wife, Rachelle Joyce, recently welcomed their daughter, Isabel. Isabel joins three older brothers—Jackson, Thomas, and Henry. Joyce recently joined InterWorks Inc. in Stillwater, Oklahoma, as director of operations-business intelligence.

2005

Maggie Moore has joined Sandberg Phoenix & von Gontard PC as a member of the firm’s Products Liability Group in St. Louis.

Margaret Scavotto married Ryan Nudnickel. The couple lives in St. Louis, where Scavotto is general counsel and compliance manager for Management Performance Associates, a health care management and consulting firm.

Zheng Xie (LLM ’05 in U.S. Law, JD ’07) was named an associate in Husch Blackwell LLP’s Washington, D.C., office. She is a member of the International Practice Group in the firm’s Corporate Department. Xie represents both American and Chinese clients regarding...
matters of international trade, international transportation, commercial transactions, and corporate regulation.

2006

Dan O’Connor and his wife, Emily, announced the birth of their daughter, Margaret Grace, in Washington, D.C., on May 19, 2012.

2007

Daniel Frech was named an associate at Spangenberg Shibley & Liber LLP in Cleveland, Ohio. He specializes in personal injury practice.

John Reeves argued his first case before the Missouri Supreme Court on May 23, 2012. The court subsequently ruled in his favor on June 12, 2012. In the case, the defendant was convicted of unlawful possession of a firearm. The issue before the court was whether the police officer had reasonable suspicion to conduct a Terry stop of the defendant, which revealed the gun. The court concluded that the officer had reasonable suspicion, based on the totality of the circumstances.

2009

Heidi M. Seal joined the St. Louis office of Husch Blackwell LLP as an associate in the Real Estate and Development Practice Group. She previously was a real estate and finance associate in the Dallas office of Locke Lord LLP. She was also recently married to Paul R. Seal (MBA ’08).

2010

Sarah M. Armendariz has joined the Kansas City, Missouri, office of Polsinelli Shughart PC. An associate in the firm’s Financial Services Department, she focuses on real estate finance law with an emphasis on matters related to commercial real estate transactions.

2011

Matthew C. Clarkson has joined Brena, Bell & Clarkson PC in Anchorage, Alaska. His practice emphasizes oil and gas pipeline transportation, telecommunications, and general civil litigation.

J. Austin Moore was named an associate at HeplerBroom LLC in the firm’s St. Louis office. He concentrates on complex commercial litigation, including antitrust and unfair competition litigation, business torts, class action litigation, and alternative dispute resolution.

Mark A. Thomas was named an associate at Armstrong Teasdale LLP in St. Louis. He prosecutes and defends claims of patent, copyright, and trademark infringement and trade secret misappropriation. His clients include individuals and private and public companies with a wide array of technologies in the mechanical, electrical, and chemical arts.

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 Chambers USA’s Best in Franchise Law, Best in Corporate Mergers and Acquisitions, Best in Labor and Employment Law, Best in General Commercial Litigation, and Best in Real Estate Law; Best Lawyers in America’s 2012 St. Louis Financial Services Regulation Lawyer of the Year and St. Louis Public Finance Lawyer of the Year; Franchise Times’ Legal Eagle; Ingram’s 40 Under Forty Class of 2012; M&A Advisor’s West Regional Top 40 Leading Professionals in Mergers and Acquisitions and Financing; and 2012 Southwest Rising Stars.
William “Tom” Beltz, JD ’73, a longtime friend of the law school and an attorney who worked tirelessly to place orphaned children with loving families, died on May 1, 2012. He was 64. He practiced personal injury and adoption law in Colorado Springs, Colorado. A member of the El Paso Bar Association, the Colorado Bar Association, and a Fellow of the American Academy of Adoption Attorneys, he was certified as a Civil Trial Advocate by the National Board of Trial Advocacy. He also served as volunteer instructor of the Pro Se Adoption Clinic for two decades, teaching indigent families how to complete adoptions without the need of an attorney. Donations may be made in his memory at: gifts.wustl.edu.

Randy L. Gegelman, JD ’87, an ardent supporter of the law school, died June 1, 2012. He was 51. He and his wife, Wendy Skjerven, JD ’89, sponsored the annual Gegelman/Skjerven Scholar in Law scholarship and hosted an alumni event in their home in May 2010 that featured Professor John Drobak. Gegelman was a partner at Faegre Baker Daniels LLP in Minneapolis, where he specialized in employee benefits and executive compensation. He was passionate about learning and appreciative of the opportunities offered him through scholarships he received. Donations to fund law scholarships may be made in his memory at: gifts.wustl.edu.

Sanford “Sandy” Noyes McDonnell, BSE ’54, LLM ’85, a former Washington University trustee and longtime friend of both the law school and the university, died on March 19, 2012. He was 89. He spent two years in the U.S. Army working on the atomic bomb program in Los Alamos, New Mexico, before joining McDonnell Douglas Corporation as a stress engineer. He later became the firm’s president, CEO, and chairman of the board. A St. Louis Man of the Year and Harris Community Service Award recipient, he was involved in numerous civic projects, including the Malcolm Baldrige National Quality Award, Personal Responsibility Education Process, Character Education Partnership, and the United Way of Greater St. Louis.

