

# Advocate

UNIVERSITY OF SAN DIEGO SCHOOL OF LAW

## Frank Partnoy Explains Wall Street's Meltdown



GLASS '84 REFEREES O.J. CASE | COMMENCEMENT 2008 | MCGOWAN PROTECTS BRIGHT IDEAS

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## August

### AUGUST 8, 2009

USD Orange County Alumni Chapter  
Pageant of the Masters  
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### AUGUST 19 –

### SEPTEMBER 25, 2009

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## September

### SEPTEMBER 10, 2009

State Bar of California Annual Meeting  
Alumni Reception with Dean Kevin Cole  
and David P. McGowan, Lyle L. Jones  
Professor of Competition and Innovation  
Law and Director of USD's Center on  
Intellectual Property Law and Markets  
6:00 – 8:00 p.m.  
Manchester Grand Hyatt  
Contact the Office of Law Development  
& Alumni Relations  
(619) 260-4692 or [lawalum@sandiego.edu](mailto:lawalum@sandiego.edu)

### SEPTEMBER 18, 2009

Distinguished Alumni Awards Luncheon  
11:30 a.m. – 1:30 p.m.  
Westin San Diego Gaslamp Quarter  
Contact the Office of Law Development  
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## October

### OCTOBER 5, 2009

Red Mass  
Founder's Chapel  
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[usdlawevent@sandiego.edu](mailto:usdlawevent@sandiego.edu)

### OCTOBER 16-18, 2009

Law Alumni Reunion Weekend/USD  
Homecoming  
Contact the Office of Law Development  
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### OCTOBER 29, 2009

USD Chicago Alumni Chapter Architrave  
Art Gallery Event  
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## November

### NOVEMBER 11, 2009

USD Phoenix Alumni Chapter 60th  
Anniversary Event with USD School of  
Law Dean Kevin Cole  
Contact the USD Office of Alumni Relations  
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### NOVEMBER 14, 2009

USD 60th Anniversary Gala  
Contact the 60th Anniversary  
Gala Coordinator  
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## December

### DECEMBER

State of California Bar  
Swearing-In Breakfast  
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### DECEMBER 12

USD Alumni Christmas Mass  
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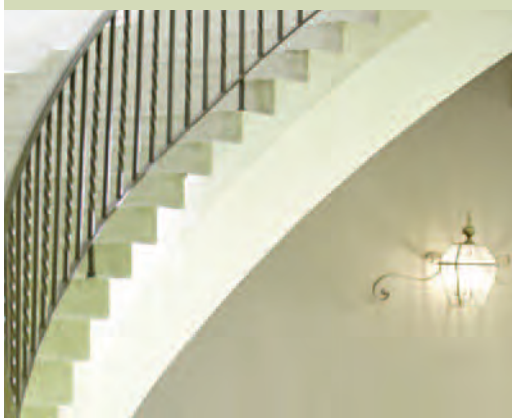
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## MESSAGE from the dean

No one has been spared by the global economic meltdown. Let me tell you a few ways in which the law school has been impacted. Like most law schools, colleges and universities, we face challenges related to investment losses suffered by our endowment. You have probably read about the problems of some of the best-endowed institutions in the country, which have required those institutions to cut personnel and programs. As our endowment was more modest to begin with, we had not relied as heavily on endowment income to fund our programs, and so we have not experienced the upheaval that has afflicted some other institutions. Programs remain as before, and the University has been able to maintain its workforce at full force. But we will suffer a significant loss of endowment income, and this loss could adversely impact our ability to provide scholarship support for our students, research support for our faculty, and events that enrich our core academic program. We hope that our loyal donors will help us maintain our level of excellence through this complicated time despite the new challenges that confront us all.

In part because a law degree prepares its holder to adapt to changing circumstances, law school applications historically rise during tough economic times, and we are seeing the same pattern now. As you will see in this issue, we have augmented our program to enhance its value to students interested in an area of increasing practical importance—intellectual property law. Our new Center for Intellectual Property Law and Markets, led by Lyle L. Jones Professor of Innovation and Competition Law David McGowan, will not only train students in intellectual property law—patents, copyright, trademark issues and trade-secret laws—but will also help them understand how clients use these rights to develop and run businesses.

In addition, the law school was prominently featured in news coverage attempting to identify the root cause of our economic troubles. That coverage is discussed in more detail in the article in this issue about the work of Professor Frank Partnoy, who was much in demand for his analysis of how the risky business of derivatives trading on Wall Street contributed to our current economic woes. Among Professor Partnoy's appearances were *The New York Times* and *Financial Times* as well as *The Daily Show with Jon Stewart*, *60 Minutes*, *NewsHour with Jim Lehrer* and *FreshAir with Terry Gross*.

We know that better economic days are coming, and we wish you well as we all plot our courses through the current difficulties.



Kevin Cole  
Dean and Professor of Law



## California Chief Justice Ronald M. George Joins USD School of Law to Celebrate Professor Hugh Friedman's 50 Years of Academic Excellence

By Vincent LaPietra and Abigail Stephenson



Chief Justice George congratulates Professor Friedman.

“You have had an abiding influence on a great number of students, fellow faculty members, practicing attorneys, and judges.”

—Chief Justice Ronald M. George

**O**n October 31, friends, colleagues, former students and family joined Professor C. Hugh Friedman to celebrate his 50th anniversary as professor at USD School of Law. In recognition of his great contribution to the legal community at large, California Chief Justice Ronald M. George joined the event, delivering the keynote address, “Challenges Facing the Court,” at the Joan B. Kroc Institute for Peace & Justice.

“It is especially fitting that we begin our celebration this morning with an examination of the challenges facing the court,” said University of San Diego School of Law Dean Kevin Cole as he commenced the day-long event.

“Professor Friedman cannot be caricatured as an Ivory Tower academic. He is instead an exemplar of the practitioner academic. He had a distinguished career as a lawyer before becoming a full-time academic. His academic work, both in the classroom and in his scholarship, always attends to the problems facing practitioners in the courts.

And so, examining the pressing problems of the day is an apt way to honor Professor Friedman's career."

In 1958, Hugh Friedman moved to San Diego to practice corporate law and began his career teaching at the recently-founded University of San Diego School of Law. He taught part-time while developing his own law practice at Friedman, Heffner, Kahan and Dysart ultimately becoming a full-time professor in 1977. He literally wrote the book and the practice guide on corporate law and has established himself as an institution, not only on campus, but in the world of U.S. corporate law.

"We are especially pleased," said Dean Cole, "that our State Supreme Court's Chief Justice, the Honorable Ronald George, will share his views with us today on the challenges facing the courts."

Chief Justice George began his speech by recognizing Professor Friedman's numerous and outstanding contributions to the USD School of Law and the legal community.

"I share with many others here today—and many who are here in spirit—the abiding conviction that the legal profession and the administration of justice are far better and richer for Professor Friedman's many years of dedication to teaching and legal writing." He commented that the two "share a penchant for finding something we like and sticking with it" and noted that he "personally had occasion to cite his treatise on corporate law in my written opinions for the California Supreme Court."



**1. Professor Friedman in 1958. 2. The October 31 celebration was attended by family, friends, colleagues and former students. 3. Guests gather at the USD Institute for Peace & Justice for the event. 4. Guests were treated to a keynote address from the Honorable Ronald George.**



1. From left to right: USD School of Law Dean Kevin Cole, California Chief Justice Ronald George, Professor Hugh Friedman and David S. Casey, Jr., '74. 2. Professor Friedman. 3. Justice George, the Honorable Lynn Schenk '70, Professor Friedman.

Chief Justice George went on to say that while one could “summarize the most basic and immediate challenge confronting the judicial system in two words—sufficient resources,” he intended to discuss “the long-term challenge confronting the courts: carrying out their mission to provide fair and accessible justice in the face of the changing and urgent needs of the public we serve.”

He provided examples of current initiatives that address some of these challenges and discussed the importance of the recently passed Senate Bill 1407, which provides \$5 billion in revenue bonds for building and renovating court facilities. Chief Justice George also mentioned the Equal Access Fund established by the legislature to support legal aid programs and to provide assistance to unrepresented litigants.

“Just as the U.S. Supreme Court’s landmark decision in *Gideon v. Wainwright* recognized the importance of counsel in criminal cases where individual liberty is at stake, counsel may be just as essential in those civil proceedings that affect the most basic aspects of individual lives.”

And finally, the Chief Justice touched on the work being done to increase the number of judges in California. He stated, “access also means being able to have your matter heard—and that requires

a sufficient number of judges.” Accordingly, Chief Justice George has been working to create and fund 150 new ‘urgent’ judgeships.

Chief Justice George concluded his speech by congratulating Professor Friedman and reiterating his appreciation for his dedication to the legal profession.

“You have had an abiding influence on a great number of students, fellow faculty members, practicing attorneys and judges.”

A panel discussion featuring the Honorable Richard Huffman of the California Court of Appeal, Amy Fitzpatrick, executive director of the San Diego Volunteer Lawyer Program as well as law school faculty followed Chief Justice George’s remarks. Dean Cole moderated the event and asked the panelists to reflect on what law schools’ role in solving some of the problems may be.

Following the panel, more than 200 guests gathered for a celebratory luncheon, where it was announced that October 31, 2008, had been resolved by the San Diego City Council as “Hugh Friedman Day.”

Luncheon attendees included colleagues, current and past presidents and provosts of the University of San Diego, federal and state judges, city, state and federal officials, family, friends and former students. In addition to words of congratulations

and appreciation from university administrators, Michael Thorsnes, university trustee and poet, delivered a poem titled, “The Gift Shared,” and Professor Grant Morris offered thoughtful and often humorous anecdotes tracing Professor Friedman’s contributions over the past five decades. A video tribute produced by Paul Friedman was also shown, which featured twenty-three former students of Professor Friedman’s sharing remembrances about his teaching and influence on their lives and careers.

Professor Friedman took the stage to a standing ovation and humbly began, “This is a most extraordinary, wonderful and moving experience for me. I am connected in a special way and in some way to each and every one of you here.”

“I have had such satisfaction from my many years of teaching it almost seems indecent for me to be receiving this recognition for what has been, throughout a 50-year journey, so rewarding and filled with such joy.”

Professor Friedman acknowledged his past and present colleagues and students, as well as family for their support and inspiration throughout his career and life. He concluded with an excerpt from a poem by Robert Frost (“miles to go before I sleep”) and the message, “I look forward to continuing this journey with all of you.” 🇺🇸





## Consul General of Egypt Lectures at School of Law

Abderahman Salaheldin Speaks on U.S.-Egyptian Relations, Peace, Economic Development and Human Rights in the Middle East

By Andrew Adams

**E**gyptian Consul General Abderahman Salaheldin visited USD School of Law on April 16, 2008, to give a speech titled, “Egypt and the U.S.: A Model of Dialogue and Cooperation on Peace, Economic Development and Human Rights in the Middle East.” In his address, Salaheldin shared some of the knowledge that he has acquired during his 27-year career as an Egyptian diplomat and envoy to the United States.

Salaheldin encouraged law students interested in international work to examine the Egyptian approach to foreign relations. In overcoming border clashes and Cold War build-ups, while avoiding the morass of Middle East political upheaval, Egypt has walked a tightrope to become instrumental in regional and world politics. All of this was not accidental, Salaheldin said, as Egyptian diplomats have always put national interests first,

and refused to allow past problems or personal emotions to get in the way of finding common ground.

Key to this focus is keeping the talks and the disputes private. Just like individuals, nations have egos and pride, and it is a foolish diplomat that questions either publicly. In the same vein, name-calling and public chest-pounding does nothing but destroy any trust and common ground that negotiating parties have built.


As part of this success, Salaheldin touted Egypt’s mutually beneficial relationship with the United States and recent peaceful co-existence with Israel. He credits strengthening Egyptian-Israeli ties mostly to the 1979 peace treaty, which effectively established a permanent border between the two countries, just a decade after a war divided them. Much like the old saying “good fences make good neighbors,” the accord allowed diplomacy to move beyond old injuries and begin fostering a measure of trust.

The 1979 agreement also led to Egypt’s groundbreaking recognition of Israel, making Egypt the first Arab country to do so. While this may seem simple, recognizing Israel puts it on equal footing in the international arena, a step that other Arab countries have yet to follow. Furthermore, recognition

is the first step to fruitful and productive negotiations.

Salaheldin credited the development of normalized relations to the increasingly strengthening relationship between the two countries. While Egypt has made great strides in its relationship with Israel and in its own development, Salaheldin does not think Egypt has finished growing.

“We may not be moving as fast as the United States would like,” said Salaheldin, but Egypt’s seven percent growth rate in the last three years is enough to instill confidence in the country. Furthermore, as one of the few relatively safe investment sites in the region, Egypt is poised to take advantage of their strategic political and geographic situation.

In short, Salaheldin said, peace enabled Egypt to grow. It could spend its development money on schools and universities rather than on strengthening its border with Israel. He closed by repeating his belief that compromise and cohesion should drive every nation’s foreign policy. When the goal is economic growth—not geographic growth—negotiation and compromise are instrumental to success. And that success can only be found when diplomats keep their focus on the big picture goals, and avoid refighting the battles of past generations. 



## Is There A Carbon-Free Future?

By Andrew Adams

“The future ain’t what it used to be.” Borrowing a line from Yogi Berra, Scott Anders, director of USD’s Energy Policy Initiative Center (EPIC), described the theme of the third installment of the Climate Change Lecture Series.

Eager to hear just what that changed future might look like, a crowd of students, professors and practitioners gathered at Mother Rosalie Hill Hall Auditorium on October 30, 2008.

Keynote speaker, Dr. Arjan Makhijani, president of the Institute for Energy and Environmental Research in Takoma Park, Md., spent the last 40 years studying all aspects of new energy sources, including their mechanical, economic and political viability. His focus is on attempting to predict and develop the systems and technology necessary in a carbon-constrained future.

Yet, the question Dr. Makhijani has been grappling with, both in his research and in his new book *Carbon-Free and Nuclear-Free: A Roadmap for U.S. Energy Policy*, is whether or not that future can actually be carbon-free. Would such a shift require a large nuclear-based infrastructure?

When the idea of limiting carbon output arose late in the 20th century, Dr. Makhijani did not believe that any such shift could take place without increased dependence on nuclear power. “But, I do now.”

Dr. Makhijani set the stage by identifying the major crises in energy policy today: climate change, oil insecurity, nuclear insecurity and food insecurity. To be successful, any future energy policy will have to deal with all four issues, partially because their policy undergrowth is so entangled.

He defined the problem like this: carbon emissions must be cut to counter the potentially disastrous impacts of climate change. Increased dependence on foreign oil is not an option due to the political problems it has caused. Nuclear waste is still an issue, as currently there is no solution to the problems of storage or national security threats that the waste creates. In addition, Dr. Makhijani does not believe that growing fuel is viable today, as ethanol and other food-to-fuel crops actually require more energy input to grow and harvest the plants than the fuel produces.

Since using coal, oil, natural gas and corn all have their


problems, Dr. Makhijani used to believe that a shift to a nuclear-based energy economy—modeling that of France and Japan—was the likely outcome. Unfortunately the nuclear “success stories” of France and Japan are not as successful as he would have hoped.

Currently, only 4 percent of plutonium used in those countries actually goes to generating electricity, with the rest unusable by the industry. Of the remaining fuel, 0.5 percent is recycled and downgraded to less radioactive waste and then stored. France and Japan share the U.S. waste problem, as they are currently stockpiling the nuclear waste, without a permanent solution. Part of the problem is that this waste is easily converted to weapons-grade waste, and it is expensive to treat it to a safe level.

Furthermore, Dr. Makhijani believes that the lack of capital markets for nuclear power belie deeper problems: “Even the Wall Street that bought all the mortgage-backed securities refuses to invest in nuclear power.” He pointed out that the federal government is forced to insure all power plants in the absence of private insurance, creating an imbalance in the energy market.

So if fossil fuels are no longer the best option, and nuclear power is problematic as well, “What is the answer?” Dr. Makhijani asked. “What will the future look like?”

“Efficiency is the foundation,” he said. Simple as it sounds, this solution is not just turning out the lights when you leave a room or unplugging the TV when it is off. Large-scale efficiency renovations will result in large-scale energy problems. Housing and building renovations could provide meaningful cuts in energy use. Investing in a “Smart Grid,” meaning changes to the electricity grid that would allow it to alternately take in and provide electricity as the need fluctuates throughout the day or the seasons, would go far to helping the U.S. meet its goals.

The answer to U.S. energy policy, Dr. Makhijani said, is not a silver bullet, but rather a silver “buckshot” of solutions including conservation, solar power, wind power and a smart-grid that can adapt to changing electricity needs. “It is possible to move beyond fossil fuels without going nuclear,” he said. “But it won’t be easy.” 

# USD Jurist-in-Residence M. Margaret McKeown Hosts Lunch for Eminent Ukrainian Jurists and Law Students

By Jeremiah Newcomb



In November 2008, the Honorable M. Margaret McKeown of the United States Court of Appeals, Ninth Circuit, and USD jurist-in-residence, hosted a rare meeting between five Ukrainian judges and USD law students. Presenting a dynamic learning oppor-

tunity for attendees, the visiting judges included the Honorable Stanislav Oleksiyovych Shchotka from the Supreme Court of Ukraine; the Honorable Mykola Ivanovych Cherlenyak, deputy head of court on the Economic Court of Kharkiv Oblast; the Honorable Oleh Mykolayovych Konychenko, head of court on the Donetsk Regional Administrative Court; the Honorable Kostyantyn Volodymyrovych Konyushko, deputy head of court on the Higher Administrative Court of Ukraine; and the Honorable Oleh Anatoliyovych Serheychuk, who serves on the Higher Administrative Court of Ukraine.

Judge McKeown opened the informal lunch with brief welcoming remarks and an introduction of each judge. Although the Ukrainian judges were familiar with the English language, they sometimes preferred to speak through an interpreter, answering questions and conversing with students. After lunch, Judge McKeown took the podium to introduce Judge Shchotka from the Supreme Court of Ukraine.


Judge Shchotka's presentation explained the various aspects of the Ukrainian Judicial system. USD law student Oleksandra (Sasha) Johnson, '09, translated the judge's remarks. One of the subjects addressed was the Constitutional Court, a topic with which few American law students are familiar. The Constitutional Court in Ukraine resolves constitutional questions if the president, at least 45 members of the parliament, the Supreme

Court, the ombudsman or the Crimean Parliament request the court rule on an appropriate issue. The court may rule on interpretations of the constitution by declaring laws created by parliament or certain other governmental actions invalid.

The other aspect of the Ukrainian judicial system that differed from the American system was the division of responsibilities on the Supreme Court into judicial chambers. The chambers—composed of groups of judges who only hear certain sorts of cases—include the criminal, civil, administrative and arbitration chambers, with a separate court panel that handles military cases. The Supreme Court is established by the Constitution of Ukraine, but the structure, including the number of judges and the length of appointment, is determined by the Parliament.

At the conclusion of Judge Shchotka's speech, Judge McKeown invited students with Ukrainian connections in attendance to stand and speak about their home cities, giving an interesting example of the diversity at the University of San Diego School of Law.

Judge McKeown closed the roundtable discussions on time, because the Ukrainian judges had “a date with a sail boat” on the San Diego Bay. In anticipation of the sailing trip, one of the judges commented how much San Diego reminded him of the Black Sea port city where he grew up. He said that the rolling hills that slope down toward a natural harbor were quite reminiscent.

The most valuable remain of the day was the intangible cross-cultural experience. For the law students present, it was a chance to watch notable members of judicial bodies from two distinct countries interact with a civility and professionalism that is rarely found in the world at large. Everyone participating in the luncheon came from varied backgrounds, but through an open dialogue, a common human experience was found that surpassed all the differences. 



## Everyone Loves a Discount

### Law School Hosts Summit on Discount for Lack of Marketability

Whether it's at Fashion Valley Mall or a new car dealership, who doesn't love getting top quality merchandise at 40-50 percent off the regular price? In addition to the bargain price, there's also the satisfaction of knowing that we received the lowest price and the best deal possible—so, we walk away with a good feeling.

How would you feel if you could get a big discount when you pay your federal taxes, specifically gift or estate taxes? Despite all of the recent political activity in Washington to do away with the federal estate tax, it is still here and most experts will tell you that it will not be repealed, if at all, any time soon.

In order to determine how much gift or estate tax must be paid, it is first necessary to value the gift or estate. To do this, trained valuers must make a determination of the value of the property which is subject

to tax. The standard of value used is called Fair Market Value, which has a specific definition found in the tax law and the regulations issued by the Internal Revenue Service.

Let's take for example the value of a business. Determining the fair market value of a business, partnership, corporation or other business entity requires a two-step process.

First, one determines the fair market value of the business by carefully following the rules set out in the government regulations, examining such things as the history of the business, its financial statements, its management and the economic outlook. Second, one determines whether it is appropriate to discount that value utilizing one or more of the major discounts permitted by law.

The discounts permitted by law are well established and confirmed by judicial precedents. Notable discounts include the discount for

lack of marketability, the minority discount, the key person discount and the portfolio discount.

