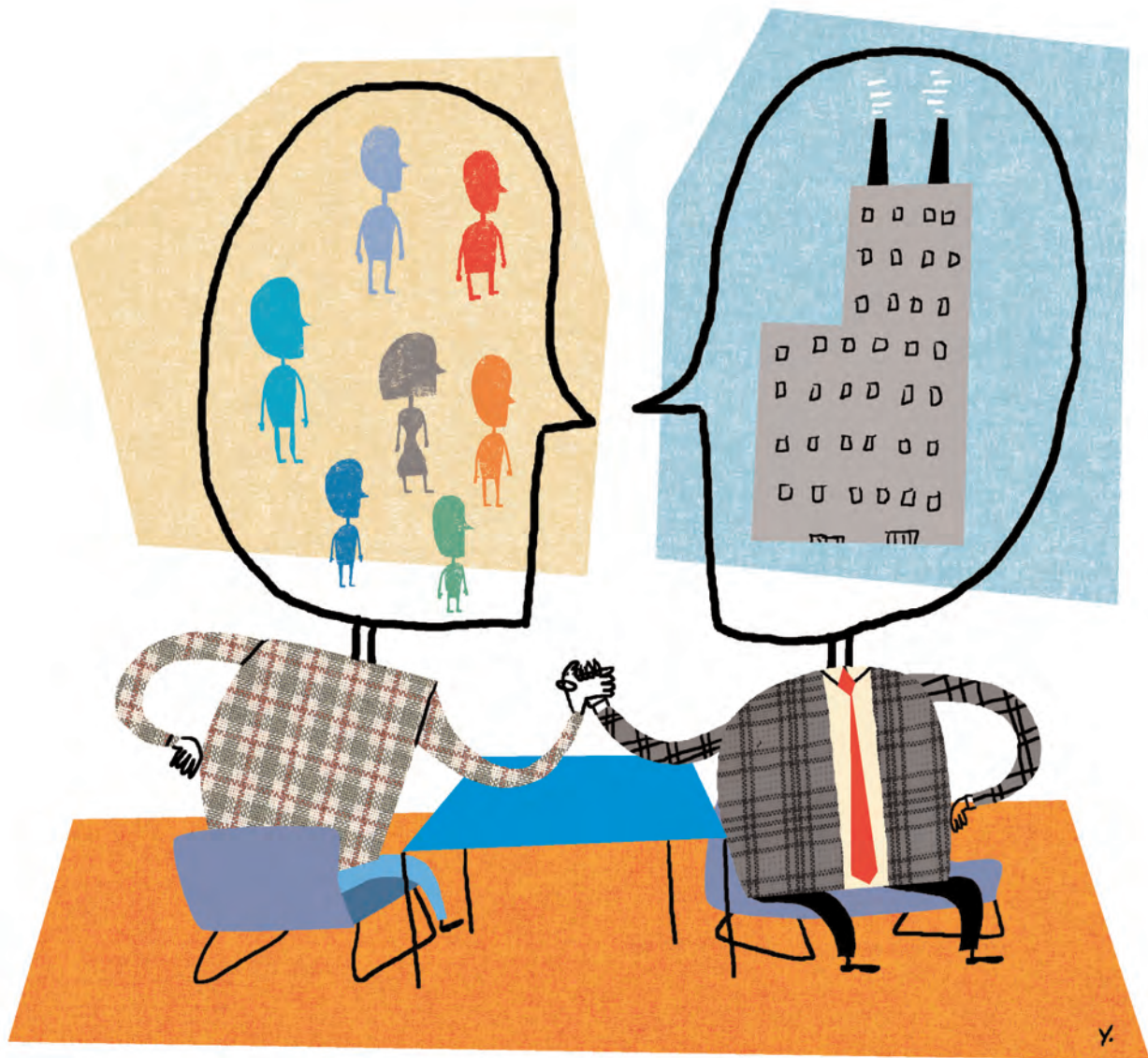


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# DICKINSON LAWYER



REVIVING THE LABOR MOVEMENT

The Dickinson School of Law kicked off 2007 with a number of exciting developments. First and foremost, we were delighted to announce the two largest contributions in the history of the Law School: a \$15 million gift from philanthropist Lewis Katz '66, founder of Katz, Ettin & Levine and former owner of the New Jersey Nets basketball franchise, and a \$4 million pledge from H. Laddie Montague Jr. '63, managing principal of Berger & Montague, P.C. (See page 14 for full story.) Mr. Katz's and Mr. Montague's efforts and contributions on behalf of The Dickinson School of Law during the past few years have been extraordinary, almost beyond description. A special issue of *The Dickinson Lawyer*, that we will publish in the next few weeks, will feature their efforts and contributions, and those of other DSL alumni, to our Carlisle Building Campaign. The University expressed its deep appreciation to Mr. Katz and Mr. Montague when the Penn State Board of Trustees voted unanimously on January 19, 2007, to name the new signature additions to the Law School's Carlisle facilities Lewis Katz Hall; the Law School's new building in University Park the Lewis Katz Building; and the Law School's unified library the H. Laddie Montague Jr. Law Library.



These generous donations, donations from other generous Law School alumni and friends, \$10 million from the University, and \$25 million in matching funds from the Commonwealth of Pennsylvania have provided a \$50 million budget for our Carlisle building project (as well as a wonderfully significant increase in the Law School's endowment). Polshek Partnership Architects of New York already have new designs under way for Carlisle that incorporate a renovated Trickett Hall with state-of-the-art additions and that will ensure a dignified Carlisle home for our Law School for generations to come. Please visit

the Law School's Web site at [www.dsl.psu.edu](http://www.dsl.psu.edu) to see our Carlisle plans as they emerge.

We also are moving forward with our new University Park facility. On January 18<sup>th</sup>, Law School students, faculty, staff and alumni and University officials helped us celebrate the start of construction in University Park with a commemorative groundbreaking ceremony. Special remarks were offered by Penn State President Graham Spanier, Lewis Katz, Secretary of the Commonwealth of Pennsylvania Pedro A. Cortés '99, PA Supreme Court Justice Cynthia A. Baldwin (who is the immediate past chair of the University's Board of Trustees), and Richard Olcott, the lead design architect from Polshek Partnership for our new buildings. You can watch construction as it occurs on our Law School web site.