1940s
Robert W. Kroening, JD ’46
Alfred L. Boisaubin, JD ’47
Robert C. Moehle, BBA ’42, JD ’48
Leger Grindon, AB ’49, JD ’49

1950s
Robert E. Buechler, AB ’52, JD ’56
Ernest Gruenfeld, BBA ’54, JD ’56, MBA ’63
Homer N. Mastorakos, JD ’57

1960s
Harvey S. Kopitsky, JD ’63
Jack Egel, JD ’66

1970s
R. William Breece, Jr., LLM ’70
Jerry B. Wamser, AB ’68, JD ’73
Theodore Charles Traeger, LLM ’76
Harold G. Belsheim II, MBA ’74, JD ’77

1980s
Alene Venn Haskell, JD ’80

View submitted tributes online at law.wustl.edu/alumni.
Lessons Learned from ACTA

The Anti-Counterfeiting Trade Agreement (ACTA) is a proposed “plurilateral” (i.e., more than a “bilateral” but less than a “multilateral”) international agreement designed to establish higher intellectual property (IP) enforcement standards than those currently required under existing multilateral IP agreements. From the outset, the ACTA negotiations and ACTA itself have been mired in controversy for at least four reasons.

First, the negotiations took place behind closed doors and were dominated by leading industrialized countries (e.g., the United States, Japan, and members of the European Union). From the outset, various industry groups (e.g., the entertainment, software, and pharmaceutical industries) were apparently privy to information not initially available (but eventually leaked) to the public, thus creating a perception of bias and unfairness.

Second, ACTA was negotiated entirely outside the auspices of the World Intellectual Property Organization (WIPO) and the World Trade Organization (WTO)—the two international agencies responsible for administering and enforcing existing multilateral IP agreements. The WTO in particular is charged with ensuring “the mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare, and to a balance of rights and obligations.”

These concerns over the structure of the negotiations helped fuel additional suspicions about ACTA itself. To some, ACTA merely represented a covert effort by IP owner groups in the developed world to “socialize” the enforcement costs of their private IP rights, by persuading governments to create stronger civil, criminal, and border enforcement measures in the name of combating trade in counterfeit goods, such as fake pharmaceuticals. To others, contrary to the implication that ACTA was primarily concerned with combating illicit trade in counterfeit goods, some of the provisions under consideration seemed more designed to target online digital file-sharing and involve Internet service providers in policing the infringing activities of their subscribers. To these critics, the ACTA negotiations seemed to be an exercise in “policy laundering”—i.e., working to achieve a controversial policy objective while ostensibly addressing a more laudable one.

After four years of negotiations, the United States and its negotiating partners—Australia, Canada, the European Union, and its member states, Japan, Korea, Mexico, Morocco, New Zealand, Singapore, and Switzerland—ultimately agreed on a final ACTA text in 2010. However, controversy continued to engulf the ACTA adoption and ratification process. The U.S. Trade Representative took the unusual position that the U.S. Senate need not be asked to ratify ACTA because ACTA was simply an “executive agreement.”

Nevertheless, two pieces of domestic implementing legislation widely supported by the U.S. entertainment industry were duly introduced in Congress and seemed well on their way to enactment by the time the U.S. and seven of its negotiating partners actually signed ACTA in October 2011. But both bills were unexpectedly stopped in their tracks as a result of an unconventional political protest organized on January 18, 2012. Google, Wikipedia, and a host of Internet service providers and social network sites rallied more than 7 million people to sign an online petition opposing the legislation. Within hours, elected officials dropped their support, and the proposed implementing legislation was eventually pronounced dead. Commentators declared that January 18, 2012, represented a moment when “the new economy rose up against the old.”

Meanwhile, the Mexican Senate adopted a resolution advising the Federal Executive not to ratify the agreement. In Europe, the decision of the EU and 22 of its member states to sign ACTA on January 26, 2012, sparked a widespread series of online petitions and offline protests against ACTA, eventually spreading to more than 200 European cities. In response, the European Parliament’s Rapporteur (i.e., investigator) for ACTA, Kader Arif, resigned and dramatically denounced the entire ACTA negotiating process. On July 5, the European Parliament voted overwhelmingly to reject ACTA, thus putting the ACTA ratification process throughout Europe in jeopardy.

So, what does the ACTA controversy have to teach those concerned with developing stronger international IP enforcement standards? First, it illustrates the shortcomings of the various political strategies employed throughout the ACTA negotiations—i.e., forum-shifting, closed-door plurilateral negotiations, and policy laundering. Second, it suggests that negotiations to enhance international IP enforcement standards need to occur in a multilateral forum such as the WTO, where trade-offs between IP and other trade policies are possible, thus ensuring that the enhanced IP enforcement standards will indeed function “to the mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare, and to a balance of rights and obligations.”

Charles R. McManis, the Thomas and Karole Green Professor of Law, is a nationally and internationally known expert on intellectual property and the author or co-author of numerous books, articles, and book chapters. A former consultant to the World Intellectual Property Organization, he is on the Executive Committee of the International Association of Teachers and Researchers of Intellectual Property.