For valuation purposes, marketability is customarily measured by receiving cash in a transaction within three days of the sale. If a business (or shares in a closely held corporation) cannot be sold for cash in three days because there are no buyers, then it is appropriate to take a discount for the lack of marketability. According to federal court cases, the lack of marketability discount can be within a reasonable range of 20 to 45 percent. Plainly speaking, the implications are clear. If your circumstances justify utilizing the lack of marketability discount, you can reduce your federal taxes by a significant amount. But, this is not the only discount you can take.

If the business interest is less than a control position, then you may be able to take a minority discount of




From left to right: Chuck Rettig, Esq. (Hochman, Salkin, Rettig, Toscher, & Perez, P.C., Beverly Hills, CA); John Prokey, Esq. (Ramsbacher, Prokey, LLP, San Jose, CA); Mel Abraham, CPA CSV (Conference Co-Chair)

another 5 to 20 percent. If your business interest is diminished by the loss of a key person, then another discount applies. If your business consists of a portfolio of non-homogenous assets, then still another discount applies. And the discounts continue.

Of course, there are guidelines and rules that must be observed in this type of planning. However, there are many conflicts in the lack of marketability discount theories. For this reason, the University of San Diego School of Law held a one-day conference to analyze and reconcile these theories to produce a single lack of marketability discount method.

On September 18, 2008, the Honorable David Laro, Judge of the United States Tax Court in Washington, D.C., gathered notable tax authorities from across the country. Mel Abraham, a renowned appraiser from Los Angeles, acted as event chairman. He was joined by tax law expert USD School of Law Professor Grayson McCouch, along with nationally recognized tax attorneys Charles Rettig from Hochman, Salkin, Rettig, Toscher & Perez P.C., and John Porter from Baker Botts, L.L.P. USD School of Law Professor Michael Devitt moderated the event and also spoke on a panel about expert testimony.


The conference made significant contributions to the knowledge of valuation and, as a result, planning for a 2009 event is already underway to help enlarge that knowledge in the context of a dynamic economy where traditional valuations no longer seem applicable. 



## USD School of Law Tax Law Speaker Series

University of San Diego School of Law welcomed prominent tax scholars from across the country for the fall installment of its Tax Law Speaker Series. Joining the law school's nationally recognized tax faculty, speakers presented papers on emerging tax theory. Speakers also took the opportunity to meet with the students.

Three speakers were featured during the fall semester of 2008. George K. Yin, professor of law and taxation at the University of Virginia School of Law, gave the inaugural lecture on October 17, 2008. He spoke about "Temporary Effect Legislation, Political Accountability, and Fiscal Restraint." On December 4, Victor Fleischer, associate professor and Thomas Mengler Faculty Scholar at the University of Illinois College of Law, presented "A Theory of Taxing Sovereign Wealth." Next, on December 5, Miranda Fleischer, associate professor and Richard W. and Marie L. Corman Scholar at the University of Illinois College of Law, spoke about "Charitable Justice."

The Series will continue in the Spring semester with presentations on family taxation, international tax policy and exemptions. 

## 2008 Paul A. McLennon, Sr., Honors Moot Court Competition

McKeown, Clifton and Whelan Serve as Judges for USD's Most Prestigious Intramural Moot Court Competition

By Andrew Adams



**O**n March 3, the University of San Diego hosted the final round of the Seventh Annual McLennon Moot Court Competition at the Joan B. Kroc Institute for Peace & Justice. At issue was the then-pending U.S. Supreme Court case of *Boumediene v. Bush*. The petitioners in that case were six Bosnian naturalized citizens, originally from Algeria, who were detained as enemy combatants at Guantanamo Bay Naval Base in Cuba.

Arguments were heard by a three-judge panel, the Honorable M. Margaret McKeown, circuit judge for the United States Court of Appeals, Ninth Circuit, presiding. She was joined by the Honorable Richard R. Clifton, also of the Ninth Circuit, and the Honorable

Thomas J. Whelan, United States District Judge for the Southern District of California.

Ben Shiftan, '09, appearing on behalf of the petitioners, argued that the Military Commissions Act (MCA) of 2006 violates the Suspension Clause of the U.S. Constitution because it strips Federal Courts of jurisdiction to review Habeas Petitions by Guantanamo detainees.

Matthew Ichinose, '09, for the respondent, the United States of America, argued that aliens outside the sovereign territory of the United States have no constitutional rights and the status review procedures in place provide sufficient procedural safeguards.

All three judges complimented the two finalists on their perform-

ance and agreed that the quality and style of the arguments was at, or even above, the level they were used to seeing in their courtrooms. And although the final vote was not revealed, the judges voted to give the top honor to Ben Shiftan in what they described as a "very close competition."

Professor Michael Devitt and his family endowed the moot court competition in 2001 to honor longtime family friend, attorney and naval officer Paul A. McLennon, Sr. The competition provides students an opportunity to develop their brief-writing and advocacy skills by testing them in an open and rigorous competition. After filing a written brief, early round participants are given 15 minutes to argue their



**Left to right: Matthew Ichinose, '09, argued on behalf of the respondent, the United States of America; Ben Shiftan, '09, appeared on behalf of the petitioners.**

position. Those students who move on to the semi-final and final rounds are allotted 20 minutes for arguments. Participants are also required to argue both sides of the issue as they advance in the competition. More



than 400 local attorneys took part as judges and were charged with the task of narrowing the field down from 93 participants.

The finalists were grateful for the chance, as second year law students,

to argue in front of such a distinguished group of judges. Both are interested in doing appellate work in their careers. Ichinose would “love the opportunity to compete for the school,” and Shiftan said he definitely sees himself “doing litigation in the future.”

Following the final round arguments, awards were presented to Lauren Cooper for Best Petitioner Brief, Marshall Skaletsky for Best Respondent Brief and to Ben Shiftan for Best Oralist. Competitors that do well are invited to interview for the Appellate Moot Court Board as national team members, national team coaches or tournament coordinators. 

## New Award Honors First-Year Academic Excellence


The year 2008 marked the inaugural conferment of the *Max and Gussie Gonick Memorial Prize for Academic Excellence in the First Year*. The award, established by Jerry Gonick, '84, and Susan Gonick, '86, is given to the returning day-division student with the highest grade-point average at the end of his or her first year.

The Gonicks established the award in memory of Jerry's parents, who immigrated to the United States in the early twentieth century, and who shared a lifelong love of learning. They each worked hard to establish themselves in America, with Max scheduled to enter dental school, when the Great Depression hit. Out of necessity and a sense of responsibility, they put aside

their own hard-fought aspirations, and worked menial jobs to support their growing family, never losing their admiration for intellectual excellence.

This year's recipient, Allison Rego, had the opportunity to meet benefactors Susan and Jerry Gonick on October 7, 2008, pictured below

with Dean Kevin Cole, who was also on hand to celebrate the occasion.

Rego said, “I am honored to receive the inaugural Max and Gussie Gonick Memorial Prize for Academic Excellence in the First Year and am grateful for the generosity of alumni like Susan and Jerry Gonick.” 



## 24th Annual Nathaniel L. Nathanson Lecturer Sets Originalism Free

By Andrew Adams



“Once  
judicial  
review

takes hold,  
the Constitution  
functions as a  
starting point,  
not a set of  
directions or  
an instruction  
manual.”

—Professor Robert Bennett

Robert Bennett, Nathaniel L. Nathanson Professor of Law at Northwestern University School of Law, began the 24th Nathaniel L. Nathanson lecture by proclaiming, “I do not come to bury originalism, but to set it free.” Formally titled, “Originalism: Lessons From Some Things That Go Without Saying,” Professor Bennett’s lecture focused on the shortcomings of originalist interpretation, particularly in areas where the Constitution is silent.

During his introduction, USD School of Law Dean Kevin Cole commented that Professor Bennett had entered “the lion’s den by arguing against an originalist interpretation of the Constitution at the University of San Diego School of Law.” He would be spared, however, because “we are known for our passionate originalism.”

Leading with an example of how extremely formal originalist interpretation would have barred George Washington from ever serving as president, Bennett accused originalism of being too narrow and simplistic. Because no constitution can be all-inclusive, a text-only interpretation is most weak in areas of law that the Constitution does not specifically discuss. He contrasted originalism with the living constitution theory, whose advocates “insist that the document must keep pace with changes on the ground and with different sets of values that may prevail today.”

Beyond the infamously vague phrases “due process,” “equal protection” and “unreasonable search and seizure,” there are many areas in which ambiguous language makes constitutional interpretation controversial. Paramount amongst these is whether unspecified rights and duties were considered so fundamental that the framers didn’t feel they needed to address them or, as originalists would argue, they were intentionally left out.

Case in point: how is an originalist supposed to interpret an unconstitutional piece of legislation passed by referendum? Professor Bennett says there is no answer in the text as the voting public is not considered in the normal checks and balances equation.

Professor Bennett also noted that while political parties may seem like an integral part of our system, they were looked down upon at the time of the framing and are not mentioned in the Constitution. The question then is: “Should we just accept the silence?” Professor Bennett argues that this is not an option because the fact of political parties inescapably bears upon things the Constitution does say.

Professor Bennett’s final example concerned the electoral college and how the Constitution says nothing about whether or not the electors are bound by the votes of the people they represent. Although there has not yet been a case of an elector ignoring his or her mandate, it is quite possible to see defections in



a close race. Allowing people to cast ballots for their candidates implies that electors should follow the will of the people. However, a strictly originalist interpretation would allow electors to make their own decisions.

Professor Bennett says that a minimalist and text-centered approach to constitutional interpretation “can solve some things pretty cleanly, like how old a president must be.” But, he says, most of the interesting things are open to interpretation. The Constitution is affected by what happened since it was written, and Professor Bennett sees a strong need to weigh intent and current mores in modern interpretations.

“Once judicial review takes hold, the Constitution functions as a starting point, not a set of directions or an instruction manual,” he said.

“If judges take the originalist approach, more often than not, they will come up empty.” Bennett added that judges cannot separate their interpretation from current morals and values.

“If that is what it means for our constitution to be a living one, then a living Constitution we will have.”

*The Nathaniel L. Nathanson Memorial Lecture Series was established in 1984 to honor the esteemed law professor who devoted his life to the law and legal education. This lecture series brings distinguished speakers to the University of San Diego School of Law to discuss issues of national significance.* 🌐



## International Tax Institute Highlights Current Developments in Cross-Border Tax Law

By Meredith D'Angelo

**A**t the fourth annual University of San Diego School of Law-Procopio International Tax Institute, an array of leading tax experts discussed the latest international taxation issues. Held in May 2008, government officials, tax professionals and legal scholars from the United States, Mexico and Canada gathered at USD to provide an update on recent developments in cross-border taxation. Tax attorneys and accountants attended panels on a variety of dynamic topics, including the recent fiscal tax reform in Mexico, U.S. local taxation of international operations, and the consequences and opportunities resulting from the recently signed U.S.-Canada Protocol.

A timely topic reviewed by Institute speakers was the newly introduced Mexican *Impuesto Empresarial a Tasa Unica* (IETU), which is the approximate equivalent of a flat-rate business tax. According to Procopio's tax team leader and past chair of the California State Bar's Taxation Section International Committee, Patrick Martin, '92, the Mexican tax reform of 2008 was

one of the most significant tax law changes in the last 50 years.

Martin, who also spoke on several other topics at the institute, suggested that “one of the most important open technical tax questions is whether the IETU will be eligible for a foreign tax credit in the U.S. The IRS has tentatively said they will not challenge whether the IETU is eligible for a foreign tax credit as they continue to study it in more detail. Practitioners and taxpayers should stay tuned, because the IRS's final conclusions might not be favorable to the U.S. taxpayer investor.”

The institute also welcomed Ambassador to Mexico Jeffrey Davidow as a keynote speaker. Ambassador Davidow was joined by fellow keynote speaker Jack Anderson of Ernst & Young's Paris office, who discussed the Forbes Tax Misery and Reform Index. Other speakers included School of Law faculty members, the Hon. David Laro, M. Carr Ferguson, Richard Pugh, Rufus von Thülen Rhoades, and John Forry. The Institute was hosted by the School of Law and Procopio, Cory, Hargreaves & Savitch LLP. 🌐

## Former U.S. Ambassador John Bolton Keynotes Fifth Annual Bowes-Madison Distinguished Speaker Series

By Vincent LaPietra



In the waning days of 2008, the troubled U.S. economy made it easy to forget that incoming President Barack Obama would have more to deal with than just bailouts and public spending programs until a series of brutal and senseless massacres unfolded over three days in Mumbai, India. With suspected origins in Pakistan's tribal regions, the attacks once again brought the very real threat of terrorism to the front pages of America's newspapers. It was against this backdrop on November 8, 2008, that former U.S. Ambassador John Bolton delivered the keynote address at the fifth annual Joan E. Bowes-James Madison Distinguished Speaker Series at the Joan B. Kroc Institute for Peace & Justice.

The current trend in political science is to envision a future where the United States is rivaled both economically and militarily by both

state (India and China) and non-state (European Union) actors, termed the "rise of the rest" by noted author and *NewsWeek* columnist Fareed Zakaria. Ambassador Bolton, however, rejects the notion that the United States faces emerging competitors. Bolton points to Europe's aging population as evidence that the continent's economy will not rival that of the United States anytime in the near future. Furthermore, he believes that the EU is "less than the sum of its parts" because there is no consensus among the member states concerning foreign policy.

Turning his attention to the "BRIC" countries (Brazil, Russia, India and China), Bolton summarily dismissed the idea that Brazil will develop into a world player. Brazil, he said, "doesn't even belong in this discussion in terms of its influence in world affairs."

India, long the target of protectionist animosity due to its receipt of many 'outsourced' jobs, will fail to meaningfully compete with the United States, said Bolton. This is because the country has been plagued by a long history of terrorism (the Mumbai attacks being only the latest example) and these attacks dissuade foreign investment. Even as distressed Americans follow the volatile New York Stock Exchange, the Mumbai stock exchange index, he noted, has fallen at an "even larger percent than the Dow Jones."

Moreover, he said, the Mumbai attacks belie an instability in the region that shows no signs of improving. The attacks act as a 'bank shot' against the political stability of Pakistan, creating a classic Catch-22 scenario: Pakistan can either choose to cooperate with India and alienate a large portion of its population, or it can refuse to cooperate and risk military retaliation from India. Bolton says these problems will continue to prevent India from becoming a leader in the world economy until they are solved.

"If this issue is not handled carefully by the governments of India and Pakistan, we risk a situation where these countries could come to military action against one another," said Bolton.

Russia, Bolton believes, will be more important for the next president. He sees that country's recent incursion

into Georgia as part of a larger plan to reunite the territory of the old Soviet Union. He argued that the five-day war in which Russia retook Georgia is analogous to Nazi Germany's invasion of the Sudetenland—a larger power invading a defenseless neighbor. To that end, he noted that Russia has been issuing passports to ethnic Russians in Ukraine so that Moscow can begin military operations in the Ukrainian region under the auspices of protecting Russian citizens.

“I think that we in NATO are responsible for this aggressiveness on the part of the Putin government,” said Bolton, adding that he is concerned by the Western European NATO members who have actively worked against the addition of Georgia and Ukraine to the defense compact.

Ambassador Bolton also argued that Russian President Dmitry Medvedev's threat to place ballistic missiles on the Polish border in retaliation for America's deployment of a missile defense shield is a test designed to question President Obama's strength. The U.S. missile defense system is designed to neutralize the threat posed by Iran, so Bolton argued that Russia could not seriously believe that they were being targeted because it could not possibly be effective against such a large number of missiles.

Bolton next turned his attention to China. The predictions about the Chinese economy, he said, are based upon 'straight lining' the growth of the past 20 years.

“But one could well ask whether that's not too short a period on which to view China's prospects,” explained Bolton. “Let's just take a century,



“While the new administration may want to direct its focus to our economic circumstances, the rest of the world doesn't wait for us to get our own house in order.”

—John Bolton

which in the vast sweep of Chinese history is really insignificant.”

If you straight-line the past 100 years, continued success on the scale of recent Chinese growth seems much less certain. This is compounded by a history of changes in Chinese government since the fall of the Qing dynasty.

“It's going to be a very important task for the next American President to try and deal with China,” said Bolton. “We need to do what we can to move them into the direction of a peaceful economic rise, but recognizing that our influence there is quite limited.”

Bolton addressed what he considers to be the most pressing foreign-policy issue: a Mumbai-style attack on U.S. soil undertaken with nuclear, biological or chemical weapons. Bolton said he whole-heartedly agreed with President Bush's oft repeated sentiment that the United States “cannot allow the world's most dangerous weapons to fall into the hands of the world's most dangerous people.”


Bolton noted that Obama's prom-

ise to enter into talks with both countries without preconditions is not considered “change” as America has been negotiating with countries such as North Korea for the past five years. He went on to say that if six-party talks failed to prevent North Korean dictator Kim Jong II from cooperating with Syria and other mid-eastern countries, then so too will bi-lateral negotiations.

Bolton said, “North Korea and Iran have cooperated very extensively over the years on ballistic missiles.” He believes that in the future we will find that Syria, Iran and North Korea had a joint venture to acquire weapons of mass destruction.

“While the new administration may want to direct its focus to our economic circumstances,” Bolton concluded, “the rest of the world doesn't wait for us to get our own house in order.”

Bolton's diplomatic skills were honed working with Secretary of State James Baker during the presidency of George H. W. Bush, and serving in the administration of President George W. Bush as Undersecretary of State for Arms Control and International Security Affairs. Bolton also served as the United States Permanent Representative to the United Nations from August 1, 2005, to December 9, 2006.

Former Ambassador Bolton is the author of numerous journal articles; his book *Surrender is Not an Option: Defending America at the United Nations and Abroad* was published by Simon and Schuster in 2007. He resides in Bethesda, Md., with his wife Gretchen Smith Bolton. 



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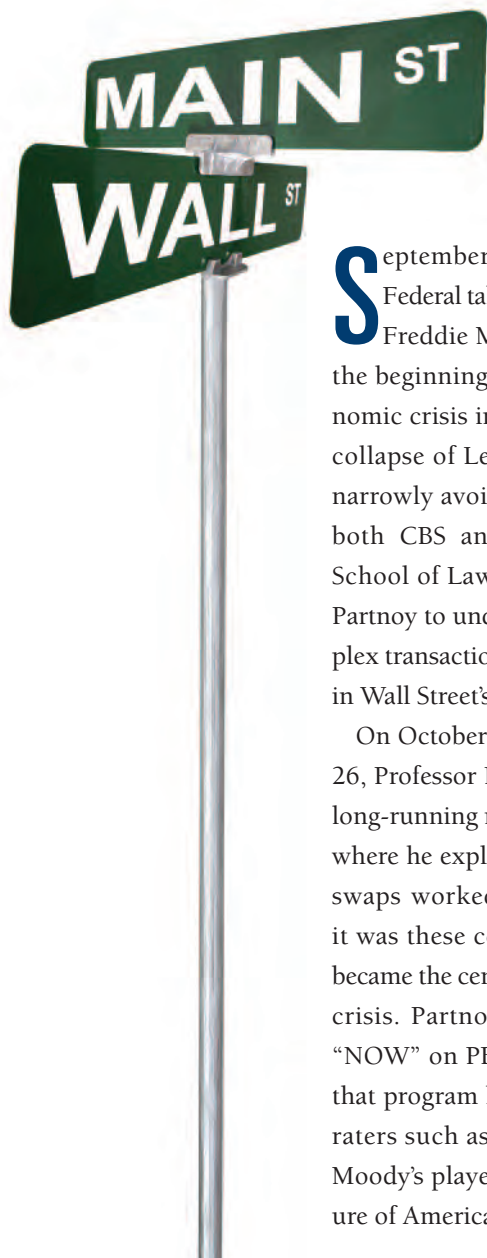
By Vince LaPietra

"For anyone who doubted my claim that obscure  
financial instruments called derivatives could cause the  
collapse of the global financial system . . .

**I told you so."**

Professor Frank Partnoy





September 2008 began with the Federal takeover of Fannie Mae and Freddie Mac. This action marked the beginning of the most severe economic crisis in a generation. With the collapse of Lehman Brothers and the narrowly avoided bankruptcy of AIG, both CBS and PBS turned to USD School of Law's own Professor Frank Partnoy to understand the highly complex transactions which nearly resulted in Wall Street's collapse.

On October 5 and again on October 26, Professor Partnoy appeared on the long-running news show "60 Minutes" where he explained how credit default swaps worked as side bets and how it was these complex derivatives that became the centerpiece of the economic crisis. Partnoy was also featured on "NOW" on PBS on November 21. On that program he explained how credit raters such as Standard & Poor's and Moody's played into the systemic failure of America's financial markets.

Partnoy has long been an advocate for reform of financial market regulation. His critical views stem from his experience as a derivatives broker with Morgan Stanley in the 1990s. While there, Partnoy saw firsthand what he deems to be one frequent theme of finance: Wall Street bilks Main Street. Partnoy was so convinced that Wall Street had taken a dangerous wrong turn that his first book, *F.I.A.S.C.O.: Blood In the Water on Wall Street* (Penguin Group, 1999), was written in an effort to expose the dangerous predatory behavior permeating America's financial institutions.