The following day, the University Board of Trustees approved the establishment of a new School of International Affairs to be housed administratively within The Dickinson School of Law. This arrangement offers significant opportunities for Law School students in both of our locations to benefit from the programs and classes of a multidisciplinary professional graduate school destined to become soon one of the world's great School of International Affairs. (See page 16 for full story.)

It has been my pleasure to meet with many of you at our recent alumni events and to share with you these and other updates. I look forward to seeing many more of you at future events. If you have suggestions for or would like to help plan an event for your area, please email our alumni office at [dslalumni@psu.edu](mailto:dslalumni@psu.edu).

With best wishes to all Law School alumni,

*Philip J. McCormack*

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# in BRIEF

## PENN STATE DICKINSON STUDENT ELECTED SECRETARY OF NAPALSA

Penn State Dickinson School of Law student Jacqueline Calahong was elected secretary of the National Asian Pacific Law Student Association at the 18th Annual National Asian Pacific American Bar Association Convention held November 9-12 in Philadelphia, Pennsylvania.

Calahong, a first-year law student, is the 1L representative of Penn State Dickinson's local chapter of APALSA. Her one-year term as secretary of the national chapter runs from November 2006 through November 2007. Calahong graduated from the University of Michigan-Ann Arbor and hopes to concentrate her legal studies in the areas of international and environmental law.

NAPALSA, the first and oldest Asian Pacific American law student organization, is dedicated to "promoting education, leadership, community awareness, communication and interaction amongst the various Asian Pacific American law students across the country." More information about NAPALSA including membership information can be obtained by visiting [www.napalsa.org](http://www.napalsa.org) on the Web.

## NORTHEAST DINNER HONORS SANTORUM

Isolated thunderstorms did not dampen the spirits of guests at the 31st Northeast Pennsylvania Alumni Dinner in Wilkes-Barre, but it caused a travel problem for the guest of honor. Then U.S. Senator Rick Santorum (R-PA) '80 PSU & '86 DSL, honoree for the annual event on June 1, was unable to attend when his flight from Philadelphia was cancelled due to strong thunderstorms.

"He wanted to be here but ultimately it was the pilot's decision, and he felt the weather was too dangerous," said chapter president Sandor Yelen '56.

In an unusual twist, Santorum accepted the award by phone. His remarks were broadcast over the banquet room's public address system for the benefit of DSL alumni and friends in attendance. He

expressed his deep regret at not being able to attend, thanked his peers for selecting him as the award recipient and expressed his gratitude for the education he received through The Dickinson School of Law.

Santorum is now a Senior Fellow of the Ethics and Public Policy Center, a conservative think-tank in Washington, D.C., and heads its new America's Enemies program.

Santorum was first elected to the Senate in 1994 and later served as chairman of the Senate Republican Conference. In this position, Santorum directed the communications operations of the Senate Republicans and was the third-ranking member of the Senate Republican leadership. He also served on the Senate Aging, Agriculture, Banking, Finance and Rules committees. Prior to his election to the Senate, Santorum served in the U.S. House of Representatives and was an attorney for Kirkpatrick and Lockhart in Pittsburgh, Pennsylvania. In addition to his J.D. from the Law School, he has an undergraduate degree in political science from Penn State and an M.B.A. from the University of Pittsburgh.

The Annual Northeast Pennsylvania Alumni Dinner has honored many of the Law School's most accomplished alumni including Governor Tom Ridge '72, the first secretary of the U.S. Department of Homeland Security; The Honorable Sylvia Rambo '62, the first woman to serve as



Rick Santorum

chief judge of the U.S. District Court for the Middle District of Pennsylvania; Pennsylvania Supreme Court Justice Mike Eakin '75; and U.S. District Judge for the Middle District of Pennsylvania John E. Jones III '80.

## LAW SCHOOL VISITOR SPEAKS ON DRUGS IN SPORTS

This past January, the Penn State Institute for Sports Law, Policy and

Research welcomed Professor Hayden Opie from the University of Melbourne, Australia, as its first international visitor.

Opie is the director of studies of the Melbourne Sports Law Program and is one of the world's leading experts on tort and sports law. The topic of his lecture was "Current Legal and Regulatory Issues in Drugs in Sport."

"The issue of drugs in connection to sports, and the associated 'war on drugs' in sports, just doesn't go away," explained Opie. "The news media has reports everyday of some aspect of the issue frequently and in very sensational terms. In the area of drugs and sports, there are many topics of inquiries for lawyers and policy makers," he added.

Opie explained that there are a number of perspectives relating to drugs associated with sports. "You can view it from a doping perspective, which includes performance enhancing drugs and drugs which stop a competitor," said Opie. "The second perspective on drugs associated with sports is that athletes use drugs as an addiction. This calls into question the integrity of competition as well as the con-



cern for young, impressionable people who look up to athletes as role models.

“The third perspective is that of the health of the athletes. There is a public health concern about the widespread use of drugs as an addiction, and particularly there are numerous reported deaths and serious injuries resulting from athletes taking performance enhancing drugs,” he stated.

He continued to discuss the issues concerning privacy and government power in sports, as well as the dissimilarities and concerns between three major organizations that deal with sportsmanship and fair play: the World Anti-Doping Agency (WADA), an international independent organization created in 1999 to promote, coordinate, and monitor the fight against doping in sport in all its forms—it is composed and funded equally by the sports movement and governments of the world; the Court of Arbitration for Sport (CAS), an arbitration body set up to settle disputes related to sports; and the Australian Football League.

Professor Opie researches and teaches in all areas of sports law and is recognized internationally for his work in the field. In recent years, he has been researching and writing on anti-discrimination law in sport, labor market regulation, and medico-legal issues such as injury liability and anti-doping rules. His publications on sports law cover a wide range of topics and have appeared in Australian, European, New Zealand, South American and United States journals and books.

After graduating from Melbourne Law School, Opie pursued graduate work in sports law at the University of Toronto in the mid-1980s. Since then, he has established and developed the Melbourne Sports Law Program, initiated the founding of the Australian and New Zealand Sports Law Association, Inc., and served as the association’s president for its first eight years.