In the years since leaving Morgan Stanley, Professor Partnoy has kept abreast of the many developments on Wall Street. He credits the professional environment at USD as one of the reasons that he is able to remain at the forefront of financial experts despite being so far from Wall Street. "One of the benefits of being at USD is the



freedom the faculty is given to pursue regulatory reform.”

Partnoy’s expertise on financial markets has been recognized by the United States Senate, where both Democrats and Republicans have invited him to testify. In 2001, he testified as an expert at the first formal hearing on the collapse of Enron. During his testimony, Partnoy turned his attention to a footnote in Enron’s annual report that contained details about the company’s shady derivatives dealings.

“Senator Thompson (R-Tenn.) interrupted my rant to remark that he was familiar with footnote 16,” says Partnoy, “but when I became uncontrollably excited about our apparent parallel understanding of the Enron fiasco, he interrupted me again and said that he was only joking.”

This exchange strengthened Partnoy’s belief that Washington’s failure to take white collar crime seriously has compounded the problem. You have to ask

yourself, “How can a \$100,000-a-year Securities and Exchange Commission investigator ever catch a \$2,000,000-a-year derivatives salesman?”

In the aftermath of the 2001 collapses of Enron and WorldCom, Partnoy wrote the book *Infectious Greed: How Deceit and Risk Corrupted the Financial Markets* (Times Books, 2003). In the book, he laid out his case for regulatory reform and predicted that, if no action were taken by Congress, a financial disaster loomed on the horizon.

Fast-forward to October 23, 2008, when Partnoy’s longstanding call for increased regulation was validated by Alan Greenspan’s admission that “the maestro” had been wrong about the self-correcting power of the free market. Consequently, however, the admission was an indicator that the disaster which Partnoy had been predicting (and dreading) for nearly twenty years was upon us.



On October 5 and again on October 26, Professor Partnoy appeared on the long-running news show “60 Minutes.” He was also featured on “NOW” on PBS in November of 2008, “Fresh Air” on NPR in March of 2009, and “The Daily Show” on Comedy Central in May of 2009.

The current economic crises struck just as Partnoy put the finishing touches on his latest book, *The Match King: Ivar Kreuger, the Financial Genius behind a Century of Wall Street Scandals* (PublicAffairs, 2009). The book, released in April, takes an analytical look at the life of Swedish match tycoon Ivar Kreuger. Kreuger's business practices were, in large part, the reason America originally began regulating its financial markets. Partnoy believes that the lessons from that era have been forgotten and hopes that the book will help readers put the current recession in a historical context.

Professor Partnoy doesn't spend all his time writing books and making national media appearances—he does indeed teach classes. In fact, the learning experience of his students is enriched by his passion for the subject. Many class sessions during the fall semester of 2008, were spent discussing the developing crisis and Congress' reaction to it.

“Having Professor Partnoy as a resource last fall was invaluable,” says Oleksandra Johnson, '09, of Partnoy's corporations class. “He took the time to teach us the details that the news media were not covering in-depth—or were not covering at all. Our class discussions allowed me to not only understand what was going on with the market, but also to confidently discuss and explain current events to my family.”

Another student in Professor Partnoy's corporations class agrees. “Whenever


news was breaking about the credit crunch, he would bring up the news and help explain to us what everything meant. He'd walk us through the alphabet soup of CDOs, MBSs and derivatives, and this made the bigger picture clearer for us all.”

Professor Partnoy believes that the market will ultimately recover, whatever steps are taken. Specific reforms, however, need to be enacted in order to correct the systemic failure that led to the current crises.

“My greatest hope is that Congress will reform the credit rating agencies, which were a primary cause of the crisis and the widespread dysfunctionality of our markets. I will be spending much of my time during the upcoming months working on the ratings issue.”

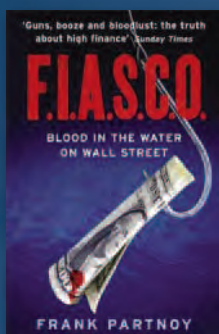
*F.I.A.S.C.O.* has been re-released with an updated epilogue in which Partnoy connects the dots from the time he left Wall Street to the end of 2008. The story contains many fascinating anecdotes which build up to the bittersweet final paragraph:

“I have just one last thing to add, for anyone who doubted my claim that obscure financial instruments called derivatives could cause the collapse of the global financial system. I told you so.”

Let's hope that Congress pays attention this time and decides to regulate the ratings agencies. No one wants to read another updated epilogue to *Infectious Greed*. 



# Partnoy's Recent Publications



*F.I.A.S.C.O.: Blood in the Water on Wall Street* is the story of one man's education in the jungles of Wall Street. As a young derivatives salesman at Morgan Stanley, Partnoy learned to buy and sell billions of dollars worth of securities that were so complex many traders themselves didn't understand them. In his behind-the-scenes look at the trading floor and the offices of one of the world's top investment firms, Partnoy recounts the macho attitudes and fiercely competitive ploys of his office mates. And he takes us to the annual drunken skeet-shooting competition, FIASCO, where he and his colleagues sharpen the killer instincts they are encouraged to use against their competitors, their clients, and each other. F.I.A.S.C.O. was the first book to take on the derivatives trading industry—the most highly charged and risky sector of the stock market. More importantly, it was a blistering indictment of the largely unregulated market in derivatives and serves as a warning to unwary investors about real fiascos, which have cost billions of dollars.



Recent corporate scandals brought attention to the dangerously complex and unregulated financial practices of some of the world's most successful companies. *Infectious Greed: How Deceit and Risk Corrupted the Financial Markets* brings Partnoy's impressive understanding of complex financial transactions and legal expertise to a fascinating tour of the institutions, scandals and business cultures that brought us to this moment. In tracing the evolution of increasingly complex derivatives' use over the past fifteen years—and an appetite for risk and return that made it possible—Partnoy demonstrates that despite the media's narrow focus on Enron, it was only the tip of the iceberg. The culmination of a steady erosion of personal and institutional control, today's financial landscape is loaded with ticking time bombs with far greater potential for harm and loss than any other period in our history.



Ivar Kreuger, the infamous “Match King,” is remembered as the most colorful and compelling business personality of the roaring 1920s. From 1929 to 1932, he was the most talked-about business man in the world, for good reason. Labeled by historians as the greatest fraud in history, Kreuger was wealthier than Morgan and as generous as Rockefeller. He miraculously survived the Great Crash, only to be found, one dark Paris morning, with a bullet through his heart. Opinions about Kreuger were deeply divided: hero or villain, innovator or fraudster, suicide or murder victim. Through *The Match King: The Financial Genius Behind a Century of Wall Street Scandals*, Partnoy tells of a 1920s Wall Street filled with greed, speculation, and scandal that foretells the financial meltdown of 2008.

For more information on Partnoy and his publications, visit [www.frankpartnoy.com](http://www.frankpartnoy.com).

Welcome to the Profession of

# LAW

**U.S. Attorney Thomas O'Brien, '93,  
Speaks at the 2008 Commencement**

**Below, left: 2008 commencement speaker, the Honorable Thomas P. O'Brien, '93, with Dean Kevin Cole. Right: Class of 2008 Valedictorian, Haibo Lu.**

**Opposite page, left: graduates lining up before commencement. Bottom: a family of USD School of Law graduates welcome the latest family member as an alumnus. From left to right: William Reising, Jr., '03; Alisa Ledbetter Reising, '03; Eric Reising, '08; William Reising, Sr., '76; and Daniel Reising, '74.**



**T**he Honorable Thomas P. O'Brien, '93, United States Attorney for the Central District of California, handed out some words of wisdom to the University of San Diego School of Law's Class of 2008.

O'Brien's professional biography is an inspiration to new lawyers. Prior to attending law school, he received his degree from the Naval Academy and served as a U.S. Naval officer. After graduating from USD School of Law, O'Brien began his law career as a prosecutor in the Hardcore Gang Division of the Los Angeles County District Attorney's Office. He next joined the U.S. Attorney's Office where he investigated and prosecuted federal hate crimes, racially motivated murders, human trafficking violations and police misconduct cases. O'Brien then served for more than two years as chief of the office's criminal division.

On July 12, 2007, President George W. Bush nominated O'Brien to be the U.S. Attorney for the Central District of California. He was unanimously confirmed by the Senate and was sworn in on October 5 of that year.

"We are deeply honored that he has taken the time out from his hectic schedule to return to his alma mater and to welcome his fellow alumni to the practice of law," said Dean Kevin Cole in his welcoming remarks.

"I bet you thought this day would never come," O'Brien began. But "I've been practicing law for 15 years and there are a number of things I'd like to tell you. Number one: I'm going to tell you how to pass the California bar exam—guaranteed. Number two: I'm going to tell you how to be successful and happy in the practice of law." Generalities, but vitally important to incoming attorneys.

So what was O'Brien's advice to graduates on how to pass the Bar? "STUDY...A LOT! If you do so, I can guarantee that you'll pass the California bar exam," he continued. "I just won't promise how many times it will take.

"Fortunately, you come from the University of San Diego

School of Law and you have been given the tools to analyze, to read, to apply the law and put it down in a coherent fashion."

O'Brien then told a story about his first day of law school at USD when Professor Grant Morris had chosen him to be the class's first victim of the Socratic method. He recounted how the humbling string of questions revealed to him how little he actually knew about the law.

"And so I learned what law school was all about," he explained. "For me it was that you walk into a class, as you will walk into your practice of law, thinking you know everything. But at the end of that hour you realize, you don't know a whole lot. And that truly is the exciting part about not just law school, but the practice of law."

The challenges of law school parallel the most exciting part of practicing law: a continual learning process.

And what about his second piece of advice, the key to being successful and happy in the practice of law?

"You need to define what your passion is and follow it. There are so many things you can do with a law degree from the University of San Diego," he explained. "You need to find what makes you happy and just do that."

For O'Brien, the realization of his passion was during his clerkship at the Los Angeles County District Attorney's office just after the 1992 riots. "I realized that my passion was to pursue justice and chase crooks, and I've been able to do that over the past 15 years."

O'Brien urged graduates to consider careers in public service, or for those headed to the private sector, to do pro bono work. He noted that the private practitioners he knew believed that some of the best work they do is pro bono.

In closing, O'Brien urged graduates to take great pride in the University of San Diego School of Law. "Go out. Be passionate. Protect and treasure the reputation you have as an attorney. Enjoy this day and welcome to the profession of law."



# 2008 awards



## **FACULTY AWARDS:**

2007-2008 Thorsnes Prize for  
Excellence in Teaching: Professor  
Kris B. Panikowski  
2007-2008 Award to a Visitor for  
Excellence in Teaching: Visiting  
Professor Graham B. Strong  
2007-2008 Thorsnes Prize for  
Outstanding Legal Scholarship:  
Professor Laurence P. Claus  
and Professor Orly Lobel

## **LEADERSHIP AND SERVICE AWARDS:**

**Leaders of Publications and  
Service Organizations**  
*San Diego Law Review*, Editor-in-Chief:  
Maria Victoria Stout  
*San Diego International Law Journal*,  
Editor-in-Chief: Christina E. Clemm  
*Motions*, Editor-in-Chief: Michael  
Kilian Hayes  
Appellate Moot Court, Chair:  
Andrew R. Haden  
Student Bar Association, President:  
Cole S. Cannon  
**Law Alumni Association  
Service Award**  
For outstanding service to the law  
school: Cole S. Cannon  
**Dean's Distinguished Service Awards**  
For voluminous contributions to the  
life of the law school: Cole S.  
Cannon, Andrew R. Haden, Gregory  
Saybolt, Maria Ezue Shih

## **ALI-ABA Scholarship and Leadership Award**

For the graduate who best represents  
a combination of scholarship and  
leadership, the qualities embodied  
by the American Law Institute and  
the American Bar Association:  
Scott A. Mason

## **Owen Stark Heriot Award**

For the outstanding student who is a  
veteran or current member of the  
Armed Forces: Andrew R. Haden

## **Alec L. Cory Pro Bono Award**

For contributions to pro bono causes  
during law school: Rebecca Blain

## **CLINIC AWARDS:**

### **Outstanding Civil Clinic Intern:**

Nicole Marie Slattery

### **Outstanding Criminal Clinic Intern:**

James Anthony Daube Jr. (Defense)  
and Joy Lynn Shedlosky (Defense)  
and Courtney Bolin Nash  
(Prosecution) Karl Kristian Husoe  
(Prosecution)

### **Outstanding Entrepreneurship Clinic Intern:**

Haibo Lu

### **Outstanding Environmental Clinic Intern, the Professor Robert & Dolores Simmons Award:**

Jordan I. Bilbeisi

### **Outstanding Immigration Clinic Intern:**

Lance Arthur Grucela

## **Outstanding Landlord-Tenant Clinic Intern:**

Evlyn Elisabeth Jackson

## **Outstanding Land Use Clinic Intern:**

Frederick William Pfister, IV

## **Outstanding Special Education Clinic Intern:**

Leslie A. Reed

## **Outstanding Federal Tax Clinic Intern:**

Aubrey Hone

## **Outstanding State Tax Clinic Intern:**

Karen Elizabeth Walkenhorst

## **ADVOCACY AWARDS:**

### **Center for Public Interest Law's**

### **Outstanding Contributor to the**

### **California Regulatory Law Reporter:**

Jillian Lee Oportus Kick

### **Center for Public Interest Law's**

### **Outstanding Public Interest**

### **Advocate Award:**

Courtney Bolin Nash

### **Children's Advocacy Institute's James**

### **A. D'Angelo Outstanding Child**

### **Advocate Award:**

Jason Matias Carr, Kristy Gill, Mishaela  
J Graves, Emily Slate Reinig

### **Community Defenders, Inc. Award**

For demonstrating commitment to  
indigent criminal defense: Matthew  
Scott Korken, Kimber R. Williams

**International Academy of Trial Lawyers Award**

For excellence in advocacy courses and as and advocate in actual trials:  
Joy Lynn Shedlosky

**American Board of Trial Advocates Award**

**Virginia C. Nelson Graduation Prize in Advanced Advocacy**

For the outstanding student in advanced advocacy courses:  
Christopher Ayers

**Randolph A. Read Law and Psychiatry Award**

For the outstanding student

**Masters of Laws: Dean's Tax Scholar Award**

For the highest cumulative grade point average in the Masters of Laws in Taxation program: Michael Paul Varela

**Judge Gerald Brown Progress Award**

For the student with the greatest increase in grade point average first to third year: Pamela Elaine Bechtel

**Scholarship Awards for the Highest Cumulative Grade Point Average**

Day Division: Alexandra L. Grubb  
Evening Division: Haibo Lu

**Valedictorian Award**

Haibo Lu



**1.** From left to right: Jason Carr received the James A. D'Angelo Outstanding Child Advocate Award from Children's Advocacy Institute's Professor Robert Fellmeth.

**2.** Gregory Saybolt, one of four Dean's Distinguished Service Award recipients.

**3.** Bryan Zuetel received one of two American Board of Trial Advocates Awards from Dean Kevin Cole.

**4.** Evlyn Jackson received the Outstanding Landlord-Tenant Clinic Intern award from Legal Clinics Administrative Director Margaret Dalton.

For the outstanding team competing in an intramural or national trial competition: Joy Lynn Shedlosky, Bryan Michael Zuetel

**Michael T. Thorsnes Trial Advocacy Award**

For the outstanding National Mock Trial team member:  
Bryan Michael Zuetel

**Rosen Saba, LLP Award**

For outstanding contributions to and support of the Mock Trial Team and its members: Gregory M. Smith

**Order of Barristers**

For demonstrated excellence in appellate and/or trial advocacy:

Hasmik Jasmine Badalian  
Carolina Bravo-Karimi

Andrew R. Haden

Hali Michelle Henderson

Joseph A. Kinzel

Russell Daniel Owens

Joy Lynn Shedlosky

Gregory M. Smith

Lyndsey A. Tadlock

Bryan Michael Zuetel

Statue of Justice: Andrew R. Haden

**ACADEMIC AWARDS:**

**Irvin J. Kahn Award**

For the outstanding student in real property courses: Heidi K. Vonblum

**Ralph Gano Miller '58 Tax Award**

For the outstanding student in taxation law courses: John-Kai MacDonald

contribution to Law and Psychiatry:  
Adam Louis Diament

**James R. Webb Environmental Law Award**

For the outstanding student in environmental law courses:  
Heidi K. Vonblum

**Masters of Laws: Paul, Plevin, Sullivan & Connaughton Award**

For the highest cumulative grade point average in the general Master of Laws, Master of Laws in Business & Corporate Law, or Master of Laws in International Law programs:  
Thomas G. McCann II

**Masters of Laws: David Froman & Sandra M. Wagner Comparative Law Award**

For the highest cumulative grade point average in the Masters of Laws in Comparative Law program:  
Doris Baumgartner



**5.** Hali Henderson and Gregory Smith; and **6.** Andrew Hayden received moot court and mock trial awards.

7. Michael Hayes, Cole Cannon, Andrew Haden, Christa Clemm and Maria Stout received recognition for their leadership of student-run publications.



### Mock Trial Team

Members:

Hasmik Jasmine Badalian  
 Indra Noelle Bennett  
 Courtney Bolin Nash  
 Cole S. Cannon  
 Hali Michelle Henderson  
 Karl Kristian Husoe  
 Nicole Anne Kukas  
 Scott A. Mason  
 Katie Colleen McCurdy  
 Joel Andrew Morgan  
 Joy Lynn Shedlosky  
 David M. Silva  
 Gregory M. Smith  
 Colin Andrew Yuhl  
 Bryan Michael Zuetel

### Vis Moot Arbitration Team

Members:

Cole S. Cannon  
 Bruce S. Elder

### STUDENT SERVICE RECOGNITION FOR PUBLICATIONS

#### *Journal of Contemporary Legal Issues*

Editors: Michale Dante DiRoma, Eric William Reising

#### *Motions, Law Student Newspaper*

Editor-in-Chief: Michael Kilian Hayes

Editors: Haley Miller, Nicole Rachele Tino

#### *San Diego International Law Journal*

Editor-in-Chief: Christina E. Clemm

Editors:

Shannon Mae Bauer  
 Carolina Bravo-Karimi  
 Rebecca Marie Chappell  
 Shehryar M. Chaudhry  
 Saerin Ally Cho  
 Suzan Colgan  
 Erin Doyle  
 Daniel Everakes  
 Lauren Elizabeth Frawley  
 Joanna Maria Gesikowski

Christopher Andrew Harvey  
 Kate Hershman  
 Katherine L. Johnson  
 Lisa Marie Magorien  
 Susan Sachiyo Minamizono  
 Frederick William Pfister IV  
 Todd Matthew Schneider  
 Ajay C. Shah  
 Matthew Soskins  
 James Renfro Thompson  
 Jessica Ann Thompson  
 Nicole Rachele Tino  
 Kimber R. Williams  
 Bryan Michael Zuetel

Members:

Christopher Ayers  
 Jocelyn Angela Lee  
 Mary Kathleen Wyman

### *San Diego Law Review*

Editor-in-Chief:

Maria Victoria Stout

Editors:

Bruce S. Elder  
 Lauren Julia Empey  
 Amanda Catherine Fitzsimmons  
 Jennifer Ann Fitzsimmons  
 Alexandra L. Grubb  
 Ryan Jon Gunderson  
 Hali Michelle Henderson  
 Rosa F. Cheuk Kim  
 Rowan Thomas Mason  
 Lindsay Larsen O'Hair  
 Jane Frances Nuval Ong  
 Michael Travis Phelps  
 Leslie A. Reed  
 Jennifer Wen-yi Shyu  
 Michael A. Sienkiewicz  
 Jessica Leigh Snorgrass  
 David Richard Voyles  
 Dennis D. Walsh  
 Derek Gregory Weisbender  
 Joy Louisa Wilman  
 Evangelina Woo

### STUDENT ORGANIZATIONS RECOGNITION

#### American Association for Justice

(formerly Association of Trial Lawyers of America)

Joy Lynn Shedlosky

#### Asian Pacific American Law Students Association

Tara Elea Hunter, Wayne John Lo,  
 –Yaebin Kay Na, Jane Frances Nuval Ong, Charlie Gia Phung, Jennafer Michele Shih, Susan D. Woo

#### Black Law Students Association

Nihinlola Olufunke Ajilore, Mishaela J. Graves, Hali Michelle Henderson, Samira Seidu, Maria Ezue Shih, Justina Leilani Tate

#### Christian Legal Society

Angela Frances Dominguez

#### Criminal Law Society

Duane Michael Dawson  
 Rodger R. Pasieczny  
 Joy Lynn Shedlosky  
 Catherine Lê Tran  
 Kimber R. Williams

#### Diversity Committee

Nihinlola Olufunke Ajilore  
 Hali Michelle Henderson  
 Nathan Pear Karlsgodt  
 Wayne John Lo  
 Maria Ezue Shih  
 Catherine Lê Trần



**Environmental Law Society**

Nathaniel Robert Cooper  
 Kevin M. Grigsby  
 Jasmine Alexandra Scott

**Federalist Society**

Bryan Michael Zuetel

**Graduate Student Council**

Cole S. Cannon  
 Kristen Michelle Santerre

**Intellectual Property****Legal Association**

Amy Emiko Hasegawa Bathke  
 E.f.aon Cobb  
 Frederick William Pfister IV

**International Human****Rights Law Society**

Kevin M. Grigsby, Jasmine  
 Alexandra Scott

**Intramural Sports**

Kendra Suzanne Canape

**J. Reuben Clark Law Society**

Ean H. Estep

Kristy Gill

Ryan Jon Gunderson

**La Raza Law Students Association**

Angela Frances Dominguez

Richard Greiffenstein

**Law and Diplomacy Club**

Joel Andrew Morgan

David M. Silva

**Lawyers in the Performing Arts**

Saerin Ally Cho

Kristy Gill

Evangelina Woo

**National Lawyers Guild**

E.f.aon Cobb

**Native-American Law****Students Association**

Amy Emiko Hasegawa Bathke

Joshua Elijah Moyer

**Negotiations Club**

Hasmik Jasmine Badalian

Kevin M. Grigsby

Scott A. Mason

**Persian-American Law  
Students Association**

Naivd Niknam

Shirin Tefagh

**Phi Alpha Delta National****Legal Fraternity**

Andrew R. Haden

Kirstie Morgan Simmerman

Jessica Ann Thompson

**Phi Delta Phi International****Legal Fraternity**

Ana Rica Arboleda

Carolina Bravo-Karimi

Shirin Tefagh

**Pride Law Students Association**

Daniel Gersensh

Aubrey Hone

Amanda Maureen Keton

Regina E. Stegemoller

**Pro Bono Legal Advocates**

Hasmik Jasmine Badalian

Rebecca Blain

Kate Allison Grabel

Jillian Lee Oportus Kick

Yaebin Kay Na

Jane Frances Nuval Ong

Frederick William Pfister IV

Christine Marie Saclarides

Jennafer Michele Shih

Jennifer Wen-yi Shyu

**Public Interest Law Foundation**

Hasmik Jasmine Badalian

E.f.aon Cobb

Kristen Michelle Santerre

Mittal I. Shah

Susan D. Woo

**Saint Thomas More Society**

Erika Maria Boyd

Kevin C. Bradley

Jerry G. Gonzalez

Kelley Anne O'Connell

Russell Daniel Owens

Karen Elizabeth Walkenhorst

**South Asian Law Students Association**

Neha Nagrath

Nithin Reddy Mettu

Parminder S. Sandhu

Ajay C. Shah

Hemali P. Shah

Mittal I. Shah

**Sports and Entertainment****Law Society**

Shannon Mae Bauer

Lisa O. Barnett

Nithin Reddy Mettu

Samira Seidu

Peter William Szekerak Szendroy

Justina Leilani Tate

**Student Hurricane Network**

John Andrew Hammerstrand

Jason L. Hecht

Evlyn Elisabeth Jackson

Kristen Michelle Santerre

Gene Michael Woo

**Tax Law Society**

Jennafer Michele Shih

**USD Dive and Snorkel Club**

Evlyn Elisabeth Jackson

**USD Law Young Democrats**

Benjamin Baird Brueseke

Kimber R. Williams

**Veteran Law Students Association**

Kevin C. Bradley

Andrew R. Haden

Joel Andrew Morgan

Maria Victoria Stout

David Richard Voyles

**Women's Law Caucus**

Karissa Ann Adame

Ana Rica Arboleda

Shawn David Batsel

Erika Maria Boyd

Kendra Suzanne Canape

Lindsay Larsen O'Hair

Joy Lynn Shedlosky

Maria Ezue Shih

Shirin Tefagh



**8.** From left to right: Gregory Smith, Andrew Haden, Carolina Bravo-Karimi, Lyndsey Tadlock, Hali Henderson, Hasmik Badalian, Joseph Kinzel, Bryan Zuetel, Joy Shedlosky, and Russell Owens received the Order of Barristers honors.



Professor David McGowan



By Ashley Vitale

PROTECTING A PIECE OF

# MIND

**Y**ou insure a car, a home  
and even your own health.  
So how do you insure a  
creation of the human mind?



Intellectual property (IP) law focuses on protecting human creations such as inventions, works of art, patents, brands, trade secrets—often the lifeblood of a company—ensuring the company’s ability to separate itself from the competition. Even in a down economy, new ideas continue to flourish, making those who understand IP law sought after professionals.

To ensure students are prepared for a legal career focusing on this quickly expanding legal arena, the University of San Diego School of Law appointed Professor David McGowan as the Lyle L. Jones Professor of Competition and Innovation Law in late 2008.

Just a few months later, McGowan launched the new Center on Intellectual Property Law and Markets, which trains students in the fundamentals of intellectual property law and in the ways clients use intellectual property (IP) rights to compete in real-world markets.


“This center will be a boon both for our students and for the local community,” said Dean Kevin Cole. “It will make our campus a regional center for discussions in this increasingly important area of law.”

Professor McGowan explains that the goal of this center is “to help our students and the San Diego IP community better understand how IP rights may be used to promote economic growth.”

“However,” he says, “USD’s focus on the role of IP rights in markets distinguishes it from other, more traditional IP centers.” Most programs at other schools focus heavily on policy and legislative reform. The focus of USD School of Law’s program is more practical.

“The main goal is to teach students how to help clients use IP rights in business models that bring products and services to consumers,” explains McGowan. “This includes teaching students both





The goal of this center is to help our students and the San Diego IP community better understand how IP rights may be used to promote economic growth.

the basic legal doctrines and the economics related to them as well as the business models in which clients actually use these rights.”

To do this, McGowan has assembled a line-up of current full-time and adjunct faculty members. The growing list of full-time professors includes USD School of Law professors Paul Horton, Orly Lobel, Kris Panikowski, Lisa Ramsey and Thomas Smith. Ted Sicheman from University of California, Berkeley will join USD’s faculty in the fall. In addition, several long-time IP professionals will be joining the center as adjunct professors.


“We chose people who are engaged in cutting-edge academic research and who also have practical experience ranging from litigating and advising clients in IP matters to actually starting and running IP-based businesses.”

The center’s policy workshops will also provide opportunities for students and other IP experts—scholars involved in policy reform and government officials responsible for enforcing and changing the law—to engage in discussions about current IP policy issues, focusing on the intersection of economic analysis and IP policy.

“The better you understand the system, and the more efficiently you can make it work,” says McGowan, “the more dynamic it will be.”

*The Lyle L. Jones Professorship honors one of the founders of the firm of Sullivan, Jones & Archer, nationally known for its work in antitrust law and civil litigation. The firm, now known as Sullivan Hill Lewin Rez & Engel, is currently celebrating 40 years in San Diego. It is one of the city’s oldest and largest business law firms and also has offices in Las Vegas.*

*McGowan joined the law faculty in 2005 after holding a tenured appointment at the University of Minnesota Law School. Much of his teaching and research focus on the intersection of antitrust law and intellectual property.*

*Before joining the University of Minnesota law faculty in 1998, McGowan clerked for the Hon. A. Raymond Randolph of the United States Court of Appeals for the D.C. Circuit, was an associate with Skadden Arps Slate Meagher & Flom in San Francisco, and was an associate and then director with Howard Rice Nemerovski Canady Falk & Rabkin in San Francisco. *



# alumni BRIEFS

## Jackie Glass, '84, Presides Over Nevada v. O.J. Simpson

By Arash Ebrahimi

The Honorable Jackie Glass, '84, Clark County District Court Judge, recently presided over *Nevada v. O.J. Simpson*. The high-profile case cast Glass into a media whirlwind earning her international recognition, exposure on national news and even a “Saturday Night Live” spoof depicting her in the Simpson trial. Luckily for Glass, she is no stranger to the media.

“Being a former journalist has helped me in dealing with high profile cases,” says Glass. “I understand the ‘story’ from the media perspective.” Her reporting background also taught her the importance of being concise and getting to the point.

After graduating with a degree in journalism from the University of Georgia in 1978, Glass moved to Las Vegas and began a career as a journalist. She started as a radio news reporter for KORK-AM 920 and quickly moved up to eventually anchor the KTNV-TV, Channel 13 news. As a Las Vegas journalist, Glass earned a reputation as an approachable, highly skilled reporter.

Her work as a crime beat reporter on KTNV-TV led her to pursue a career in law. Glass graduated from the University of San Diego School of Law in 1984. Her most notable moment at USD that helped her prepare for a career as a district court judge came in class with Professor Frank Engfelt, who passed away in 2007.



“My conflicts professor taught me that it was important to follow the ‘K.I.S.S.’ doctrine—K.I.S.S is short for keep it simple stupid. I agree. I don’t like to beat around the bush, and I tell it like it is.”

In 1990 Glass and her husband, fellow lawyer Steve Wolfson, formed the Wolfson & Glass law firm where she primarily handled criminal cases. After 18 years of private practice, Glass launched a campaign for judge of District Court’s department 5. She was elected and took office on January 6, 2003.

Her experience as a journalist and previous handling of other high-profile cases has allowed Glass to keep her cool in front of local and national news cameras. In 2005 she presided over *Nevada v. Craig Titus & Kelly Ryan*, a case

accusing former professional bodybuilders of murdering their assistant. She also presided over the criminal trial of Ae Kwon, a minister accused of extorting \$20 million from Rene Angelil, Celine Dion's husband.

"The high-profile cases require a significant amount of planning," explains Glass. "In the Simpson case, I was involved in the planning from the beginning. I wanted to ensure we could provide a high-profile defendant with a fair trial and provide the media with access. We had challenges and not everyone, from the media to the attorneys, was happy with all the decisions. I believe that all of our hard work paid off."

"Inside the courtroom, I know that it doesn't matter whether it is a high-profile case or an 'average' case; I handle them all the same," she continued. "You could sit in on any given day in my courtroom, and you would see the same Judge Jackie Glass."

The Simpson case brought a new level of media attention to Glass. Never before had she been parodied on television.

"Being spoofed on SNL and appearing in videos on Jay Leno was like having an out-of-body experience," said Glass. "It was funny, and I had a good time laughing at it . . . and myself!"

Outside her responsibilities as a district court judge, Glass works as a legal advocate on a local and national level. She is a leader in the nationwide movement to improve the criminal justice system's handling of mental illness. Her efforts helped establish the Clark County Mental Health Court in December 2003 and the Clark County Competency Court on November 16, 2005. The latter was recognized in 2007 by the National Association of Counties with an Achievement Award for its effectiveness and innovation.

Judge Glass has lectured at the University of Nevada, Las Vegas Boyd School of Law, spoken on law topics at local high schools and appeared on the KLVX show, "Law and the Layman." She served as an alternate domestic referee, URESA (Uniform Reciprocal Enforcement of Support Act) hearing master, paternity hearing master, and alternate juvenile referee. Judge Glass also served as a member of the Las Vegas Housing Authority Board and spent six years as a board member of the Senior Citizens Law Project.

When asked for words of wisdom for aspiring attorneys Glass said, "Take your work seriously, but don't take yourself too seriously. You have to be able to take a step back and laugh at yourself when it gets really tough or else you might spend a lot of time crying."

## Theodore J. Boutrous, Jr. '87

By Tonya Malek



**T**heodore J. Boutrous, Jr., has built a reputation of remarkable success challenging excessive damage awards in high-profile cases. He has represented a variety of large companies in fighting for civil justice reform in Congress, state legislatures as well as state and federal courts throughout the country. In the past 20 years, Boutrous has

represented Ford Motor Co., DaimlerChrysler, the *Wall Street Journal*, Time Inc. and Wal-Mart. He received his law degree summa cum laude from the USD School of Law, where he was valedictorian and editor-in-chief of the *San Diego Law Review*. He is currently a partner in the Los Angeles office of Gibson, Dunn & Crutcher LLP, and has received several awards, including One of 100 Best Lawyers in California and Best of the Bar.

"It's really nice to get that kind of recognition," says Boutrous. "But it's the work itself and helping the clients that's the most gratifying."

Boutrous knew that he wanted to practice appellate and constitutional law of the moment he graduated law school. He landed a job at Gibson Dunn's Washington D.C. office, where partner Ted Olson had just started an appellate practice group. Olson, who went on to become Solicitor General of the United States, and Boutrous developed a great relationship. That connection played a vital role in boosting Boutrous' career and practice.

"In the appellate world you see almost every kind of legal issue and many different types of clients and that provided an avenue for me to build a widely varied practice over the years," he says. "I also happen to love my job, which helps"

Towards the beginning of his career, Boutrous was also interested in journalism and the First Amendment. He had the privilege of working with famed First Amendment lawyer and current federal appeals court judge, Robert Sack. Boutrous explains, "Even when I was junior associate, I got the chance to work with the top lawyers at the nation's leading news organizations on cutting edge issues."

Boutrous emphasizes the need for a common law privilege for reporters and their confidential sources, arguing that the First

Amendment should protect reporters from revealing their sources.

"I am a strong believer in the idea that reporters play the essential role in a democracy of keeping the public informed about the workings of their government and other matters of public concern," he says. "They need the necessary tools, including protection from forced disclosure of their confidential sources, to do that job effectively."

Boutrous believes that an undeniable argument for a federal common law reporter's privilege exists, and that the path to recognizing the privilege is clear and beginning to catch on.

In response to the concern that protecting every source in every situation may give reporters an excuse not to really gather the news, Boutrous stands firmly behind his view they need to be used carefully and sparingly. He explains that most reputable news organizations, as well as journalists, prefer an on the record source, as it makes for a better story.

Boutrous believes that there is nothing inconsistent about protecting confidential sources, on the one hand, and advocating for open courtrooms on the other hand. He states, "Confidential sources are crucial to allowing journalists to report to the public on the most difficult stories about the workings of our government and other important societal institutions."

Going along with the Supreme Court's view that what happens in a courtroom is public property, Boutrous believes that the public has a First Amendment right to see and hear what happens there and that public scrutiny is vital to ensuring fairness and protecting against abuse. He claims, "Reporters act as surrogates for the public when they cover trials and other judicial proceedings."

Boutrous has indeed worked with several high-profile clients and organizations; however, he says the legal work is the same, regardless of the fame. "The main difference in representing a high-profile client is that you need to be prepared to deal with the news coverage and other public scrutiny that such a client may attract. It's important to work closely with the client to anticipate and address this aspect of the case to protect the client's rights, reputation and interests."

Boutrous enjoys his position as a partner and as part of the team at Gibson. "We have a really collegial, diverse, open and inclusive culture that makes it a true pleasure to go to work every day. I never imagined that practicing law could be so fulfilling and enjoyable when I got out of law school, but from day one at Gibson Dunn it has been a wonderful experience."

## The Honorable George "Woody" Clarke '77

By Lindsey Biggs



Prior to aiding in the 1995 prosecution of O.J. Simpson, George Clarke, '77, became one of the country's leading experts on how to use DNA evidence in the courtroom. He began his career in 1982 at the San Diego District Attorney's office. After working on several cases involving blood evidence, he quickly became very knowl-

edgeable in the new science of DNA.

"During the Lucas case he was introduced to the area of serology and became quite an expert," explains Steven Feldman who served as opposing counsel on several capital cases Clarke helped prosecute. "In that case, we used experts from throughout the country and he became fairly close with some of them, including representatives from the FBI. So he learned at the beginning, and was there at the beginning working with some of the foremost experts in the field."

Over the years, Clarke has been a key player in many high profile southern California cases, many of which he discusses in his new book, *Justice and Science: Trials and Triumphs in DNA Evidence* (Rutgers University Press, 2008). Feldman, who represented David Westerfield (another of Clark's cases) continues, "I've said to many that he and I spent more time across the table with each other over those years than we did with our wives."

Although the manner in which DNA is tested and used has changed very little since it was introduced in 1987, its use has greatly expanded. Sexual assault and homicide cases paved the way for DNA evidence, which is now used to prosecute virtually every type of crime. DNA evidence has also become easier to collect and test due to the development and use of polymerase chain reaction (PCR). In the past,

samples of 50,000 cells or more were required for evidence; however PCR has made it possible to test and profile degraded and extremely small samples of twenty-five to fifty cells.

Jurors have come to expect DNA evidence in a wide variety of cases and give such evidence great weight when it is presented. Clarke always made it a priority to ensure that jurors understood the significance of results from testing techniques in relation to the surrounding facts, circumstance and evidence of the case. In order to make the complicated subject of DNA evidence comprehensible to the average juror, Clarke compared the technology to non-forensic uses such as disease diagnosis and the identification of the remains of soldiers killed in war.

Jeff Dusek, chief deputy district attorney in San Diego, served as co-counsel on several cases with Clarke. Dusek distinguishes Clarke's approach from others. "DNA can be a very complicated and mind-numbing area. Woody makes it simple, understandable and credible for both other attorneys and jurors. He knows what to explain and what to omit. His audience walks away from his explanation thinking they actually understand DNA."

Another of Clarke's significant contributions to the legal community is the role he played in the State of California's decision to compensate a San Diego inmate who was exonerated by DNA evidence after having served ten years in prison. Judge Clarke believes that "any state that does not have such a compensation scheme should carefully consider implementing such a system."

In response to the number of exonerations DNA evidence has produced, a growing majority of states and the federal justice system have statutes that authorize a defendant to seek post-conviction DNA testing. In cases where DNA evidence is produced at trial, defense attorneys tend to attack the one true weakness of this scientific evidence, that DNA testing results cannot show how and when biological evidence was placed in the location in which it was discovered.

Since being appointed a Superior Court Judge by Governor Gray Davis in 2003, Judge Clarke has used his extensive knowledge of DNA evidence to ensure that the evidence is presented to the jurors in an appropriate manner. Judge Clarke is well liked among his colleagues. "Woody is one of the all-time nicest guys you will ever meet," says Dusek. "He has something nice to say about everyone. I have never seen him upset, unless he skulls a chip shot."

## Justice Ambeng Kandakasi, '90

By Anna Phillips

In addition to providing foreign trained lawyers with an outstanding education in the laws and legal system of the United States, USD's LL.M in Comparative Law brings top legal talent from across the world to USD where they interact, sometimes in the same class, with J.D. candidates. One example of an exceptional legal mind that graced the halls of USD Law is Justice Ambeng Kandakasi, LL.M.C. '90, who now sits on the Supreme Court of Papua New Guinea.

In New Guinea, the Supreme and National Courts are the highest courts in the judicial structure. The Supreme Court is made up of an ad-hoc panel of National Court Judges. The court has original and exclusive jurisdiction over Constitutional issues and has authority to hear appeals from the National Court. The decisions of the Supreme Court are binding on the National Courts, as well as lower courts, although its decisions are not binding upon itself. Like the U.S. Supreme Court, however, the Supreme Court of Papua New Guinea rarely strays from precedent.

The National Court, on the other hand, has original jurisdiction over all criminal cases and civil cases valued over 10,000 kina (approximately \$3,600), and has jurisdiction over appeals from the District Court, judicial reviews, and administrative tribunals.

One interesting and challenging hurdle Justice Kandakasi must deal with in each of his decisions is the Underlying Law



Act of 2000, which requires the courts to incorporate the common laws of England and the customs of New Guinea into the underlying laws. Custom, unlike English Common Law, has not been recorded and is therefore difficult to discover and apply. Since the law school in Papua New Guinea does not offer a course on custom, the legislators have left the court to develop and apply the underlying law on its own. The courts have made little progress in this area having only adopted and applied a few customary norms. This is because the Constitution of New Guinea requires the courts to first identify a custom and then decide whether it is applicable to the entire country and not contrary to basic principles of humanity.

Justice Kandakasi has also performed groundbreaking work in alternative dispute resolution. As the Chairman of the Judicial Committee on Alternative Dispute Resolution (ADR), Justice Kandakasi has been essential in making ADR a formal component of New Guinea's legal system. Although the National Court provides opportunities for ADR through case management processes and court rules, the Court does not have an official ADR program. The executive branch of New Guinea's government, however, has already passed legislation proposing to formalize ADR in the National Court. The bill will soon go to Parliament.

"The training at USD gave me an opportunity to learn a few things I would not have otherwise learned, especially in the area of international trade and commerce. In fact, for a couple of my judgments, I fell back on my USD notes and textbooks for help," said Justice Kandakasi. "I do have the fondest memories of USD and would like to take my family there one day...and show my family the school that has made a lot of difference in my life and career. USD Law is doing a marvelous job in training not only lawyers but many world leaders in their own right and circles. So please keep up the good work USD."



## Jan Goldsmith, '76, Elected San Diego City Attorney

By Vincent Lapietra


Jan Goldsmith, '76, was elected San Diego City Attorney in November, 2008, marking another accomplishment in an already distinguished career. After graduating law school, Goldsmith practiced civil litigation and eventually co-founded his own firm. Shortly thereafter, he left the practice of law and entered politics, going on to become Mayor of Poway and then a State Legislator. For the last ten years Goldsmith has served as a San Diego County Superior Court Judge. He said that his decision to leave the world of politics was based in part upon his passion for the law. "In the state legislature, I focused more on legal-related issues that any other field."