The Penn State Institute for Sports Law, Policy and Research was established

this fall to “achieve a unique dialogue between academic students of sport and major industry participants.” Such a dialogue will significantly aid scholars in policy-oriented research and facilitate the dissemination of this research to policy-makers and industry participants. The dialogue benefits participants in allowing them rare time to focus on big picture questions about their sport and to think outside the box about realistic insights provided by sports scholars.

The Institute is directed by Professor Stephen Ross, who joined the Law School faculty this past summer. He is a leading sports law, antitrust and comparative Canadian Law scholar and the author of *Principles of the Law of Antitrust* and numerous scholarly articles. A former professor of law at the University of Illinois, Ross also served as minority counsel to the U.S. Senate Judiciary Committee, attorney for the Antitrust Division of the U.S. Department of Justice and Federal Trade Commission, and law clerk to Judge Ruth Bader Ginsburg.

#### PENN STATE DICKINSON WINS VITA AWARD

The Law Student Division of the American Bar Association honored Penn State’s Dickinson School of Law with its 2006 Volunteer Income Tax Assistance (VITA) Outstanding Continuing Site award at the Annual Meeting held August 3-5 in Honolulu, Hawaii. The Law School won this same award in 2004.

The VITA program is a service of the Internal Revenue Service (IRS) through which IRS-certified volunteers provide free tax preparation assistance to low-income, special needs and elderly taxpayers. Under the VITA program at Penn State Dickinson, certified student volunteers assist taxpayers with their federal, state and local tax returns.

Participation in the VITA program not only affords law students the opportunity to gain valuable, first-hand experience in dealing with the complexities of com-

plying with the Internal Revenue Code, but it also provides an opportunity for the Law School to deliver a valuable public service to qualified residents of Carlisle and the surrounding communities. In the prior tax year, forty-eight law student volunteers prepared more than 1,000 federal, state and local tax returns for 425 taxpayers, plus their spouses and dependents, residing in Cumberland, Perry, Dauphin, York, Franklin and Adams counties.

Penn State Dickinson has participated in the VITA program for the past twenty-five years. Professor William B. Barker, a member of the full-time faculty, has for the last twenty-three years supervised the program and trained law student volunteers. He has been assisted for several years by Kerry Annett, the VITA program coordinator.

#### LACE UP FOR THE 2007 RACE JUDICATA

Rain or shine, prepare to pound the pavement on the morning of Saturday, April 14 by participating in Penn State’s Dickinson School of Law Annual 5K Race Judicata to raise funds for the ALS Association, Greater Philadelphia Chapter, a not-for-profit organization dedicated to the fight against ALS.

Runners and walkers are encouraged to come out and show their support for the ALS Association, which is dedicated to finding a cure for and improving the lives of those with the disease. Often referred to as “Lou Gehrig’s Disease,” ALS—amyotrophic lateral sclerosis—causes the brain to lose its ability to initiate and control muscle movement, leading to paralysis.

The race will start at 8:30 a.m. and is open to community members, students, alumni, faculty, friends and family of the Law School. The course will begin and end at Trickett Hall, 150 South College Street, Carlisle.

To register, please download the form found at <http://www.dsl.psu.edu/alumni/RaceJudicata07.cfm> and mail the completed form, along with a \$20/person registration



Two of last year's Race Judicata participants crossing the finish line

fee, by **March 30** to the Alumni Relations Office, Attention Race Judicata, The Dickinson School of Law, 150 South College Street, Carlisle, PA 17013. The \$20 entry fee includes a free t-shirt and race day food and beverages with the net proceeds going to The ALS Association, Greater Philadelphia Chapter.

All participants are asked to confirm their registration between 7:00 a.m. and 8:00 a.m. on the day of the race. Registration will be located in the parking lot area behind Trickett Hall.

Past participants have enjoyed the event and are enthusiastic to lace up for the 2007 Race Judicata.

"Despite the rain, last year's race was a great way to relieve some stress before finals. I had a great time running with friends and other members of the Law School community. I look forward to doing it again," said Regina McMahon, a 2006 Race Judicata participant.

#### AWARD NAMED IN HONOR OF RETIRING ADJUNCT

For more than fifteen years, Jon F. LaFaver was a mainstay for The Dickinson School of Law, teaching seminars on Anglo-American legal history and religious liberty as an adjunct professor of law. So when the time came for him to retire at the end of the 2005-2006 academic year, the Law School faculty and administration wanted to find a meaningful, lasting way to show their appreciation and recognize their colleague's supreme service.

"Jon had been on the faculty for many years, taught more than the usual load for adjuncts—at times he pitched in and became almost full time on adjunct pay—and he's been a generous contributor to the Law School," Professor Harvey Feldman said.

Since LaFaver had already received the school's Edward C. First Award for Excellence of an Adjunct Faculty Member, Feldman thought he would appreciate the Law School creating an annual award, named in LaFaver's honor, to recognize others who shared LaFaver's commitment to teaching and to The Dickinson School of Law. The faculty agreed.

At a reception last spring, David C. Cleaver '67 was honored as the first recipi-

ent of the Jon F. LaFaver Outstanding Adjunct Faculty Award for his "outstanding performance as an adjunct professor." Cleaver teaches Pennsylvania Probate Practice and has been an adjunct professor at the Law School for more than twenty years. He is of counsel with Keller, Keller, Frey & Beck, LLC in Waynesboro, PA, where his practice areas include personal injury and civil litigation.

Cleaver, who earned his bachelor's degree from the University of North Carolina, is the author of *Cases and Materials on Wills and Decedents Estates* (1976) and *Pennsylvania Probate Practice, with Forms* (1st edition, 1983; 2nd edition, 1993; 3rd edition, 2000). He is a member of the Pennsylvania and American Bar Associations, the Association of Trial Lawyers of America, and the Pennsylvania Trial Lawyers Association. While a student at the Law School, Cleaver was editor of the *Dickinson Law Review* and a recipient of the Abel Klaw Advocacy Award.