His latest career move was made as a result of the unique opportunity presented. In Goldsmith's view the position of San Diego City Attorney offers him the opportunity to serve his community while at the same time allowing him to address a unique challenge.

"Rebuilding a 135 attorney law firm that has been decimated is the equivalent to our profession of a hiker climbing Mount Everest."

"The first few years of your law practice are critical," said Goldsmith when asked what advice he would give to young alumni hoping to emulate his success. "I was blessed with excellent training as a new lawyer 32 years ago. I never lost that professional foundation. Go for the best training and develop high level professional habits. View your career in law as your profession. If you want to participate in politics, view your role as service."

Jan is married to the Honorable Christine K. Goldsmith, '76. Their son Scott Goldsmith, '08, also attended USD School of Law. 



# class ACTION

The Class Action section is an update on the personal and professional news of your classmates and other alumni. To submit information either via mail or e-mail and for details on how to submit accompanying photographs, please see the perforated response card located in the back of this Advocate magazine.

## '65

**Thomas J. Whelan**, a U.S. District Court Judge for the Southern District of California, received the Author E. Hughes Career Achievement Award at the 2008 Alumni Honors, USD School of Law's premier recognition event.

## '67

**Lewis Walton** joined Buchalter Nemer's Los Angeles office where he practices tax law and litigation.

## '68

**Suzanne Mann Duvall** was named a 2008 Texas Super Lawyer by *Super Lawyers Magazine*. This follows previous awards in 2003, 2004, 2005, 2006 and 2007. She was also named in the 2008 "Texas' Best Lawyers" guide. Suzanne is a mediator in the Dallas area.

**Nancy Ely-Raphel** joined the U.S. Committee for the United Nations Development Programme's Board of Directors. The committee aspires to build a world in which Americans are educated about the importance of international development to the building of a more democratic, prosperous, peaceful and secure planet.

## '69

**Craig Higgs** has run 20,000 miles in the last 20 years. His journey began with his 1988 new year's resolution to run 10,000 miles in 10 years, which he has since doubled. He is a partner in the firm of Higgs, Fletcher & Mack, LLP in downtown San Diego.

## '71

**Paul Tuomainen** joined Torrey Pines Bank as senior vice president.

## '74



**David Casey Jr.** was honored by the American Lung Association of California by inducting him into the "Clean Air Circle" for his work in winning a \$25 billion lawsuit against the tobacco industry. He was also named one of the "Top 500 Leading Lawyers in America" by Lawdragon. He is a senior partner at Casey Gerry Schenk Francavilla Blatt & Penfield LLP.

## '75

**Howard Barnhorst** was elected to the board of directors of the San Diego Hospice & The Institute for Palliative Care. He is currently a shareholder of Seltzer Caplan McMahon Vitek.



**Robert S. Barry Jr.** just celebrated 31 years with Loeb & Loeb LLP.

**Robert "Bob" C. Gannon Jr.** was appointed to the San Diego County Superior Court by Governor Arnold Schwarzenegger. He has been an assistant U.S. attorney since 2003.

**George Root Jr.** was elected to the board of directors of the California Regional Health Information Organization.

## '76

**Carlos O. Armour** was appointed to the San Diego County Superior Court by Governor Arnold Schwarzenegger. Carlos has worked for the San Diego County District Attorney's office since 1977 and is currently a chief deputy district attorney.

**Kay S. Kuns** was appointed to the Santa Barbara County Superior Court by Governor Arnold Schwarzenegger. She has been a sole practitioner since 1979, when she left the Los Angeles City Attorney's Office.

**Donald Whitson** opened his own law firm in San Diego.

## '77

**Richard Bernstein** opened his own law firm in Sacramento, Calif.



**Steven Legomsky** has been appointed the John S. Lehmann University Professor at Washington University in St. Louis. He and his wife, Lorraine Gnecco, just returned from six months at the National University of Singapore, where he advised the South Korean government on immigration reforms, met with UN officials and Burmese refugees in Malaysia, wrote an article for

the *Stanford Law Review*, and ate wonderful Southeast Asian food.

**Nick Leto** was the 2006 recipient of the prestigious Honorable Norbert Ehrenfreund award given in recognition of his selfless service to the Family Law Bench and Bar, as selected by the San Diego County Superior Court Family Law Judiciary. He also received the 2008 Family Law Person of the Year Award by the American Academy of Matrimonial Lawyers.

## '78

**Michael F. Brown** opened his own law office in Carlsbad, Calif.

**Solveig Deuprey** managing partner of Deuprey & Associates, LLP, became president of Girl Scouts, San Diego-Imperial Council in June 2008.

**Michael Gerace** has opened his own law practice in Maryland.

## '79

**Reginald Gates** published his second book, *Daring Disclosures*, a compilation of short stories based on personal experience.

**Kenneth Harter** opened his own law office in Dallas.

**Abby Silverman** retired as partner of Baker & McKenzie and is now of counsel to the firm's North American region. She is also a member of the Board of Trustees of Scripps Health, a position she has held since 2000.

## '80

**Linda Dubroof** was promoted to associate chief of the Strategic Analysis and Negotiations Division of the International Bureau of the Federal Communications Commission.

## '81

**Robert Harrison** was named Pacific region director for the Defense Research Institute.

## '82

**Ana L. Espana** was appointed to the San Diego County Superior Court by Governor Arnold Schwarzenegger. Ana has served as a deputy public defender with the San Diego County Public Defender's Office since 1988.

**Lann G. McIntyre** joined the Wolfe Legal Group's professional negligence practice. She brings more than 25 years of appellate and civil litigation experience.

**Gail H. Morse**, a partner at Jenner & Block LLP, was honored by the Chicago chapter of the National Organization for Women (NOW) at the "Women Who Dared" annual fundraiser on October 15, 2008. Morse received the Bella Abzug Woman of Honor Award for her dedication to making the world a better place for women through her "unusual breadth of feminist service" which included work on raising the overall visibility of homosexuals in the workplace.

**Barbara Pauley** was named assistant general counsel of the Environmental and Public Protection Cabinet in Frankfort, Ky.

## '83



**Robert Francavilla** was named a finalist for 2008's *Consumer Attorneys of California's* "Consumer Attorney of the Year" award.

**Gerard von Hoffmann** earned two gold medals, one silver and one bronze and finished in fourth and sixth places at the United States Masters National Swimming Championships. Gerard specializes in the medical device industry as a partner at Knobbe Martens Olson & Bear LLP in Irvine, Calif.

## '84

**Randolph C. Houts** published *Pratt's State by State Debt Collections*, a resource to aid debt collectors in their legal issues.

**Ann Moore** retired after 13 years as the City Attorney of Chula Vista, Calif.



**Leslie G. Sarasin** was appointed president and CEO of the Food Marketing Institute. She leaves her current position at the American Frozen Food Institute where she is president and chief executive officer.

**Valorie Seyfert**, president and CEO of CUSO Financial Services, L.P., was named Ernst & Young's Business Products and Services Entrepreneur of the Year for San Diego County.

**Ed Yates** is deputy county counsel for Santa Barbara County. He has taught and practiced law, in addition to negotiating environmental protocols and international treaties between and with governments.

## '85

**Debra Carrillo** was elected to the Orange County Superior Court. She was the SBA president, a member of the *San Diego Law Review*, and a member of La Raza.

**Catherine Easter** was appointed by Alaska Governor Sarah Palin to the Anchorage District Court. She was a deputy public defender for more than 20 years before becoming an assistant public advocate.

**Thomas C. Howard** was elected co-managing partner of the Phoenix office of Bowman and Brooke LLP.

**Maura J. Kiefer** was appointed city attorney of Indian Rocks Beach, Fla. She also serves as city attorney for Treasure Island, Fla.

**Steven W. Perbix** opened the Law Offices of Steven W. Perbix in Decatur, Ill., after 16 years as a partner at Shay & Perbix.

## '86

**Gregory Alcorn** is now a named partner in the firm of Ferrette, Alcorn, Pharies & Dorgan, A.L.C.

**Kenneth Rutan** joined the Law Offices of Jefferi J. Hamilton as a senior trial counsel.

**Paulette Leahy** just finished her term as president of the Western Pension and Benefits Conference Joint Council of Presidents, and as a conference committee member for the Western Benefits Conference Annual Meeting in Seattle. She is a member of the California Banker's Association.

## '87

**Alice Abatti** joined Trio Equipment Co. as chief financial officer/legal counsel.

**Pamela D. Ferry** opened her own practice in Encinitas, Calif.

**Mary Pothoven** joined the Law Offices of Querino R. Torretti in Reynoldsville, Pa.

**Shelley Rodriguez** took on a position as a 6th Judicial District magistrate for the Colorado Judicial Branch. She leaves her position as a magistrate in the 22nd District.



**Helene Wasserman** was appointed shareholder at Littler Mendelson P.C., a labor and employment law firm representing management in litigation. Helene comes to Littler from the Los Angeles office of Ford and Harrison, where she defended employers and management in litigation matters before state and federal courts and administrative agencies in all areas of employment law.

## '88

**Frank J. Bitzer** has joined the firm Greenebaum Doll & McDonald PLLC as of counsel in its Cincinnati office. He leaves Fifth Third Bank, where he served as assistant vice president and ERISA legal counsel. At Greenebaum, Bitzer will concentrate on employee benefits, with particular focus on issues pertaining to the Employee Retirement Income Security Act of 1974 (ERISA), including consultation on fiduciary issues, plan design and administration and regulatory compliance matters.

**John Carson** was elected president of the International Technology Law Association.

**Mike Corfield** joined the Costa Mesa office of Jeffer Mangels Butler & Marmaro, LLP as partner.

**Joseph Ergastolo** was elected to the board of directors for the San Diego County Bar Foundation.



**Paul G. Klockenbrink** is listed in the 15th edition of *Best Lawyers in America*. Paul is a partner at Gentry Locke Rakes & Moore, LLP in Roanoke, Va., where he practices labor and employment law.

**Lt. Col. Michael McIntyre** represented a client in interviews before Senate committee staffers and at a United States Senate Armed Service Committee hearing exploring the development and use of interrogation techniques on detainees in the War on Terrorism. Lt. Col. McIntyre is an Air Force Judge Advocate stationed in Washington, D.C.

**David Morway** has been promoted to general manager of the Indiana Pacers. He has been with the team for ten years and most recently served as senior vice president, basketball operations.

## '89

**Blaine Bowman** was appointed to the San Diego County Superior Court by Governor Arnold Schwarzenegger. Bowman has served as a deputy district attorney with the San Diego County District Attorney's Office since 1990. Before that time, he was a civil litigation attorney with Lindley, Lazar and Scales.

## '90

**Lynn Beekman** was named partner at Wertz McDade Wallace Moot & Brower. He has been a member of the business and real estate litigation team since 2003.

## '91

**Polly H. Shamoan** was appointed to the San Diego County Superior Court by Governor Arnold Schwarzenegger. Polly has been a deputy district attorney with the San Diego County District Attorney's office since 1993.

**Christopher Workman** joined the Del Mar Law Group, LLP.

## '92

**Sean E. Frink** was made partner at Carlsmith Ball LLP. He is based in Saipan in the Martinique Islands and practices in the areas of commercial litigation, construction, procurement, insurance defense, telecommunications, and government relations.

**Judith Hartwig** became a shareholder of The King Law Group, where she handles a broad range of civil business litigation, including real estate litigation and employment matters.

**David M. Hirsch** was appointed a commissioner of the Ventura County Superior Court. David has been a deputy public defender for the Ventura County Public Defender's office since 2003. Before that, he worked for a criminal defense firm and as a solo practitioner.

**Clare Keithley** was appointed to the Butte County Superior Court by Governor Arnold Schwarzenegger. With the exception of two years spent at the Sonoma County District Attorney's office, Keithley has been a deputy district attorney in Butte County since 1995.

**Todd G. Miller** has been named the new pro bono coordinator for the San Diego office of Fish & Richardson P.C.

**Edward G. Rogan** was named partner at Thelen LLP. His practice includes domestic and international infrastructure project transactions.

**Robert Strauss** opened the Strauss Law Office LLC in Toledo, Ohio.

## '93

**Celia Brewer** is the assistant general counsel for the San Diego Water Authority.

**Dinyar Mehta** has been promoted to director of new product development for West Academic. He began his career with them in 1995 and will now relocate to Minneapolis, Minn.

**Jim Myles** was selected by the Government Affairs Institute at Georgetown for a 2009 Capitol Hill Fellowship. Prior to his selection, he was an acting administrative appeals judge for the Social Security Administration in Falls Church, Va. He and his wife Debra, live in Burke, Va with their sons Jacob, 7, and Lucas, 2.

**Antonio "Tony" Saguibo** was promoted to the position of vice president of account management and sales at Hawaii Medical Service Association.

**Jona Saxby** is an associate in the Law Offices of G. Scott Gaustad, located in Ukiah, Calif.

**Kellen Winslow** was named athletic director of Central State University in Wilberforce, Ohio.

## '94

**Courtney Ann Coyle** and her husband, Steve McDonald welcomed a son, Maximilian “Max,” Hunter on June 20, 2008. He joins his beautiful big sister Alexandra “Ally” Katherine. The family lives in La Jolla.

**D. Lynn Jones** was appointed Madera County Superior Court Judge by Governor Arnold Schwarzenegger. Lynn has been a deputy district attorney with the Madera County District Attorney’s office since 1996.

**Evan P. Kirvin** was elected to the San Diego County Superior Court bench, office 45.

**Erinn Madden** was named tax senior manager of Deloitte Tax LLP in Washington, D.C.

**Anne E. Murray** was named partner at McKenna Long & Aldridge LLP. She works in the firm’s Atlanta office.



**Julie Vogelzang** joined Duane Morris LLP as a partner in the employment and immigration practice group in the San Francisco office. Vogelzang focuses on labor and employment law, with more than a decade of litigation experience in both federal and state courts. She also teaches at San Diego State University. She leaves her previous position at Luce, Forward, Hamilton & Scripps LLP.

## '95



**John Arens** joined Liquid Realty Partners in the new position of director. He will help oversee the acquisition of interests in private real estate funds, partnerships and trusts on a secondary basis.

**David Bigelow** was appointed to the Consumer Attorneys of California’s commission on access to justice. He practices safety, professional negligence and mass tort claims law for Girardi & Keese.

**Siobhan A. Cullen** was named partner at Drinker Biddle & Reath LLP. She works in the Commercial Litigation Practice Group, focusing on pharmaceutical and medical device liability, unfair competition/consumer fraud and telecommunications.



**Andrew Serwin**, partner at Foley & Lardner LLP, recently published the treatise, “Information Security and Privacy: A Practical Guide to Federal, State and International Law.” He also authored *Internet Marketing Law Handbook*.

**Laura Roppé** is a partner in the San Diego employment law firm Tatro & Zamoyski, LLP. She recently released an album, “Girl Like This,” which is getting airplay and is available online.



## '96

**Richard Ames** was made partner at Carroll, Burdick & McDonough LLP. He is a member of the toxic torts group in the San Francisco office.

**Sean Edwards** was recently named president and CEO of Cosmederm technologies, a La Jolla-based company specializing in glycolic acid peels and lactic acid homecare.

**Sean Hoeffgen** was elected a municipal court judge in North Las Vegas.

**Marty Lorenzo** helped raise \$2,825 from fellow USD Law alumni at DLA Piper for the school’s Battle of the Brains competition. All money raised went to USD’s Legal Clinics, which provide legal services for lower income individuals and families.

**Richard MacDonough** was appointed to the board of directors of the Homebuilders Care Foundation.

**Andrew Peters’** law office was renamed Peters & Nolan LLC.

## '97



**Patrick W. Daniels** was named one of the “Top 20 Under 40” by the *Los Angeles Daily Journal*. He focuses on client development in the plaintiff’s litigation department at Coughlin Stoia Geller Rudman & Robbins LLP.

**Hans Lauterbach** was made partner at Cox, Castle & Nicholson LLP. He specializes in commercial property acquisition, development, leasing and construction with an emphasis on shopping center development. He works out of the Orange County office.

**Beth Marino** was named a partner at Andre, Morris and Buttery, P.L.C.

**Jesse Marino** is the immediate past president of the San Luis Obispo County Bar Association.



**Heather McCloskey** joined Sedgwick, Detert, Moran & Arnold LLP as special counsel in their technology practice group. Most recently, McCloskey was the intellectual property department chair and a litigation partner at a boutique firm in Beverly Hills, Calif.

**Justin M. Spragg** was promoted to vice president, general counsel and corporate secretary at ISE Corp. Previously, he worked for Heller Ehrman LLP.

**Katherine White** joined the San Diego office of Townsend & Townsend & Crew LLP, an intellectual property law firm.

**Todd W. Wight** joined the Costa Mesa-based firm Rutan & Tucker LLP as a partner in their intellectual property group.

## '98

**Matthew B. Butler** is a founding partner of Nicholas & Butler LLP, located in San Diego.

**Jason E. Baker** is a founding partner of Keegan & Baker, LLP, located in La Jolla, Calif.

**Vincent Bonotto** is a deputy attorney general in the California attorney general's Burbank office.

**Stephen E. Carr** (LL.M. in Taxation) became a tax manager at Equity Residential.

**Seth Davis** will be heading the new San Francisco office of Laurence Simons International, a legal recruiting firm.

**Diane Lindstrom** joined the law firm of Panza, Maurer & Maynard, P.A.

**Edson K. McClellan** became a partner at the Costa Mesa-based firm Rutan & Tucker LLP.

## '99

**Cynthia (Harf) Kaiden** LL.M. and husband, David, announce the birth of a baby girl, Montgomery Claire, born January 31, 2008. She joins older brothers Tanner Reese, 4, and Cooper Dane, 2. Cynthia also found time to be named a San Diego County Top Attorney 2008. Cynthia continues to practice family law, part time, at the Law Office of Myra Chack Fleischer.

**Randal Lejuwaan** made partner at Luce, Forward, Hamilton & Scripps LLP. He practices in the firm's real estate group and works out of both the Orange County and the San Diego offices.

**Amy L. Lessa (Doherty)** was named partner at Fisher & Phillips LLP. She handles administrative and civil employment matters before state and federal courts and government agencies.

**John Mansour** is vice president of development at the Athens Group in Laguna Beach, Calif. He is also on the board of directors of the Orange County United Way.

**Michael Metzger** is a partner at the Philadelphia office of Cozen O'Connor where he specializes in global insurance development.

**James Y. Sze** was named partner at Duane Morris LLP's trial and intellectual property practice group. He works in the San Diego office, and focuses on intellectual property law as a tool for business growth.

**Shawn Wildes** opened his own law office in Ware County, Ga.

## '00

**S. Kevin Barger** is an assistant district attorney at the Marietta office of the Cobb County District Attorney in Georgia.

**Craig Bowman** is an attorney with Perimeter Title, LLC.



**Jeff Feasby** was named a partner at Luce, Forward, Hamilton & Scripps LLP in the business/complex litigation group. His practice focuses primarily on defending clients in complex civil litigation matters, including securities, unfair competition, and real estate disclosure and defect cases.

**Bradley Marc Heller** (LL.M. in Taxation) was the lead attorney on a two-and-one-half-year project to adopt a new division in the California Code of Regulations, which was approved in January of 2008. He currently works for the California State Board of Equalization.

**Elizabeth Jablecki** joined the Law Office of Elizabeth M. Lewis.



**John "Jay" Jurata** joined Orrick, Herrington & Sutcliffe, LLP as a partner.

**Jila Danesh Napoles** is now working at the Brebner Law Firm, P.C. in Phoenix, Ariz.

**Kathryn Riley** was made partner at DLA Piper. She practices in the San Diego office as a member of the firm's patent litigation practice.

**Chad Seber** was hired as an associate in the San Diego office of Brownstein Hyatt Farber Schreck, LLP. He is a member of the natural resources and water groups focusing on complex water rights and water quality issues. Before joining the firm, Seber was a captain in the Marine Corps and served as special water counsel for the Corps' western bases.

## '01

**Dana Blake** is an associate with Caddell & Chapman, in Houston.

**Adriana and Patrick Desmond** welcomed their first child, Abigail Rose, on November 6th, 2007. They both practice law in Orange County.

**Brian Dickman** joined the San Jose office of Hoge, Fenton, Jones & Appel, Inc. where he works in their business and tax group.

**Shelly Harrington** joined the law office of Robertson Clark, LLP.

**Raymond Hom** has made partner at Townsend & Townsend & Crew LLP. He is a patent attorney in the electronics and software group.

**Jason M. Murphy** became a partner at Campbell Volk & Lauter where he specializes in insurance law litigation.

**Jason Rodenbo** opened his own practice in San Diego.

**Eric B. Strongin** was recruited by Sedgwick, Detert, Moran & Arnold LLP to cover a multimillion dollar coverage arbitration case in Spain. He is currently an associate in the law firm's Orange County office.