LaFaver has practiced law for more than forty-three years in New Cumberland, Pennsylvania, and previously served as governor of the Pennsylvania Bar Association, secretary of the Pennsylvania Bar Association and president of the Cumberland County



Jon LaFaver

Bar Association. He currently serves as director for the Pennsylvania Bar Institute.

LaFaver received his A.B. cum laude from Muhlenberg College and his J.D. from New York University where he was a Root Tilden Scholar. He has also studied at Harvard Law School, Cambridge University and Oxford University.

#### KLETT '62 NAMED PSU ALUMNI FELLOW

On October 26, 2006, Law School alumnus Edwin L. Klett '62 became one of an elite group of Penn State alumni chosen to receive the Penn State Alumni



Association's most prestigious honor: the Alumni Fellow Award. Since its inception in 1973, the award has been given to select alumni

“who, as leaders in their professional fields, are nominated by an academic college and accept an invitation from the President of the University to return to campus to share their expertise with students, faculty, and administrators.”

In a letter of nomination, Nancy Jean LaMont, a graduate of the class of 1978 and the Law School's assistant dean for administration, noted that it was a great honor to recommend Klett for the award. “Mr. Klett has had an outstanding career as an active and experienced trial lawyer in a wide variety of corporate and business cases involving accountants' liability, antitrust, class action, governmental litigation, health care, intellectual property, products liability, SEC and securities fraud, shareholder derivative and technology,” wrote LaMont. “...Based on his remarkable professional career and his sub-

stantial contributions to the Law School, I feel Mr. Klett would be an excellent choice for the 2006 Alumni Fellow Award.”

Klett was the chair and founding member of Klett Rooney Lieber & Schorling P.C., a major Mid-Atlantic law firm that recently merged with Buchanan Ingersoll and now consists of 550 lawyers whose practices are national and international in scope. Klett is senior counsel in the firm's Pittsburgh office.

In 2006, the Pennsylvania Supreme Court selected Klett to serve a four-year term on the Judicial Conduct Board of Pennsylvania. He is also a fellow of the International Academy of Trial Lawyers, the American College of Trial Lawyers and the American Board of Trial Advocates. He is a former president of the Allegheny County Bar Association and is a member and former president of the Academy of Trial Lawyers of Allegheny County. While attending DSL, Klett served as editor in chief of the *Dickinson Law Review*. He earned a bachelor's degree in commerce and finance from Bucknell University in 1957.

As an alumnus, Klett has served as president of the Dickinson Law Alumni Club of Western Pennsylvania and has been a member of Dickinson's Board of Trustees and its successor boards since 1982. In 1990, Klett received the Law School's Outstanding Alumni Award.

Klett is a life member of the Penn State Alumni Association. He and his wife, Janis, reside in Mt. Lebanon, Pennsylvania. He has five children: David and Lauren are graduates of DSL, classes '87 and '89 respectively; Krista is a member of the DSL class of 2008; and Kirk and Keenan currently are attending Bucknell University and considering attending law school as well.

Law School alumni Lewis Katz '66, businessman and philanthropist; Robert C. Jubelirer '62 ('59 PSU), former president pro tempore of the Pennsylvania Senate; and Pedro A. Cortés '99 (PSU '00), secretary of the Commonwealth of Pennsylvania, are among the past recipients of the Penn State Alumni Fellow Award.

#### GOLDEN '72 SWORN IN AS U.S. DISTRICT COURT JUDGE

At a ceremony in U.S. District Court in Philadelphia on October 12, 2006, Thomas M. Golden '72 was sworn into a seat on the U.S. District Court for the Eastern District of Pennsylvania, becoming the first federal judge from Berks County in thirty-six years.

President George W. Bush nominated Golden on January 25, 2006, and in May of that year, the U.S.

Senate voted unanimously to confirm Golden to the vacancy. The American Bar Association gave Golden a unanimous well-qualified rating.



In a press release issued from Senator Arlen Specter's office to announce Golden's confirmation, Senator Specter commented, “In my years on the Judiciary Committee and now as chairman of the committee, I have seen many nominees. I believe that Tom Golden has outstanding potential for the Federal District Court.”

Prior to his appointment, Golden was a managing partner at Golden Masano Bradley in Wyomissing, Pennsylvania. He is a past president of the Pennsylvania Bar Association and the Berks County Bar Association.

After graduating from law school, Golden joined Stevens & Lee as an associate. He became a shareholder at that firm before joining the partnership of Fry, Hibscham and Golden, which later became Golden Masano Bradley. Golden graduated from Penn State University in 1969 with a bachelor's degree in history.

# Faculty FOCUS



Eileen Kane



Lance Cole



Rob Gatter



Bob Ackerman

Congratulations to the following colleagues on their recent promotions: **Eileen Kane** was promoted to the rank of associate professor; **Lance Cole** and **Rob Gatter** were promoted to the rank of full professor with tenure.

**Professor Robert Ackerman's** recently published articles include "Neutrality and the Role of Conflict Professionals," with Bernard S. Mayer, in the *Journal of American Arbitration* (2006); "The September 11 Victim Compensation Fund: An Administrative Response to National Tragedy" in the *Harvard Negotiation Law Review* (2006); "Sociological Analysis of Injury to Persons, Property, and Relations" in *Encyclopedia of Law and Society*, David S. Clark ed. (2006); and "Vanishing Trial, Vanishing Community?" in a symposium issue of the *Journal of Dispute Resolution* (2006).

**Professor Larry Catá Backer** made several presentations last fall including: "Supplier Chain Discipline Among Multinational

Corporations: The Rise of Private Systems of Transnational Law and Its Enforcement" on the panel "Unfair Competition—The Civil and Criminal Consequences" at the 24th International Symposium on Economic Crime, Jesus College, Cambridge University, Cambridge, England, on September 5; "Multinationals and the Rise of Global Systems of Private Law-making: The Example of Wal-Mart as Global Legislator" on the panel "Wal-Mart: The New Superpower" at the "Wal-Mart Matters" conference held at the University of Connecticut School of Law in Hartford, Connecticut, on October 20; "Reifying Law: 'Let Them Be Lions, But Yet Lions Under The Throne,'" at a faculty workshop held at Birkbeck College, Faculty of Law, University of London on October 25; and "MiFID and Power in the Regulation of EU Financial Markets" on the panel "Financial Services: Free Movement and Harmonization in the EU" at the "EU Financial Services Regulation: Completing the Internal Market" conference held at the Institute of Advanced Legal Studies in London on October 26 (organized by the Academy of European Law and the Centre for Commercial Law Studies, Queen Mary, University of London) ([Event 206R08, http://www.era.int](http://www.era.int)).