## '02

**Thomas P. Fitzgerald** was appointed corporate counsel of CommVault Systems, Inc.

**David Gay** was named partner at McDermott, Will & Emery. He works in the firm's San Diego office and focuses on pharmaceutical and biotech intellectual property.

**Shana C. Hood (Brown)** married USD School of Law alumnus Jeff Hood, '01, and was named an associate at the San Diego office of DLA Piper.

**Chris D. Nguyen** joined the law firm of Jeffer Mangels Butler & Marmaro LLP. He works in the firms' Los Angeles office and specializes in intellectual property litigation with emphasis in patent litigation and prosecution.

**Robin (Moore) Sandow** joined the executive legal search firm of Major, Lindsey & Africa as the managing director of business development. She lives in San Diego with her husband, Andrew, and son, Christian.

**Kurt Varricchio** opened the Law Offices of Kurt M. Varricchio in Orange County, Calif.

## '03

**Lorna Drope** (LL.M. in Taxation) joined Hoge, Fenton, Jones & Appel, Inc.'s San Jose office in the estate planning and wealth management team. Lorna focuses her practice on tax and estate planning, wealth accumulation and protection/transfer strategies for high net worth individuals as well as business formation and succession planning.

**Dawn M. Gaeke** appointed division director of Robert Half Legal in Boston.

**Richard Geisler** was honored as one of *San Diego Metropolitan* magazine's 40 Under 40. He is vice president of J. Whalen Associates Inc., an advocacy and management firm.

**Claudia Martorell** joined the law office of Larrabee, Mehlman, Albi & Coker LLP, where she works on all aspects of non-migrant and immigrant visa processing.

**Enrique Monteagudo** is the patent manager for ISD Corporation.

**Jeff Talkington** married Sarah Terry on September 6, 2008 in North Lake Tahoe. He is currently an intellectual property lawyer in Menlo Park, Calif.

## '04

**Timothy S. Callendar** is an associate at Foley Freeman Borton PLLC in Meridian, Idaho. His areas of emphasis include civil litigation, criminal defense, immigration law and workers' compensation.

**Tonya Cross** helped raise \$2,825 from fellow USD Law alumni at DLA Piper for the school's Battle of the Brains competition. All money raised went to USD's Legal Clinics, which provide legal services for lower income individuals and families.

**Terri Hunt** joined the San Diego City Attorney's office as a senior discovery deputy city attorney.

**Suzanne Warren** became a deputy attorney general for the State of Nevada.

**David M. Zachry** joined Procopio, Cory, Hargreaves & Savitch LLP as an associate. He earned a bachelor's degree from the University of Notre Dame and holds a master's degree from USD School of Business Administration.

## '06

**Barbara L. "Lori" Albert** has joined Armstrong Teasdale's Kansas City office as an associate. She is a member of the firm's real estate practice group.

**Matthew N. Malerich** has joined Borton Petrini, LLP in Bakersfield, Calif., where he specializes in health care, commercial, business litigation and transactions.

**Scott Martinez** was appointed by Colorado Governor Bill Ritter to the state's election reform commission.

**Charles R. Sterbach** was named assistant U.S. trustee for the Southern District of Texas.

## '07

**Eric Baggett** joined the Simmons Firm, A.L.C.

**Jennifer Haley** is an associate in the litigation practice group of the San Diego office of Best Best & Krieger LLP. She is also a member of the municipal and redevelopment law group. Haley practices in the area of civil litigation where she represents both public entities and private clients in state and federal court.

**Anne L. Hamann** joined Baker & McKenzie's San Diego office as an associate in the financial restructuring, creditors' rights and bankruptcy practice group. She will concentrate her practice on bankruptcy, insolvency, financial restructuring and creditors' rights issues.



**Jessica E. Klarer** has been elected secretary of the young/new lawyers division of the San Diego County Bar Association (SDCBA). She is an associate attorney with San Diego-based Casey Gerry Schenk Francavilla Blatt & Penfield, LLP.

**Edward O'Connor** joined Seltzer Caplan McMahon Vitek, where he will focus on general civil litigation, with some emphasis on real property and construction matters. He also volunteers for Volunteer San Diego, the Bilateral Safety Corridor Coalition and San Diego's AJA Project.

**Greta Proctor** is an associate in the environmental law and natural resources practice group of the San Diego office of Best Best & Krieger LLP. She is also a member of the business litigation and sustainable communities practice groups. Proctor works with both public and private clients in litigation and transactional matters involving state and federal environmental statutes, as well as general civil litigation.

**Adrian Sanchez** joined Sandler Lasry Laube Byer & Valdez LLP as a post-bar civil litigation fellow.

**B. Randolph Willert** (LL.M.) has joined Spilman Thomas & Battle, P.L.L.C. as an associate, where he will practice corporate and business law, real estate planning and administration, and tax law.

## '08

**Peter Clevenger** joined the San Diego office of Knobbe Martens Olson & Bear LLP.

**Daniel A. Everakes** was hired as an associate at Archer Norris P.L.L.C. in the Los Angeles office. He will focus on insurance and constructions litigation.

**Susan Minamizono** has joined the San Diego office of Lincoln Gustafson & Cercos.

**Zach Myers** and **Andrea Nelson** were married on September 6, 2008, in a beautiful outdoor ceremony in San Diego. Zach is a corporate and securities associate at Pillsbury Winthrop Shaw Pittman LLP and Andrea is a litigation associate at Seltzer Caplan McMahon Vitek.

**Alex M. Outwater** was hired as an associate at Archer Norris P.L.L.C. in the Newport Beach office. He will work with the insurance coverage and construction practice group.

**Christopher Scilimenti** joined the San Diego office of Knobbe Martens Olson & Bear LLP.

**Maria Stout** joined the San Diego office of Knobbe Martens Olson & Bear LLP.



**Catherine Tran** accepted a position as policy director for U.S. Representative John Larson in Washington D.C. Her move follows her trip to Colombia, where she explored the country's mountains and beaches.

**Sam Tahmassebi**, '00, Dana Robinson, '99, and Jane Babin, '00, along with two other attorneys founded TechLaw LLP, an intellectual property firm in San Diego. The firm was written up in the *San Diego Daily Transcript* for their novel approach to running the firm, as all the partners work out of their house in what they call a virtual firm.

## Correction

In the Spring 2008 issue's Class Action section, the entry for Michael Loesch mistakenly combines two recent press releases—one for Michael ('93) and one for John Loesch ('96). Michael was at the SEC, but is now at the CFTC. John is still at the SEC, where he serves as senior special counsel in the SEC's office of collections and distributions.



## In Memoriam

**Hideo Chino**, '70, passed away, due to complications related to pancreatic cancer, at his home in Mission Hills, Calif. on April 12, 2008. Born to Japanese immigrant parents in a World War II relocation camp, Hideo was the seventh of nine children. He was raised on his family's Rancho Santa Fe, Calif., farm. Known as Chino Farm, the farm produced vegetable lauded by food critics across the nation. Hideo earned a degree in microbiology from San Diego State University before attending the University of San Diego School of Law. After graduation, he practiced juvenile and criminal law and was praised for his knowledge of the law, as well as the care with which he practiced. In addition to helping out on the family farm, Chino was known as a leading flatpick guitar and mandolin player on the bluegrass scene in San Diego. He is survived by his wife, Judge Sheridan Reed, two children and two stepchildren.

**Allen Minker**, '73, passed away, due to complications from lung cancer, in his home on September 25, 2008. Born in Reading, Pa., and raised in Las Vegas, Allen received his degree from Stanford University. After graduation, he served in the armed forces in Vietnam and briefly studied journalism. He earned his J.D. from University of San Diego School of Law and moved to Arizona to practice as a civil and criminal litigator. He also worked as a public defender, arguing appeals in the San Francisco Court of Appeals on behalf of 32 death row inmates. In 1985, he was appointed to the superior court bench in Greenlee County, Az. He went on to serve on both the Arizona Court of Appeals and the Arizona Supreme Court. Allen relocated to San Luis Obispo, Calif., in 1998, where he volunteered with various legal groups. He was awarded the John L. Seitz Award for "outstanding service and work in poverty law" in 2005. Allen also found time to write various novels and plays, and take trips to, among other places, Afghanistan, Sri Lanka, Tibet and Melanesia. He is survived by his wife Susan, mother Dorothy, brother Jeffrey and step-daughters Lisa and Nina Wishnok.

**Thomas A. Magliozzi**, '79, passed away September 22, 2008. Born in Rochester, NY, Magliozzi graduated from Northwestern University before obtaining his legal education at the University of San Diego School of Law. He practiced business and corporate law in San Diego for more than 25 years and is survived by his beloved wife, children and extended family.

**Michael William Landry**, '04, passed away on January 10, 2009, at the age of 48 from cancer. He received his LL.M. and his MBA from the University of San Diego. He is survived by his wife, Michelle, and son, Mark.



A catalog of the faculty's significant publications and presentations in 2008.

## faculty FOOTNOTES

LARRY ALEXANDER  
ROY BROOKS  
KAREN BURKE  
NANCY CAROL CARTER  
LAURENCE CLAUS  
DONALD DRIPPS  
ROBERT FELLMETH  
RALPH FOLSOM  
C. HUGH PRIEDMAN  
WALTER HEISER  
GAIL HERIOT  
YALE KAMISAR  
ADAM KOLBER  
WILLIAM LAWRENCE  
BERT LAZEROW  
ORLY LOBEL  
LESLEY K. MCALLISTER  
GRAYSON M. P. MCCOUCH  
JOHN H. "JACK" MINAN  
GRANT H. MORRIS  
FRANK PARTNOY  
MICHAEL PERRY  
SAIKRISHNA PRAKASH  
LISA P. RAMSEY  
MICHAEL D. RAMSEY  
MICHAEL B. RAPPAPORT  
STEVEN D. SMITH  
LESTER B. SNYDER  
EDMUND URSIN  
JORGE A. VARGAS  
MARY JO WIGGINS  
FRED ZACHARIAS



Three books by **Larry Alexander** were recently published: *Demystifying Legal Reasoning*, (with Sherwin) (Cambridge University Press, 2008),

*A Defense of International Legal Interpretation* (with Prakash) (Cambridge University Press, 2009) and *Crime & Culpability: A Theory of Criminal Law* (with Ferzan and Morse) (Cambridge University Press, 2009). Professor Alexander's published articles for 2008 include: "Tempest in an Empty Teapot: Why the Constitution Does Not Regulate Gerrymandering" in 50 *William & Mary Law Review* 1 (with Prakash) (2008); "What is Freedom of Association, and What Is Its Denial?" in 25.2 *Social Philosophy and Policy* 1 (2008), reprinted in *Freedom of Association* (Cambridge University Press, 2008); "Law and Philosophy at Odds" in *On Philosophy in American Law* (with Sherwin) (Cambridge University Press, 2008); "Constitutionalism and Democracy: Understanding the Relation" in *The Supreme Court and the Idea of Constitutionalism* (University of Pennsylvania Press, 2008); "Fletcher on the Fault of Not Knowing" in *Essays on Criminal Law* (with Ferzan) (Oxford University Press, 2008); "Constitutions, Judicial Review, Moral Rights and Democracy:

Disentangling the Issues" in *Interpreting the Constitution* (Cambridge University Press, 2008); "Culpable Acts of Risk Creation" in 5 *Ohio State Journal of Criminal Law* 375 (with Ferzan) (2008); "Scalar Properties, Binary Judgments" in 25 *Journal of Applied Philosophy* 85 (2008); and "Is There Logical Space on the Moral Map for Toleration? A Brief Comment on Smith, Morgan, and Forst," in *Toleration and Its Limits* (New York University Press, 2008).



Professor **Roy Brooks'** latest book, *Racial Justice in the Age of Obama*, will be published in fall 2009 by Princeton University Press. In 2008,

he published a third supplemental edition to *Civil Rights Litigation: Cases and Perspectives* (Carolina Academic Press, 2008). Two articles by Professor Brooks were published in the *Encyclopedia of Race and Racism, Volume 2* (Detroit: Macmillan Social Science Library, 2008): "Japanese American Redress Movement" and "Reparations for Racial Atrocities." His article, "Conley and Twombly: A Critical Race Theory Perspective," was also published in 52 *Howard Law Journal* 31 (2008). Brooks also wrote a paper for the law firm of Vinson & Elkins and gave a presenta-

tion at the law firm of Gordon & Rees, LLP on the Supreme Court's recent opinion in *Bell Atlantic Corp., et al., v. Twombly*, which deals with the question of federal pleading. In addition, Professor Brooks served as a referee for the Michigan Historical Review and the *W.E.B. Du Bois Review* at Harvard Law School. He presented "Toward a Post-Atonement America," the keynote address at the Law, Reparations & Racial Disparities Conference on October 31, 2008, at the University of Kansas Law School. His 1999 article, "The Age of Apology," was the subject of analysis in *The Age of Apology: Facing up to the Past* (Mark Gibney and Rhoda E. Howard-Hassmann, Eds.) (University of Pennsylvania Press, 2008).



**Karen Burke** submitted the manuscript of her partnership casebook: *Partnership Taxation* (with Yin) (Aspen Law & Business, forthcoming 2009) in December 2008. Professor Burke's published articles for 2008 include: "Turning Slogans into Tax Policy," (with McCouch) 27 *Virginia Tax Review* 747 (2008); "Tax Avoidance as a Legitimate Business Purpose," 118 *Tax Notes* 1393 (2008); "Illusory DROs: At-Risk Lessons from Hubert," 118 *Tax Notes* 405 (2008); "Stobie Creek: Too Good to Be True?" 120 *Tax Notes* 705 (editorial with McCouch) (2008); "Collapsible Real Estate Partnership Proposal," 120 *Tax Notes* 593 (2008); "COBRA Strikes Back: Anatomy of a Tax Shelter", 62 *Tax Law* 59 (with McCouch) (2008); and "Is the Corporate Tax 'Broken?'," 28 *Virginia Tax Review* (forthcoming, 2009). In November 2008, Professor Burke spoke on tax shelters at the "Closing the Tax Gap" symposium held at Stanford Law School and presented "Corporate Tax Reform in the

Next Administration" at the annual meeting of the Virginia Tax Study Group, University of Virginia School of Law, Charlottesville, Va., in March 2008.



**Nancy Carol Carter's** article, "American Indian Water Rights: Law and Research," was published in 27 *Legal Reference Services Quarterly* 1 (2008).



Published articles by **Laurence Claus** for 2008 include: "Methodology, Proportionality, Equality: Which Moral Questions Does the Eighth Amendment Pose?" 31 *Harvard Journal of Law and Public Policy* 35 (2008); "Parliamentary Government" (a chapter in *Comparative Constitutional Law*) (Oxford University Press, 2009); and "The Empty Idea of Authority" in *University of Illinois Law Review* (forthcoming, 2009). Professor Claus also sat on the American Constitution Society–Federalist Society panel on Military Commissions Act in April 2008, and served as a moderator on the Guantanamo Bay panel held at the University of San Diego in November 2008.



**Donald Dripps'** updated book, *Criminal Law and Procedure*, 10th Edition (University Casebook Series) (with Boyce and Perkins) was published by Foundation Press in 2008. He presented an invited paper, "Regulating Recreational Drug Use: A Plea for Responsibility," on March 14, 2008, at a symposium organized by the University of Utah Law School. The article will be published in the *Utah Law Review* (forthcoming,

2009). Professor Dripps also presented, "The Priority of Politics Over Penal-Law Perfectionism, OR, Blackmail in Perspective," at the Rutgers Institute for Law and Philosophy on May 31, 2008. The article will appear in *Criminal Law and Philosophy* (forthcoming, 2009). He presented "The Exclusionary Rule in the Roberts Court: Normative and Empirical Dimensions of the Over-Deterrence Hypothesis," at the Criminal Procedure Forum, held at Emory University Law School on December 10, 2008. Dripps attended and presented at "The Fourteenth Amendment, the Bill of Rights, and the (First) Criminal Procedure Revolution," at the University of San Diego's Center for the Study of Constitutional Originalism on January 7, 2009; the article will be published in the *Journal of Contemporary Legal Issues* (forthcoming, 2009).



Recent published articles authored or co-authored by **Robert Fellmeth** include: "A Century of Government Antitrust Enforcement under the Cartwright Act," (with Greene, Papageorge and Tuttle) 17 *Competition* 173 (2008); "GOP and Conservative Principles," an opinion piece on the budget crisis, in the *Sacramento Bee*, December 24, 2008; and "State Secrecy and Child Deaths in the U.S.," (with Reinig) (2008). Professor Fellmeth also wrote the foreword to Kathleen Reardon & Christopher Noblet's *Childhood Denied: Ending the Nightmare of Child Abuse and Neglect* (Sage Publications, 2008). He contributed an amicus curiae letter for the Center for Public Interest Law to the California Supreme Court in *Turn v. PUC*. He presented, "The Status of Abused Children and the Right to Counsel, International Conference on Child and Family Maltreat-

ment,” in San Diego on January 31, 2008, “The Children’s Advocacy Institute: Children and Public Policy Advocacy,” to the Board of Voices for America’s Children in June 2008, and “Pass or Fail? San Diego County Report Card on Children and Families,” to the Association of Foundations convened by Casey Family Programs on July 17, 2008. He also submitted the “Comment of the Children’s Advocacy Institute on the Draft Recommendations of the California Blue Ribbon Commission on Children in Foster Care,” on May 13, 2008, (with Howard, Weichel, Riehl and Delgado) and published the “Overview of the 2007 California Legislative Session, 2007 Legislative Report Card,” for the Children’s Advocacy Institute. Professor Fellmeth published a white paper, “True Presumptive Eligibility,” (health coverage for children) on March 31, 2008 and presented at a training program for juvenile dependency court attorneys on major federal statutes and leading cases relevant to dependency court jurisdiction. He testified to the subcommittee on Children and Families (Committee on Health, Education, Labor and Pensions/HELP) in the United States Senate, regarding the reauthorization of the Child Abuse Prevention and Treatment Act on June 26, 2008. Professor Fellmeth also presented, “Public Interest Law in the United States,” to a delegation from Slovakia, at the request of the U.S. Office of the Attorney General, November 18, 2008.



Recent published books authored or co-authored by **Ralph Folsom** include: the sixth edition of *European Union Law in a Nutshell* (Nutshell Series, 2008), the third edition of *NAFTA and Free Trade in the Americas* (Nutshell Series, 2008), the third edition of *Interna-*

*tional Business Transactions Practitioner Treatise* (Nutshell Series, 2008), and the fourth edition of *International Trade & Economic Relations Nutshell* (Nutshell Series, 2008). Professor Folsom also wrote, “Bilateral Free Trade Agreements: A Critical Assessment and Regulatory Reform Proposal,” San Diego Legal Studies paper No. 08-070 (September, 2008) and “State Antitrust Enforcement,” a chapter in Julian O. von Kalinowski’s *Antitrust Counseling and Litigation Techniques* (LexisNexis, 2008). He presented “Trading for National Security? U.S. FTAs in the Middle East and North Africa,” at the John Marshall Seventh Annual Folsom Lecture in January of 2008 and “U.S. Trade Law” at the University of Montpellier, France, in June 2008.



Professor **C. Hugh Friedman** completed and had published the 23rd edition of his *California Practice Guide - Corporations* (West) in April of 2008. The book is widely used by business lawyers and often cited by the California courts. Professor Friedman gave his annual presentation to the San Diego County Bar Association Business Law Section on “Developments in Business Law in 2007.” The University marked his 50th year of teaching law at the University of San Diego on October 31 with a celebration including a talk by California Supreme Court Chief Justice Ronald George on “Challenges Facing the Courts,” followed by a panel discussion and recognition luncheon.



**Walter Heiser’s** *California Civil Procedure Handbook: Rules, Selected Statutes and Cases, and Comparative Analyses* was published by LexisNexis in 2008. Heiser’s articles published

in 2008 include: “Forum Non Conveniens and Retaliatory Legislation: The Impact on the Available Alternative Forum Inquiry and on the Desirability of Forum Non Conveniens as a Defense Tactics,” 56 *Kansas Law Review* 609 (2008); and “Public Access to Confidential Discovery: The California Perspective,” 20 *Western State University Law Review* 55 (2008).



**Gail Heriot’s** “Parents Involved in Community Schools v. Seattle School District No. 1,” was published in the second edition of *Oxford Guide to United States Supreme Court Decisions*, (Oxford University Press, 2008). Other articles by Professor Heriot that were published in 2008 include: “Affirmative Action in American Law Schools,” 17 *Journal of Contemporary Legal Issues* 237 (2008 symposium issue); “The Equal Rights Amendment: Back for an Encore Performance?” in *Engage Magazine* (February 2008); and “The ABA’s ‘Diversity’ Diktat,” in *The Wall Street Journal*, April 28, 2008. Heriot also contributed to the commissioners’ statement, “Enforcing Religious Freedom in Prison” report of the U.S. Commission on Civil Rights (September 2008) and the commissioners’ statement “Minorities in Special Education” report of the U.S. Commission on Civil Rights (forthcoming, 2009). Heriot presented “How Free Is the University,” at a conference held by the American Freedom Alliance at the University of Southern California on June 16, 2008, and “Hate Crimes: What Is the Proper Federal Role?” at the Heritage Foundation in Washington, D.C., on May 8, 2008. She participated in Law and Liberty in the Judicial Practice of Robert H. Jackson, sponsored by the Liberty Fund, Sausalito, Calif., March 13-15, 2008, and served as moder-

ator and symposium organizer of *Direct Democracy: The Courts and the Legislature v. The People: Who is in Charge?* at the second annual Western Conference, Federalist Society held at the Reagan Library in Simi Valley, Calif., on February 23, 2008. She lead a discussion, “The Federalist, the Anti-Federalists and the Constitution They Created,” for the Liberty Fund, in San Diego, January 24-26, 2008, and spoke on “Proposition 209’s Effect on Student Admissions, Race and Gender Preference at the Crossroads,” at the California Association of Scholars held at the University of Southern California on January 18, 2008.



**Yale Kamisar** and his co-authors published the 12th edition of *Modern Criminal Procedure* (West Group Publishing) in the summer of 2008.

This work, which first appeared in 1965, was the first casebook on constitutional/criminal procedure ever published. Journal articles authored or co-authored by Kamisar that were published in 2008 include: “Can *Glucksberg* Survive *Lawrence*? Another Look at the End of Life and Personal Autonomy,” 106 *Michigan Law Review* 1453 (2008); and “What a Police Training Manual Has to Say about Torture,” in the *National Law Journal* (March, 2008). The article also constituted the foreword to a symposium on the 10th anniversary of the U.S. Supreme Court’s cases on physician-assisted suicide. In October 2009, at “The Graying of America: Challenges and Controversies,” a two-day medical ethics conference to be held at the Medical University of South Carolina, Professor Kamisar will debate Dr. Timothy Quill, one of the nation’s best-known proponents of physician-assisted dying.



Published articles authored by **Adam Kolber** include: “Freedom of Memory Today,” 1 *Neuroethics* 145 (2008) and “The Unreliability of Proportional Punishment Intuitions,” *Brooklyn Law Review* (forthcoming, 2009) (symposium on the universality of morality). Professor Kolber was named the Laurance S. Rockefeller Visiting Fellow at Princeton University’s Center for Human Values and he spoke at the Neuroimaging, Pain, and the Law conference at Stanford University Law School. His talk was later discussed in the journal *Science*. Kolber also spoke at the Neuroethics Society annual meeting at the American Association for the Advancement of Science (AAAS) in Washington, D.C., November 13-14, 2008, and at the Subjective Experience of Punishment, held at Cardozo Law School, Yeshiva University, on October 27, 2008. He participated in the Comparative Nature of Punishment, Criminal Law Professors conference at the George Washington University Law School on August 8, 2008, and in the Comparative Nature of Punishment, Prawfsblawg conference, at Hofstra University on July 24, 2008. Kolber also participated in the Subjective Experience of Punishment, New Voices in Legal Theory conference at Cardozo Law School, Yeshiva University, on May 16, 2008, and presented “Legal and Ethical Implications of Emerging Neurotechnologies” at Neuroscience for Judges held at Stanford University Law School, June 5-6, 2008. He presented the “Equality of Punishment” at the Dartmouth College Sapientia Lecture on March 25, 2008, and again at the University of San Diego, Arizona State University, and Rutgers School of Law – Camden.



**William Lawrence** published an annual supplement to the legal treatise *The Law of Personal Property Leasing* (with J. Minan) (West Group, 2008) as well as a cumulative supplement to *The Law of Sales Under the Uniform Commercial Code*, (West Group, 2008).



**Bert Lazerow** moderated a seven-professor panel at the Association of American Law Schools meeting in San Diego in January 2009 titled, “Law Schools Promoting Reform of Legal Education and Legislation Abroad.”



**Orly Lobel’s** forthcoming book, *The Encyclopedia of Employment Law and Economics* (with Dauschmidt and Harris) will be published in 2009. Her empirical study, “Behavioral Versus Institutional Antecedents of Decentralized Enforcement: An Experimental Approach,” was published in *Regulation & Governance* (with Feldman) (2008). “Stumble, Predict, Nudge: How Behavioral Economics Informs Law and Policy,” was published in 108 *Columbia Law Review* 2098 (with Amir), and “Lawyering Loyalties,” 77 *Fordham Law Review* 1245 (2009). Other forthcoming publications include: “The Role of Lawyers in Democracy; Citizenship, Organizational Citizenship, and the Laws of Overlapping Obligations,” *California Law Review* (forthcoming, 2009); and “The Overlaying of Fair Trade Systems on Other Regulatory Approaches,” in *Fair Trade, Corporate Accountability and Beyond* (Ashgate, 2009). Her article “The Paradox of

'Extra-Legal' Activism: Critical Legal Consciousness and Transformative Politics," *Harvard Law Review* (2007), one of the 2007-08 winners of the Thorsnes Prize for Faculty Scholarship, is forthcoming in Hebrew in *Is Law Important* (Menny Mautner, ed.) and was reprinted this year in the *Tel-Aviv University Journal of Law and Social Change*.



**Lesley K. McAllister's** book, *Making Law Matter: Environmental Protection and Legal Institutions in Brazil*, was published by Stanford

University Press in June 2008. Her published 2008 articles include: "Sustainable Consumption Governance in the Amazon," in 38 *Environmental Law Reporter* 10873 (2008); and "Revisiting a 'Promising Institution': Public Law Litigation in the Civil Law World," in 24 *Georgia State University Law Review* 693 (2008). Professor McAllister was invited to become a member scholar of the Center for Progressive Reform, and she also became the faculty advisor to the new *San Diego Journal of Climate and Energy Law*. In April 2008, McAllister spoke at Vanderbilt's Interdisciplinary Conference on Climate Change and Consumption, and in September 2008, she presented her paper, "Enforcement Style in the Global South," at a University of California, Berkeley, Boalt Hall School of Law conference honoring the work of Professor Robert A. Kagan. She presented her research on the over-allocation of pollution allowances in cap and trade regulatory programs at the Law and Society Association Meeting in Montreal in May 2008, at the IUCN Academy of Environmental Law in Mexico City in November 2008 and to a San Diego citizen group, Citizens Coordinate for Century 3 (C3), in December 2008. Her

lecture on this research was also featured as part of the nationwide Environmental Law Virtual Guest Speaker Series during spring semester 2008. Also, in her role as chair of the Environmental Law Committee of the ABA Section on state and local government, McAllister organized and chaired a panel on coastal conservation in Charleston, S.C., in March 2008.



**Grayson M. P. McCouch's** article, "Probate Law Reform and Nonprobate Transfers," was published in 62 *University of Miami Law Review*

757 (2008). Also published in 2008 were, "A Comment on Unification," in 43 *Real Property, Trusts & Estate Law Journal* 499 (2008); "Turning Slogans Into Tax Policy," in 27 *Virginia Tax Review* 747 (with Burke) (2008); "Stobie Creek: Too Good to Be True?" in 120 *Tax Notes* 705 (with Burke) (2008); "The Empty Promise of Estate Tax Repeal," in 28 *Virginia Tax Review* 369 (2008); and "COBRA Strikes Back: Anatomy of a Tax Shelter," in 62 *Tax Law* 59 (with Burke) (2008). Professor McCouch also presented: "A Comment on Unification" at the symposium on Inheritance Law in the 21st Century, sponsored by the American College of Trust and Estate Counsel at the University of California, Los Angeles School of Law in February 2008; "The Empty Promise of Estate Tax Repeal," at the annual meeting of the Virginia Tax Study Group, at the University of Virginia, Charlottesville, Va., in March 2008; and "An Analysis of Section 2036 and the Leading Valuation Cases" at the Valuation Conference on Discounts for Lack of Marketability at the University of San Diego School of Law in September 2008.



Following up the success of his 2007 book, *The Little Green Book of Golf Law* (American Bar Association, 2007), **John H. "Jack" Minan's** *The*

*Little White Book of Baseball Law: The Real Rules of Baseball* has been accepted for publication in 2009. In 2008, Professor Minan had published an annual supplement to the legal treatise *The Law of Personal Property Leasing*, (with Lawrence) (West Group, 2008). In the summer of 2008, Minan presented papers on desalination at the California Coastal Commission in Santa Rosa, Calif., and at the State Lands Commission in Sacramento, Calif.



**Grant H. Morris's** "Civil Law: Structures and Procedures," a chapter in *International Handbook on Psychopathic Disorders and the Law*

(John Wiley & Sons), was published in 2008. Also published were: "Preparing Law Students for Disappointing Exam Results: Lessons from 'Casey at the Bat,'" in 45 *San Diego Law Review* 441 (2008); and "Let's Do the Time Warp Again: Assessing the Competence of Counsel in Mental Health Conservatorship Proceedings," in 46 *San Diego Law Review* (forthcoming, 2009).



**Frank Partnoy's** critically acclaimed book, *The Match King: Ivar Kreuger, the Financial Genius Behind a Century of Wall Street Scandals* (Public

Affairs) was published in April of 2009. Also due out in 2009 is a new textbook (with Palimenter) titled, *Corporations: A Contemporary Approach* (Thomson West, forthcoming, 2009). In 2008, Professor

Partnoy's published articles included: "Hedge Fund Activism, Corporate Governance, and Firm Performance," 63 *Journal of Finance* 1729 (2008) (with Brav, Jiang and Thomas); "The Returns to Shareholder Activism," 64 *Financial Analysts Journal* 45 (2008) (with Brav, Jiang and Thomas); "Shapeshifting Corporations," 76 *University of Chicago Law Review* 261 (2009); and "The Role of Ratings," *Federal Reserve Bank of Chicago, International Conference Papers* (forthcoming, 2009). He also wrote or co-wrote "Citigroup Bailout Is Smart But Not Risk-free," *Financial Times* (November 27, 2008); "Hedge Fund Managers Are the Heroes of this Crisis," *The Daily Beast* (November 18, 2008); "Buy the Loans," *New York Times* (September 26, 2008); "Hubris – Is Thy Name Richard Fuld?," *Financial Times* (September 14, 2008); "Do Investors Have a Right to Know about a CEO's Illness?," *Financial Times* (July 30, 2008); "Do Away with Rating-Based Rules," *Financial Times* (July 9, 2008); "The Gamble of Short-Term Pain for Long-Term Gain," *Financial Times* (February 4, 2008); and "Kerviel Is Just Part of a Global Rogues' Gallery," *Financial Times* (January 28, 2008). Partnoy's presentations for 2008 include: "Credibility and Financial Markets," keynote address at the Conference on Credibility at Shenzhen University in Shenzhen, China, in December 2008; "The Role of Ratings," at the Federal Reserve Bank of Chicago International Conference in Chicago, Ill. In September 2008; "Over-the-Counter Derivatives Regulation and Reform," at the Derivatives Summit of the Global Fixed Income Institute held in London on July 8, 2008; "Credit Ratings Regulation and Policy," at the University of Amsterdam on July 4, 2008; "Re-Modeling Ratings" and "Financial Innovation and the Roots of the Crisis," keynote address at the Euromoney Global Borrowers and

Investors Forum 2008, held in London, England, on June 25, 2008; "Shapeshifting Corporations," at the University of Chicago Law School, on June 20, 2008; and "How Should Directors Deal with Derivatives and Innovative Structured Financing?" at the Directors Forum 2008, in San Diego, on January 14, 2008.



**Michael Perry** joins the law school this fall for a three-year term as University Distinguished Visiting Professor in Law and Peace Studies.

Perry is currently the Robert W. Woodruff Professor of Law at Emory University and is one of the country's leading authorities on international human rights law and theory. He has written more than 60 articles and 10 books, most recently *Constitutional Rights, Moral Controversy, and the Supreme Court* (Cambridge, 2008). Professor Perry will be in residence at USD in the fall semesters of 2009, 2010 and 2011. He will be teaching two classes during those semesters, one of which will be on international human rights and will be open to both law students and students of the Joan B. Kroc School of Peace Studies.



**Saikrishna Prakash** was appointed the James Madison Fellow by the James Madison Program in American Ideals and Institutions. He also served as a visiting professor of law at the University of Virginia Law School in Charlottesville, Va., in spring of 2008. He received the 2008 Paul M. Bator Award, which is awarded annually by the Federalist Society to a young scholar (under 40) for excellence in legal scholarship and teaching, and delivered the James Gould Cutler Lecture on Constitutional Law at

the William and Mary School of Law in March of 2008. Articles by Prakash published in 2008 include: "The Separation and Overlap of War and Military Powers," 87 *Texas Law Review* 299 (2008); "The President's Duty to Disregard Unconstitutional Laws," 95 *Georgetown Law Review* 1613 (2008); "A Taxonomy of Presidential Powers," 88 *Boston University Law Review* 372 (2008); "The Constitutional Status of Customary International Law," 31 *Harvard Journal of Law and Public Policy* 66 (2008); "Imperial or Imperiled: The Curious State of the Executive," 50 *William and Mary Law Review* 1021 (2008) (originally delivered as the James Gould Cutler lecture at William and Mary); "Exhuming the Seemingly Moribund Declaration of War," 77 *George Washington Law Review* 89 (2008); and "Tempest in an Empty Teapot: Why the Constitution Does Not Regulate Gerrymandering," 50 *William and Mary Law Review* 1 (with Alexander) (2008). Prakash also lectured at the University of Virginia, William and Mary Law School and the University of Texas. He participated in conferences at Willamette, Ore., and at the Association of American Law Schools conferences in New York and Cleveland.



In summer 2008, Professor **Lisa P. Ramsey's** article, "Increasing First Amendment Scrutiny of Trademark Law," was published in 61 *South-*

*ern Methodist University Law Review* 381. She presented her article, "Free Speech and International Obligations to Protect Trademarks," at the Eighth Annual Intellectual Property Scholars Conference at Stanford University Law School in August and at the 2008 Works in Progress Intellectual Property Colloquium at Tulane Law School in October. In November 2008, at the Annual Intellectual Prop-

erty Institute meeting, put on by the California State Bar's intellectual property law section, Professor Ramsey was on a panel that discussed the potential conflict between intellectual property law and the First Amendment's free speech clause. Later that month, she commented on two papers at the conference about user-generated content, social networking, and virtual worlds at Vanderbilt Law School in Nashville, Tenn.



A book co-edited by **Michael D. Ramsey**, David Sloss and William S. Dodge, *The U.S. Supreme Court and International Law, 1789-2009*,

was accepted for publication by Cambridge University Press in December 2008 with publication anticipated in 2010. Ramsey's book, "The Story of the Prize Cases: Executive Action and Judicial Review in Wartime," in *Presidential Power Stories* (with Lee) (Foundation Press, 2008) was published in the fall of 2008. Published journal articles in 2008 included: "Missouri v. Holland and Historical Textualism," 73 *Missouri Law Review* 969 (2009); "Presidential Originalism?" 88 *Boston University Law Review* 353 (2008). Professor Ramsey's book review, "Dogs that Didn't Bark," was published in 2009 *Review of Politics* 71. He reviewed William G. Howell and Jon C. Pevehouse's, *While Dangers Gather: Congressional Checks on Presidential War Powers* (Princeton University Press, 2007).



In January 2008, **Michael B. Rappaport** presented "The Supermajoritarian Case for Originalism" at the annual American Association of Law Schools conference, Constitutional Law Section, in New York City. Rappaport's 2008 journal articles included: "Originalism and Regulatory Takings: Why the Fifth Amendment May Not Protect Against Regulatory Takings, but the Fourteenth Amendment May," 45 *San Diego Law Review* 729 (2008); and "A Pragmatic Defense of Originalism," 31 *Harvard Journal of Law and Public Policy* 917 (with McGinnis) (2008).



Recent published articles authored by **Steven D. Smith** include: "Our Agnostic Constitution," 83 *New York University Law Review* 120 (2008); and "De-Moralized: Glucksberg in the Malaise," 106 *Michigan Law Review* 1571 (2008). His essay, "What Does Constitutional Interpretation Interpret?" was included in the book *Expounding the Constitution: Essays in Constitutional Theory* (Cambridge University Press, 2008). His solicited essays, reviewing books and articles by other authors, were published in *First Things*, the *Journal of Law, Philosophy and Culture*, and *PENumbra*, the University of Pennsylvania's on-line journal. Professor Smith presented "Multiculturalism, Religion, and the Constitution," at a conference at Harvard Law School in February 2008. Later that month, he introduced and presented a paper at a conference at Pepperdine Law School in which participants engaged with his book *Law's Quandary*. In March, Professor Smith participated in a conference at the University of Southern California discussing a

work-in-progress on personalism by sociologist Christian Smith, presented a paper at a conference at the University of California, Davis on the First Amendment in the schools, and gave a presentation on religious freedom at the University of Nevada Las Vegas. In July, Professor Smith participated in a debate before the Secular Humanist Association of San Diego. In October, he presented a paper at a conference at Notre Dame Law School discussing a recent book on religious freedom by Kent Greenawalt as well as another paper at a conference on originalist interpretation at the University of Western Ontario. In December, Smith taught a seminar about his book *Law's Quandary* to an interdisciplinary faculty group at Arizona State studying transhumanism; he also presented a chapter of his forthcoming book *Conversations in the Cage* in a workshop at Arizona State University Law School.



**Lester B. Snyder** published "Taxation of the New Era 'Family Unit'" in 118 *Tax Notes* 417 (January 21, 2008). The article discussed changes in the concept of "family unit" over the past century, and how tax law has not kept up with these changes. This has resulted in discriminatory tax rates for singles, unmarried cohabitants (including elderly siblings), widows and at-home housewives and househusbands. It also describes how a flat-rate tax structure would be more equitable to working people with modest income, while also removing the ban on shifting income for college education.





**Edmund Ursin's** article, "Clarifying Duty: California's No-Duty-for-Sports Regime," was published in 45 *San Diego Law Review* 383 (with Carter) (2008).

**Jorge A. Vargas** authored *El Derecho de México y su Terminología Legal (Mexican Law and Its Legal Terminology)* (Carolina Academic Press, forthcoming, 2009). The



book contains a current and comprehensive set of Mexican legal materials. Professor Vargas also participated in a bi-

national empirical research project financed by the University of San Diego's Transborder Institute with Professor Jorge Alberto Silva of Universidad Autónoma de Ciudad Juárez in Chihuahua, Mexico. The results of both surveys are being processed and will appear as part of a book titled *Enforcement of U.S. Judgments in Mexico*.



**Mary Jo Wiggins** was a distinguished lecturer at Southern Vermont College in Bennington, Vt. as a part of the college's Distinguished

Lecture Series. She gave a public lecture titled "Race, Gender & Change in Contemporary Life," discussing how changes in American racial and gender dynamics have affected both our culture and the American legal system during each of the civil rights eras from the 1950s to today. Dean Wiggins received an academic fellowship to attend an interdisciplinary academic symposium on debt at the University of Illinois College of Law. She continued work on the *Collier on Bankruptcy* treatise as well as her work

on a bankruptcy book for Lexis-Nexis. She gave a presentation on legal ethics and professionalism to incoming first-year students and was a commentator for the USD Law & Social Justice Film Series. Wiggins served on the USD EEO/Affirmative Action Office Search Committee and the USD Institutional Conflict of Interest Policy Committee. She also served as coach and advisor to USD's Conrad Duberstein Bankruptcy Moot Court team for the fourth year in a row.



**Fred Zacharias's** published journal articles for 2008 include: "Fitting Lying to the Court into the Central Moral Tradition of Lawyering,"

58 *Case Western Reserve University Law Review* 491 (2008); "The U.S. Attorney's Scandal and the Centralization of Prosecutorial Power," 69 *Ohio State Law Journal* 187 (with Green) (2008); and "The Effects of Reputation on the Legal Profession," 65 *Washington & Lee Law Review* 173 (2008). In 2008 Professor Zacharias' presentations included: "True Confessions about the Role of Lawyers in a Contemporary Democracy," at a colloquium titled "The Role of Lawyers in a Contemporary Democracy" at Fordham Law School in September 2008 and "The Self-Regulation Misnomer," at the Third International Legal Ethics Conference in Gold Coast, Australia, in June 2008.



### In Memoriam: Professor Richard Speidel

Professor Richard Speidel passed away on September 6 after an extended battle with cancer. He was surrounded by friends and family at his summer home in Michigan.

As one colleague put it, Dick was "a towering figure in the field of contracts," one of the leading scholars of his generation. He was also one of the nation's leading experts on arbitration. He authored numerous influential books and articles, and he also played a central role in several law reform projects related to his field.

Dick began making annual, one-semester visits to the University of San Diego in the spring 2000 semester, and he became a member of our tenured faculty in 2006, holding a half-time appointment. Dick joined the Northwestern Law School faculty in 1980, and in 1987 became the Beatrice Kuhn Professor of Law at Northwestern. Prior to his time at Northwestern, Dick had been the Grace N. and Henry L. Doherty Professor of Law at the University of Virginia and the dean of the Boston University School of Law.