Professor Backer has had the following articles accepted for publication: "Multinational Corporations and the Rise of Global Systems of Private Law: The Example of Wal-Mart as Global Legislator, Civil Society and the Media," *University of Connecticut Law Review*; "The Rule of Law, The Chinese Communist Party, and Ideological Campaigns: Sange Daibiao (the 'Three Represents'), Socialist Rule of Law, and Modern Chinese Constitutionalism," *Journal of Transnational Law & Contemporary Problems*; "Law, Economy and Foreign Relations in China—A Symposium Introduction," *Journal of Transnational Law & Contemporary Problems*; and "Private Law Making and Global Enforcement: Multinational Corporations, Supply Chain Management and the Construction of Global Systems of Private Law," *The Company*

*Lawyer*—(Eng.). You can view Professor Backer's "Law at the End of the Day" Web essays at <http://lcbackerblog.blogspot.com>.



**Professor Carlos Ball** returned to Penn State Dickinson for the 2006-2007 academic year after visiting for a year at the Rutgers University School of Law at Camden. He participated in a roundtable discussion of his book

*The Morality of Gay Rights: An Exploration in Political Philosophy* as part of the Western Political Science Association's annual meeting held in Albuquerque, New Mexico, and he has been invited to present a paper on property and sexuality at the annual meeting of the American Philosophical Association (Pacific Division) to be held in San Francisco.

Professor Ball's article "The Curious Intersection of Nuisance and Takings Law" appeared this fall in the *Boston University Law Review*. In addition, two of his articles were published this past summer: "Exactions and Burden Distribution in Takings Law," with Laurie Reynolds, in the *William and Mary Law Review* and "The Backlash Thesis and Same-Sex Marriage: Learning from *Brown v. Board of Education* and its Aftermath" in the *William and Mary Bill of Rights Journal*. This last article was featured in an op-ed that appeared in the *Detroit News* and, during July and August, was among the top ten most downloaded papers from the Social Science Research Network in any discipline. All three articles are available at [www.ssrn.com](http://www.ssrn.com).

His essay "What Does Sex Got to do With it? Sexual Orientation, Physical Disability, and Parenting" will be published this year in a book titled *Choosing off the Menu: Philosophical Reflections on Disability and the Creation of Non-Standard Families*, Sara Goering, ed., MIT Press. His



essay "This is Not Your Father's Autonomy: Lesbian and Gay Rights from a Feminist and Relational Perspective," which was published originally in the *Harvard Journal of Gender and the Law* in 2005, will be reprinted in a collection of essays titled *Feminist and Queer Legal Theories: Convergences and Departures* and edited by Martha Fineman of Emory University's Feminist and Legal Theory Project.



**Professor William Barker** was asked to submit a paper at the inaugural conference of the International Network for Tax Research (INTR) hosted by the University of Michigan Law School November 3-5.

The INTR is an international research organization of educational institutions sponsored by the Organization of Economic Cooperation and Development. (The American members are the Harvard Law School and the University of Michigan Law School.) The conference was a multidisciplinary treatment in law and economics of taxation and development. In a reviewed paper, Professor Barker proposed, as an important step in attracting foreign capital and business, that developing economies should adopt a new system of international taxation that would provide incentives to foreign business without the enormous costs occasioned by tax competition. In a world of free trade and free factor mobility, developing countries should limit source taxation to locational economic rents to promote economic development. He suggested that this could be accomplished by adopting a broad-based expenditure tax. On the basis of self-interest and justice, developed economies should concede this tax base to developing economies by granting to its multinational enterprises exemption or tax sparing credits.

On September 28, **Professor William Butler** addressed the Washington Foreign Law Society on law reform in the Putin era. On October 20 at Moscow State University, he spoke at a conference commemorating the 100th anniversary of Professor G. I. Tunkin on the subject of Tunkin through the eyes of Western international lawyers. At the annual meeting of the American Association for the Advancement of Slavic Studies, he chaired a panel on Russian legal history and gave a paper on American lawyers in Russia to a roundtable on November 18, and November 27-28, he chaired a panel and delivered a paper on informal obstacles to harm reduction under Russian law for the United Nations Office on Drugs and Crime at St. Petersburg, Russia.

The Oxford University Press published his treatise *Russian Foreign Relations and Investment Law* in December 2006; Juris Publishing Co. issued the first and second installments of his looseleaf service *Russia & The Republics: Legal Materials* (2006-). In press for publication in early 2007 are two volumes which he has edited and translated: *International Law and the Russian Legal System* (Zimnenko) and *Spitsbergen: Legal Regime of Adjacent Marine Areas* (Vylegzhanin and Zilanov). Four issues of *Sudebnik* have appeared or are in press; one issue of *Russian Law: Theory and Practice*; and one issue of the *Journal of Comparative Law*.

The second edition of **Professor Tom Carbonneau's** book *Employment Arbitration* appeared in June 2006, and his article "At the Crossroad of Legitimacy and Autonomy" has been accepted for publication by the *American Review of International Arbitration* at Columbia University. He is currently preparing the 4th edition of his casebook on arbitration and the 2nd edition of his treatise on the same subject. He is also working on a *Nutshell* for Thomson-West.

Professor Carbonneau is the executive editor of the *Latin American Arbitration Review*, recently launched by Penn State's

Institute of Arbitration Law and Practice. This past summer he taught courses in arbitration at McGill Law Faculty and Queen Mary College, University of London.

**Professor Ellen Dannin's** book *Taking Back the Workers' Law—How to Fight the Assault on Labor Rights* was recently published by Cornell University Press. She also wrote "Law and Collective Bargaining Power: An Experiment to Test Labor Law Reform Proposals," with Gangaram Singh, in *Justice on the Job: Perspectives on the Erosion of Collective Bargaining in the United States* (2006). Additionally, she had two articles published: "Red Tape or Accountability: Privatization, Public-ization, and Public Values," *Cornell Journal of Law & Public Policy* (2006) and "NLRA Values, Labor Values, American Values," *Berkeley Journal of Employment & Labor Law* (2005).

Professor Dannin's expertise on the impact of the "Kentucky River" labor law cases continues to be sought. In October, she appeared on a talk show on WNYE New York City discussing the impact of *Oakwood Health Care*, 348 NLRB N.37 (Sept. 29, 2006), and she also was interviewed by Eve Tahmincioglu, a reporter for MSNBC, discussing the same topic. Additionally, Professor Dannin appeared on the *Radio Health Journal*, which airs weekly on more than 400 stations nationally, about the disappearance of retiree health benefits.

Professor Dannin has made several presentations over the past year, including "NLRA Values, Labor Values, American Values" and "Constructing a Litigation Strategy to Take Back the Workers' Law" at the annual meeting of the Law and Society Association in Baltimore, Maryland, July 8-9; and "Re-Constructing Our Values," at the American Federation of Teachers Conference in Washington, D.C., on September 21.

At the request of the American Society of Comparative Law, **Professor Louis F. Del Duca** coordinated the Biennial Colloquium of the American and Italian Societies of

Comparative Law held at the Penn State Dickinson School of Law on April 6 and 7, in which leading comparativists from both countries addressed current issues pertaining to criminal and civil procedure and the new Italian federalism. Special participants included Geoffrey C. Hazard Jr., recent long-time executive director of the American Law Institute, and the Honorable Anthony J. Scirica, chief judge, Third Circuit Court of Appeals.

On June 19, Professor Del Duca presented a paper at the Milan Chamber of Commerce in Italy on "Current Developments on Product Liability in Italy and the United States." His presentation compared product liability under the Uniform Commercial Code and Restatement of Torts with product liability under the European Community Product Liability Directive and Italian Law. On August 10, he presented a paper "The Accelerating Pace of Common Law and Civil Law Convergence in A Global Society – Harmonization and Subsidiarity in the Twenty-First Century" at the 13th Biennial Meeting of the International Academy of Commercial and Consumer Law held in Austin, Texas.



**Professor Beth Farmer's** article "Harmonization in Competition Law Enforcement" is forthcoming in the book *Harmonizing Law in an Era of Globalization*, which is edited by Larry Backer and will be published in 2007 by Carolina Academic Press.

Professor Farmer has accepted an invitation to join the new Interdisciplinary Centre for Competition Law and Policy at Queen Mary College, University of London. Last spring, she moderated the Scholars' Showcase Panel on "Empirical Approaches to Antitrust" at the American Bar Association Antitrust Law Section's spring meet-

ing in Washington, D.C. She was also an invited guest at the 6th Annual Loyola Antitrust Colloquium, sponsored by the Institute for Consumer Antitrust Studies of the Loyola University Chicago School of Law.

**Professor Eileen Kane** was an invited speaker at the Intellectual Property/Gender Symposium at the American University Washington College of Law, where she presented "Molecules and Conflict: Cancer, Patents and Women's Health." She also was an invited speaker at the Intellectual Property Scholars Conference at the University of California-Berkeley (Boalt Hall), where she presented "The Dormancy and Revival of the Patentable Subject Matter Doctrine." Her article "Patent Ineligibility: Maintaining a Scientific Public Domain" was published in the *St. John's Law Review* (2006).

**Associate Dean for International Affairs Tiyanjana Maluwa** was recently appointed by the United Nations High Commissioner for Human Rights to a five-member group of experts charged with the task of preparing a study on complementary international standards to counter racism, racial discrimination, xenophobia and related intolerance. The group of experts was established pursuant to resolution 1/5 of the UN Human Rights Council, adopted on June 30, 2006, and is expected to work in consultation with relevant UN human rights treaty bodies, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and, in particular, the Intergovernmental Working Group on the effective implementation of the Durban Declaration and Programme of Action (adopted by the 2001 World Conference Against Racism and Xenophobia). The first meeting of the group took place in Geneva, Switzerland, January 21-23.

In mid-December, a study co-authored by Dean Maluwa (with Dapo Akande of Oxford University, England) was presented to a meeting of legal experts

of the African Union in Addis Ababa, Ethiopia. The study contains a legislative guide and a draft African anti-terrorism model law. The model law is intended to provide African countries with a template for enacting appropriate legislation for combating terrorism and the support and financing of terrorist activities within a human rights-sensitive context. Professor Maluwa was also invited to participate in a roundtable discussion on the Swedish Government's Global Development Policy organized by the Ministry of Foreign Affairs of Sweden in Stockholm and an expert meeting on human rights and counter-terrorism, convened by the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, in Berlin. Dean Maluwa's review of Fatsah Ouguerouz's *The African Charter on Human and Peoples' Rights: A Comprehensive Agenda for Human Dignity and Sustainable Democracy* has just been published in the latest issue of the *African Yearbook of International Law*.

**Professor Katherine Pearson's** research and advocacy on issues affecting families and older adults led to an invitation to write an essay on filial support laws for the *National Council on Family Relations' Quarterly Report*, which appeared in December 2006. (Her work is also quoted in the lead editorial in that issue.) In addition, Professor Pearson will be a featured speaker at its national conference in the fall of 2007.

Professor Pearson and **Clinical Professor Lucy Johnston-Walsh** gave a multi-media presentation "Partners in Outreach and Legal Advocacy: Interdisciplinary Opportunities in University Based Clinics" at the National Outreach Scholarship



Lucy Johnston-Walsh

Conference at Ohio State University in October. In March, Professor Pearson will speak on the growing use of mandatory pre-dispute arbitration agreements in long-term care settings for the Thomas F. Lambert Conference at Suffolk University School of Law in Boston, Massachusetts, focusing on her empirical research with Professor Michael Rustad at Suffolk University.