# academic year in review

## school events

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**University of San Diego School of Law faculty and student groups host a variety of extracurricular events that enrich the intellectual life of the School of Law community. The following list includes highlights from 2008.**

### JANUARY

#### **Alumni Reception in New York City,**

co-hosted by Dean Kevin Cole and Law Alumni Association Board Member Noel Vales '97, the event was held at Brasserie Ruhlmann on January 3.

#### **Alumni Reception in Washington, D.C.,**

co-hosted by Dean Kevin Cole and Law Alumni Association Board Member Jay Jurata '00, the event was held at the Fire View Room of the restaurant *Fifteen Squares* on January 8.

**"Blame & Retribution: Their Justifications and Preconditions"** hosted by the USD Institute for Law and Philosophy, the two-day event was held January 25 and 26.

**"Between a Rock and A Hard Place: Quandaries and Conflicts"** was an MCLE event co-hosted by USD and Community

Defenders, Inc. The seminar covered such topics as conflicts, duties and work product, January 26.

### FEBRUARY

**Battle of the Brains 2.0**, organized by the law school's Diversity Committee, the trivia bowl contest pitted USD law students and staff against USD law professors. All funds raised from the event went to the USD Legal Clinics, February 1.

**Dr. William Gang**, a professor at St. John's University's Department of Government and Politics gave a speech titled, "The Decline of Constitutional War," at an event held by the USD chapter of the Federalist Society, February 12.


**"The Tax Legislative Process,"** was presented by Michael J. Desmond, legislative counsel in the U.S. Treasury Department Office of Tax Policy. The event was sponsored by The San Diego Chapter of the Young Tax Lawyers of the California State Bar Taxation Section, which meets each month at the USD School of Law, February 19.

### MARCH

**The final round of the 2008 Paul A. McLennon, Sr. Honors Moot Court Competition** was held at the Joan B. Kroc institute for Peace and Justice. Arguments were heard by Judges Richard R. Clifton and M. Margaret McKeown of the United States Court of Appeals for the Ninth Circuit as well as by Judge Thomas J.

Whelan of the United States District Court for the Southern District of California, March 3.

#### **The 24th Lecture in the Nathaniel L. Nathanson Memorial Lecture Series**

"Originalism: Lessons From Some Things That Go Without Saying" given by Robert Bennett, Nathaniel L. Nathanson Professor of Law and Former Dean of Northwestern University School of Law, March 11. Watch the presentation online at [www.law.sandiego.edu/webcasts](http://www.law.sandiego.edu/webcasts) 

**Alumni Reception in Orange County,** sponsored by the Office of Development and Alumni Relations, the reception was held at Mastro's Steakhouse, March 26.

#### **Riverside and San Bernardino Alumni Reception,**

sponsored by Office of Development and Alumni Relations, the reception was held at the Mission Inn, March 27.

#### **Alumni Reception in Los Angeles,**

sponsored by Office of Development and Alumni Relations, the reception was held at the Huntley Hotel, March 29.

#### **Third Annual LRAP Poker Tournament**

raised money for the Loan Repayment Assistance Program (LRAP), sponsored by the Student Bar Association, the Public Interest Law Foundation (PILF) and the Office of Alumni Relations and Development, March 29.

## APRIL

**Alumni Reception in San Francisco,** sponsored by the Office of Development and Alumni Relations, the reception was held at MOMO's, April 3.

**"Employment Based Vesting in M&A Transactions,"** an MCLE lecture presented by Bill Morrow, partner, Cooley Goodward Kronish LLP, April 15.

**San Diego Area Alumni Reception,** sponsored by Office of Development and Alumni Relations, the reception was held at USD March 29.


**"Justice in Mexico: Evaluating National and Local Initiatives,"** in conjunction with the USD Trans-Border Institute discussed recent advances and upcoming challenges affecting the Mexican criminal justice system, April 21.

**"National Borders & Immigration,"** hosted by the USD Institute for Law and Philosophy, a two-day event with lectures given by David Abraham, University of Miami School of Law; Michael Blake, University of Washington, Department of Public Policy and Philosophy; Thomas Christiano, University of Arizona; Peter Schuck, Yale Law School/NYU Law School; Fernando Teson, Florida State University College of Law, April 25 and 26.

## MAY

**Fourth Annual USD School of Law – Procopio International Tax Institute Conference,** the only conference dedicated to the latest developments in the dynamic field of U.S., Mexican, and Canadian international tax law, featured introductory and advanced courses, with simultaneous Spanish translation

and expert teaching panels in a state-of-the-art facility, May 1 and 2.

Watch the presentation online at [www.law.sandiego.edu/webcasts](http://www.law.sandiego.edu/webcasts) 

**Seminars on Law and Spirituality,** hosted by the Center for Christian Spirituality and the USD School of Law. Topics ranged from value-based decision making to substance abuse. The MCLE event was held on May 2 and 9.

**2008 School of Law Mass and Awards Ceremony,** May 15.

**2008 USD School of Law Commencement** address by Thomas P. O'Brien '93, United States Attorney for the Central District of California. Mr. O'Brien is a former Naval Officer and has accumulated over 2,000 flight hours as a radar intercept officer in the F-14 "tomcat" fighter aircraft, May 16.

## JUNE

**Bar Swearing In Ceremony,** USD school of Law alumni who passed the February bar exam were invited to a special Bar Swearing-In Breakfast hosted by the Office of Development and Alumni Relations immediately prior to the bar swearing-in ceremony, June 5.

**"Symposium on Work/Life Balance: Bridging the Gap and Facing the FACTS,"** was presented by the Lawyer's Club of San Diego and was sponsored in part by USD School of Law. The event featured a panel discussion on Intergeneration Balance Issues and attendees received MCLE credit, June 19.

## JULY

**New York City Alumni-Student Happy Hour** at the Volstead was co-sponsored by the Office of Development and Alumni Relations and Noel Vales '97, Law Alumni Association Board Member, July 16.

## AUGUST

**USD Orange County Alumni Chapter's Pageant of the Masters Dinner and Performance,** at Tivoli Terrace and Festival of the Arts, hosted by USD for all southern California alumni, August 8.

## SEPTEMBER

**USD in LA Interview Day,** hosted by the office of Career Services at the Los Angeles Hilton Checkers Hotel, employers interviewed USD Law Students for intern and associate positions, September 12.

**"Business Valuation Conference: Summit on Discount for Lack of Marketability,"** U.S. Tax Court Judge David Laro along with leading lawyers, appraisers, and academics in the business valuation profession debated and discussed the conflicting theories related to the lack of marketability discount. The event provided participants with both MCLE and CPE credits, September 18.

**Private Wine Tasting and Networking Mixer** for recent USD School of Law alumni was hosted by the Office of Development and Alumni Relations at Tango Wine Company, September 24.

**"The Rationality of Rule Following,"** hosted by the Institute for Law and Philosophy. Panelists discussed the dilemma that materializes when

following broad, inflexible rules results in clearly erroneous outcomes. September 26 and 27.

**Professor Stanley Fish**, Davidson-Kahn Distinguished University Professor of Humanities and Law, discussed his new book, *Save the World on Your Own Time*, which questions the efforts of some faculty members in higher education to influence the political views of their students, October 1.

**Law Alumni Weekend**, included events such as the Distinguished Alumni Awards luncheon, picnic and tailgate, all law alumni reception and reunions for classes 1963, 1968, 1973, 1978, 1983, 1988, 1993, 1998 and 2003, October 3-5.

**The Red Mass**, traditionally celebrated on the first Monday in October, coinciding with the opening of the new session of the United States Supreme Court, co-sponsored by the Thomas More Society and USD School of Law, October 4.

**George K. Yin**, Edwin S. Cohen Distinguished Professor of Law and Taxation, University of Virginia School of Law, spoke about “Temporary-Effect Legislation, Political Accountability, and Fiscal Restraint” at an installment of USD’s Tax Law Speaker Series, October 17.

**Third Annual Colloquium on Current Scholarship in Labor & Employment Law**, is an event co-sponsored by USD School of Law, California Western School and Thomas Jefferson Law School; keynote speaker was Harry Arthurs, university professor, former dean of Osgoode Hall Law School (1972-77) and president of York University (1985-92). October 23-25.

**Climate Change Lecture Series**, Arjun Makhijani, president of the Institute for Energy and Environmental Research in Takoma Park, Maryland, explored the policies and technologies that can help California meet its future energy needs while at the same time reducing its greenhouse gas emissions, October 30.

**Professor C. Hugh Friedman** was honored at an event celebrating his 50 years of teaching excellence. Keynote speaker the Honorable Ronald M. George, Chief Justice of the California Supreme Court, gave a presentation on “Challenges Facing the Courts,” October 31.

## DECEMBER

**Alumni Reception in Seattle**, sponsored by the Office of Development and Alumni Relations, the reception was held at Troiani, December 2.

**Bar Swearing-In Breakfast**, USD School of Law alumni who passed the July bar exam were invited to a special Bar Swearing-In Breakfast hosted by the Office of Development and Alumni Relations immediately prior to the bar swearing-in ceremony, December 4.

**Victor Fleischer**, associate professor and Thomas Mengler Faculty Scholar at University of Illinois College of Law spoke about “A Theory of Taxing Sovereign Wealth” at an installment of the Tax Law Speaker Series, December 4.

**Miranda Fleischer**, associate professor and Richard W. and Marie L. Corman Scholar at University of Illinois College of Law, concluded the 2008 Tax Law Speaker Series with “Charitable Justice,” December 5.

**2008 Joan E. Bowes – James Madison Distinguished Speaker Series** featured guest speaker John R. Bolton, former U.S. ambassador to the United Nations. Ambassador Bolton discussed current foreign policy issues and the challenges awaiting the next president, December 8.

**San Diego City Attorney’s Office Ethics Training**, facilitated by USD Law Professor David McGowan, the seminar focused on ethical topics of particular interest to city counsel, December 13.

# academic year in review

## faculty colloquia

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### A listing of the faculty colloquia presented in 2008.

**Yale Kamisar**, distinguished professor, USD School of Law: “Can *Glucksberg* Survive *Lawrence*,” January 11.

**Adam Kolber**, associate professor, USD School of Law: “The Subjective Experience of Punishment,” January 24.

**Mark Tushnet**, William Nelson Cromwell Professor of Law, Harvard Law School: “The Rights Revolution in the Twentieth Century,” February 1.

**Lisa Ramsey**, associate professor, USD School of Law: “Increasing First Amendment Scrutiny of Trademark Law,” February 8.

**Ken Bamberger**, assistant professor, University of California, Berkeley School of Law, Boalt Hall: “Catalyzing Privacy: Corporate Privacy Practices Under Fragmented Law,” February 11.

**Ed Larson**, professor and Hugh & Hazel Darling Chair in Law, Pepperdine Law School: “Clarence Darrow,” February 21.

**Orly Lobel**, associate professor, USD School of Law: “Legal Loyalties,” February 22.

**David Law**, associate professor, USD School of Law: “A Theory of Judicial Power and Judicial Review,” February 29.

**Mat McCubbins**, visiting professor, USD School of Law: “For Whom the TEL Tolls: Can State Tax and Expenditure Limits Effectively Reduce Spending,” March 7.

**Cary Coglianese**, associate dean and Edward B. Shils Professor of Law, University of Pennsylvania School of Law: “Constructing the License to Operate,” March 14.

**Tom Ginsburg**, professor of law and political science, University of Illinois: “The Lifespan of Written Constitutions,” March 27.

**Alan Schwartz**, Sterling Professor, Yale Law School: “Market Damages and the Economic Waste Fallacy,” April 3.

**Bennett Capers**, associate professor, Hofstra Law School: “Policing, Race, and Place,” April 4.

**Lesley McAllister**, associate professor, USD School of Law: “The Problem of Slack Caps: Moving Toward Stringency in Emissions Trading,” April 11.

**Naomi Mezey**, professor, Georgetown University Law School: “Immaculate Feminism: Banished Fathers, Neo Maternalism, and Mom’s Rising,” April 17.

**Alec Stone Sweet**, Leitner Professor of International Law, Politics and International Studies, Yale Law School: “Proportionality Balancing and Global Constitutionalism,” April 18.

**Cynthia Estlund**, Catherine A. Rein Professor of Law, New York University School of Law: “From Employer Self-Regulation to Worker Representation in the New American Workplace,” April 24.

**Ariela Gross**, John B. and Alice R. Sharp Professor of Law and History, University of Southern California: “The Constitution of History and Memory,” April 28.

**Brian Bix**, Frederick W. Thomas Professor for the Interdisciplinary Study of Law and Language, University of Minnesota: “Consent in Contract Law,” September 5.

**John Shahr Dillbary**, assistant professor, University of Alabama: “The Role of Trademarks in Intra-brand Settings: An Economic Analysis,” September 12.

**Shimon Shetreet**, professor, Hebrew University and visiting professor, USD School of Law: “Reflections on the Recent and Earlier Projects of Drafting International Standards of Judicial Independence: The Innovative Concepts and the Effort to Attain Consensus in A Legal Culture of Diversity,” September 16.

**Bob Nagel**, Rothgerber Professor of Constitutional Law, University of Colorado School of Law: “William Rehnquist and the American Concept of Sovereignty,” September 19.

**Renata Sinova**, professor, Palacky University in Olomouc: “The Development of Czech Civil Law – from Socialism to Democracy,” September 25.

**Amy Westbrook**, professor and director of the NYC Program in International Finance and Law, University at Buffalo Law School: “Economic Sanctions and Securities Regulation: Pitfalls of the Global Market,” September 29.

**Jesse Fried**, professor, University of California, Berkeley School of Law, Boalt Hall: “Do VCs Misbehave? Some Evidence from Silicon Valley,” October 2.

**Cally Jordon**, professor, University of Melbourne: “The Legend Origins Revisited: The Case of Corporate Governance,” October 3.

**Adam Kolber**, associate professor, USD School of Law: “The Comparative Nature of Punishment,” October 6.

**David Westbrook**, Floyd H. & Hilda L. Hurst Faculty Scholar & Professor, University at Buffalo Law School: “Citizen and State to Working Together,” October 10.

**George Yin**, Edwin S. Cohen Distinguished Professor of Law & Taxation, University of Virginia School of Law: “Temporary-Effect Legislation, Political Accountability, and Fiscal Restraint,” October 17.

**Kurt Lash**, professor, Loyola Law School: “Originalism Center Colloquium,” November 7.

**Scott Dodson**, assistant professor, University of Arkansas School of Law: “Mandatory Rules,” November 14.

**Adam Hirsch**, William & Catherine VanDercreek Professor, Florida State University: “Text and Time: A Theory of Testamentary Obsolescence,” November 21.

**Vibe Ulfbeck**, professor, University of Copenhagen: “Goods in Transit – global or regional liability rules?” November 24.

**Victor Fleischer**, associate professor, University of Illinois College of Law: “Charitable Justice,” December 4.

**Miranda Fleischer**, associate professor, University of Illinois College of Law: “A Theory of Taxing Sovereign Wealth,” December 5.

# Honor Roll

## School of Law Annual Giving



Each year, gifts to the USD School of Law play a critical role in helping the school maintain high standards of excellence in its programs and activities. Gifts from you and other donors are essential in maintaining a world class law school; those gifts support cutting edge programs and academic initiatives, recruiting and retaining a world-class faculty, increasing support for scholarships, assisting student clubs and organizations, as well as supporting technology enhancements and the Legal Research

Center. Your generous commitment is essential in our efforts to provide our students with the best legal education possible.

As an alumnus and president of the Law Alumni Board for academic year 2007-2008, I am proud to extend the gratitude of the law school and our students to you who supported our mission. Your continued support provides an important component in attracting and retaining the best faculty and brightest students. Your gifts help us to continue to improve the school's facilities, resources and funding.

Last year our generous supporters provided \$2,325,708 in cash gifts and another \$1,171,927 in grants and contracts. These gifts allowed us to increase our endowment while creating and enhancing our scholarship and financial aid offerings that help future and current students manage the financial constraints of a legal education. Your support provided funding for our new Energy Policy Initiatives Center and the initial funding for the Center on Education Policy and Law. Your generosity strengthened USD's Clinical Education Program, which is recognized as one of the most extensive and successful in the nation. You supported the work of the Children's Advocacy Institute, which is dedicated to the health and well-being of California's children. Your gifts helped deliver conferences on critical issues to USD students, alumni and our legal and local communities. As you can see, philanthropy has a profound impact on nearly every aspect of our law school.

Thank you to everyone who has made a contribution to strengthen our law school. Your generosity strengthens the financial foundation of the school for current and future students, and increases the value of a USD law degree.

Thank you for your generous support of the USD School of Law.

Sincerely,

Jeffery T. Thomas '82

Law Alumni Board Development Committee Chair

2007-2008 President, Law Alumni Board of Director

## Allocation of Gift Revenue

### Fiscal Year 2007-2008

July 1, 2007 through June 30, 2008

#### CASH GIFTS FOR CURRENT OPERATIONS

Financial Aid	\$482,968
Annual Fund	\$178,602
Academic Programs	\$199,678
CAI/CPIL	\$132,404
Legal Clinics	\$186,074
Student Services	\$19,800
EPIC	\$13,500
	<hr/>
	\$1,213,026

#### CASH GIFTS TO ENDOWMENT

Scholarships	\$562,318
General Endowment	\$523,203
Academic Programs	\$27,161
	<hr/>
	\$1,112,682

#### GRANTS AND CONTRACTS FOR CURRENT OPERATIONS

Legal Clinics	\$183,028
CAI/CPIL	\$246,168
EPIC	\$93,441
Law Admin	\$204,895
Patient Advocacy	\$444,395
	<hr/>
	\$1,171,927

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\$3,497,635

## Dean's Circle

*Founded in November 1995, the Dean's Circle recognizes those individuals and organizations whose cumulative philanthropy, including gifts and pledges through June 30, 2008, to the USD School of Law total or exceed \$100,000. USD is most grateful to these members of the Dean's Circle.*

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*The following giving levels recognize alumni, faculty, staff, students and friends who contributed \$100 or more to the USD School of Law during the 2007–2008 fiscal (July 1, 2007–June 30, 2008). We wish to thank you all.*

Maudsley Fellows Society	Gift Level
Dean's Senior Counsel	\$50,000 +
Dean's Counsel	\$20,000 - \$49,999
Senior Partners	\$10,000 - \$19,999
Partners	\$5,000 - \$9,999
Senior Associates	\$2,500 - \$4,999
Associates	\$1,000 - \$2,499
Maudsley Affiliates *	\$500 - \$999

\*Alumni who graduated within the past seven years

School of Law Donors	Gift Level
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Barristers	\$250 - \$499
Advocates	\$100 - \$249

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## Law Alumni Reunion Weekend

Alumni from the Class of 1968 celebrate their 40-year reunion at USD's Mother Rosalie Hill Hall on October 4, 2008.

## Distinguished Alumni Awards

Dean Kevin Cole and Lynne R. Lasry '79





## Alumni Receptions



**BOSTON:** Patrick J. Tarmey '92, Lisa R. Gentile '80, Simone D. DeCarlo '08 (LL.M. in Taxation), and Kate G. Weinstein '06



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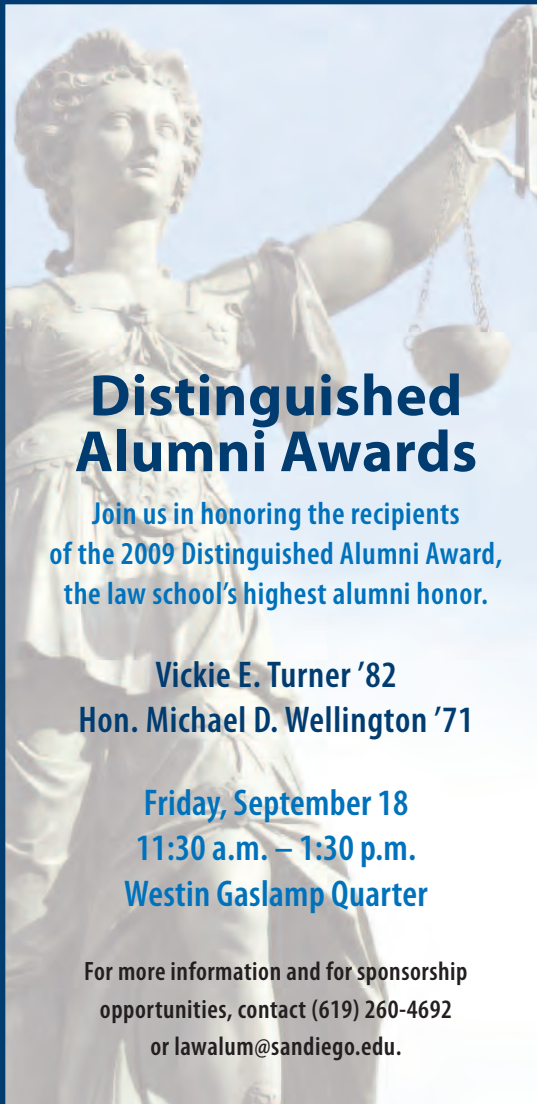
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**Vickie E. Turner '82**  
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