In June, **Professor Tom Place** spoke at the 23rd Annual Criminal Law Symposium on appellate and post-conviction issues in capital cases. He also recently presented a program to the law clerks of the

Pennsylvania Supreme Court on appellate review of post conviction petitions in capital cases. The 5th edition of his book *The Post Conviction Relief Act, Practice and Procedure* was published in July.



**Professor Carla Pratt** recently published "Taking Diversity Seriously: Affirmative Action and the Democratic Role of Law Schools," *Houston Law Review* (2006). She also presented her article "Loving Indian Style: Maintaining Racial Caste and Tribal Sovereignty Through Sexual Assimilation" at

the University of California-Berkeley, Boalt Hall School of Law's Thelton E. Henderson Center for Social Justice Symposium entitled "Loving by Law: Forty Years Since *Loving v. Virginia*."

In October, Professor Pratt spoke at a faculty colloquium at the University of Tulsa Law School and also served as a Native American History Month lecturer at Ithaca College. On November 9, she served as a panelist for "The First and the Forced" conference, which explored the intersection of Indian and African identity and was hosted by the Ford Foundation, the University of Kansas and Haskell Indian Nations University. Also in November, Professor Pratt presented her article examining tribal anti-miscegenation law at the University of Wisconsin's symposium celebrating the 40th anniversary of *Loving v. Virginia*. This spring, Professor Pratt will present "Law Defining Existence: Exploring the Psychological Corollary to the Legal Illegitimation of Multiracial Identity" at the International Congress of Law and Mental Health in Padua, Italy.

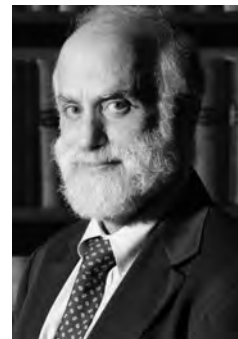
**Dean Phil McConaughay's** edited book *Defining Values for Research and Technology: The University's Changing Role*, (co-edited with University of Illinois Swanlund Chair in Neuroscience William T. Greenough and University of Illinois Professor of Law and Engineering Jay P. Kesam) was published in November by Rowman & Littlefield Press. Contributors include World Food Prize and Indira Gandhi Award winner M.S. Swaminathan; National Medal of Technology winner and former National Science Foundation director Erich Bloch; National Science and Technology advisor and noted physicist John H. Gibbons; renowned development economist Lord Meghnad Desai; National Center for Supercomputing Applications founder Larry Smarr; NASA chief scientist Kathie Olsen; International Maize and Wheat Improvement Center chief scientist Timothy Reeves; University of Michigan Law professor Rebecca Eisenberg, and others. The book was sponsored by the University of Illinois

Center for Advanced Study, a unit of the Graduate College charged with promoting the highest levels of interdisciplinary discourse ([www.cas.uiuc.edu](http://www.cas.uiuc.edu)).

In July, **Professor Bob Rains** spoke in opposition to a proposal to create a Social Security Court at the Summer Council Meeting of the ABA Section of Administrative Law and Regulatory Practice. Additionally, he was named a vice chair of the Section's Benefits Subcommittee. In October, he appeared on an ABA panel at the National Press Club debating the wisdom of creating a Social Security Court. In November, he conducted a training session for the Pennsylvania Department of Public Welfare's Disability Advocacy program on "The Administrative Law Judge Hearing Process."

His article, "Professional Responsibility and Social Security Representation: The Myth of the State Bar Bar to Compliance with Federal Rules on Production of Adverse Evidence" was published in the *Cornell Law Review*, Vol. 92, No. 2. Additionally, he has had three "legal fables" published: "The Criminals Who Miscalculated" in the *Green Bag*, 2nd, and "A Man and a Woman" and "Ho Ho Ho" in the *Pennsylvania Family Lawyer* (December 2006).

**Professor Marie Reilly's** book chapter "You and Me Against the World: Marriage and Divorce from Creditors' Perspective" in *Reconceiving the Family: Critique on the American Law Institute's Principles of the Law of Family Dissolution*,



Robin Fretwell Wilson ed., (2006) was recently published.

**Associate Dean Victor Romero** continues to serve as a media expert on issues regarding immigration law and minority rights and has recently been quoted in publications such as *TIME* magazine, the *Christian Science Monitor* and the *Central Penn Business Journal*. In November, he served as a panelist at a symposium on the First Amendment sponsored by the Commission on Racial/Ethnic Diversity (CORED) at Penn State and was a guest on President Spanier's monthly talk show *To the Best of My Knowledge: Immigration*, broadcast on WPSU television and radio.



**Professor Stephen Ross'** forthcoming study of how the structure of sports leagues affects fans, *Fans of the World, Unite!*, has been accepted for publication by Stanford University Press. Co-authored by world-renowned

expert on sports economics Professor Stefan Szymanski of the Tanaka Business School, Imperial College (London), the book details the harms caused to sports fans and taxpayers by the monopoly power of sports leagues. The authors contend that sports leagues are not simply monopolists, but inefficient ones, because they are controlled by owners who often act in their own narrow self-interest rather than the interest of the league as a whole (one reason why legendary Pittsburgh Steelers' owner Art Rooney was so exceptional). They propose two major structural changes to sports leagues, drawing on successful examples from outside the history of North American sports leagues. Noting that in NASCAR, participating racing teams compete under rules independently fixed by a distinct "competition organizer," NASCAR, Inc. (a private company con-

trolled by the France family), they suggest that other major league sports would benefit if control of the league were transferred from the club owners to MLB, Inc., NFL, LLC, or the like. Borrowing from the way soccer is organized in the rest of the world, they argue that U.S. sports leagues should be required to adopt the principle of "entry by merit," with the worst teams in each major league relegated each season to a second-tier competition, while the best teams in the lower-tier league would be promoted to the majors. The authors also suggest a variety of less radical reforms to improve sports, including enhancing the power of commissioners and league officials to intervene in all aspects of the business to enhance "the best interests of the sport."

Professor Ross also was an invited participant for the Section on Sports Law session of the Association of American Law Schools' annual meeting in Washington, D.C., to discuss comparative and international aspects of sports law. The panel included Professor Hayden Opie of the University of Melbourne, Australia's leading sports law professor, who subsequently visited Penn State for several lectures and talks as a guest of the new Penn State Institute for Sports Law, Policy, and Research, which Professor Ross directs.



**Professor Geoff Scott's** article "A Comparative View of Copyright as Cultural Property in Japan and the United States" will appear in the upcoming issue of *Temple International Law Review*. He

recently appeared as a guest on *Musician-Cast*, a radio program originating in Philadelphia, and spoke on the legal problems of musicians with an emphasis on intellectual property issues. In September, Professor Scott presented a program at the Dewey Beach Music Conference about the

legal mentoring of young musicians. Additionally, he was a participant in the Hydrogen Day Program at University Park, a conference sponsored by Penn State to investigate the technological/economic feasibility of employing hydrogen as an alternative fuel source.

**Professor Richard Storrow** presented his ongoing research into screening practices in infertility clinics at the annual meeting of the Law & Society Association in Baltimore, Maryland. His article based on this research, "The Bioethics of Parenthood: In Pursuit of the Proper Standard for Gatekeeping in Infertility Clinics," has since been accepted for publication by the *Cardozo Law Review*. Professor Storrow's book review of Kerry Lynn Macintosh's *Illegal Beings: Human Clones and the Law* will appear as "Equal Protection for Human Clones" in the next issue of the ABA's *Family Law Quarterly*. Professor Storrow's article "Marginalizing Adoption Through the Regulation of Assisted Reproduction" is forthcoming this spring in a symposium issue of the *Capital University Law Review*. He has been invited to contribute an article on procreative liberty for *The Chicago Companion to the Child* to be published by the University of Chicago Press in 2007.



**Professor Laurel Terry** recently returned from a one-year sabbatical in Cologne, Germany, where she was researching the Bologna Process and the EU antitrust authority's report regarding the legal profession. Her article "The Bologna Process and its Implications for U.S. Legal Education" will be published in the *AALS Journal of Legal Education*. Additionally, her article "Living with the Bologna Process: Recommendations to the German Legal



Education Community from a U.S. Perspective" has been accepted for publication by the *German Law Journal*.

Last May in London, Professor Terry spoke at the International Bar Association's First Annual Bar Leader's Conference to introduce the IBA's proposed "skills transfer" GATS resolution. In August, Professor Terry spoke about the U.S. Multijurisdictional Practice (MJP) situation at the annual meeting of the International Institute of Law Association Chief Executives.

The president of the ABA recently appointed Professor Terry to a three-year term on the ABA Standing Committee on Professional Discipline; Professor Terry has been active in efforts to develop international cooperation among lawyer discipline agencies around the globe, which should promote global MJP and accountability. Two of Professor Terry's GATS law review articles were cited in the report submitted to the ABA House of Delegates in August before it unanimously adopted its resolution regarding GATS "Track 2" issues. The report will become the policy basis upon which the ABA communicates with the U.S. Trade Representative about "disciplines" proposals from other World Trade Organization Members.

**Professor Takis Tridimas** helped to organize a financial services conference titled "EU

Financial Service Regulation: Completing the Internal Market," which was held in London October 26-27. The conference, organized by the European Law Academy of Trier, Germany, the Center for Commercial Law Studies, Queen Mary, and the Penn State Dickinson School of Law, sought to provide the wider legal community with current information on legal developments in the creation of an integrated European financial services market. In addition to helping organize the conference, Professor Tridimas presented "Free Movement and Harmonization of Securities Regulation in the EU." Additional Penn State Dickinson faculty presenting at the conference included **Professor Larry Catá Backer** and **Professor Lance Cole**.



**Professor Nancy Welsh** has two articles forthcoming: "Comparing Court-Connected Non-Family Civil Mediation: Does the U.S. Experience Predict the Netherlands' Future?," *Trema*, and "The Importance of Context in Comparing the Institutionalization of Court-Connected Non-Family Civil Mediation in the U.S. and The Netherlands," *Forum on Conflict Management*.

From January 2006 until June 2006, Professor Welsh was a visiting professor at Tilburg University, Department of Private Law, in The Netherlands. While there as a Fulbright Scholar, she made numerous presentations including: "The Successful Institutionalization of Alternative Processes in U.S. Courts, the Rise of the 'Embedded Neutral,' and New Concerns About Courts' Deference," sponsored by the Private Law Department at Tilburg University in Tilburg, May 8; "Mediation: A Trans-Atlantic Dialogue," sponsored by the Institut für Anwaltsrecht of The University of Cologne in Cologne, Germany, May 11; "The Rise of the Embedded Neu-

tral: Operating Within the Shadow of the Judge or Expropriating and Undermining the Judge's Legitimacy?" with Honorary Chair Robert Mnookin, sponsored by Tilburg University, The Catholic University of Leuven, and The Francqui Foundation, in Tilburg, May 16; "Current Developments in Mediation in the U.S.," sponsored by ACBMediation in The Hague, May 17; "The Future of Mediation in The Netherlands" workshop sponsored by The Netherlands Ministry of Justice and WODC in The Hague, May 24; "The Value of Mediation for 'One-Time' and 'Repeat' Disputants" at Erasmus University in Rotterdam, May 29; and "Comparing the Needs Currently Addressed by Court-Connected Mediation in the U.S. and The Netherlands and Looking to the Future" and "Is (Statutory) Regulation a Good Incentive for Parties to Choose Mediation?" in "The State of Affairs of Mediation in Europe. What Can Governments Do (More)?" at the International Expert Meeting sponsored by the Dutch Ministry of Justice in The Hague, June 29-30.

She was also the keynote speaker and presented "Mediator Impartiality: Core Value or Optional Characteristic?" at the 15th Annual Conference for Mediators and Arbitrators presented by the Florida Dispute Resolution Center in Orlando August 24-26. On October 20 at the University of Missouri-Columbia, Professor Welsh made a presentation at a symposium honoring the work of Professor Len Riskin.



## Staff NOTES

**Tamara Storey** has been named as the chair of the Employee Relations Committee for the Commission on Lesbian, Gay, Transgender, Bisexual Equity, an advisory committee to Penn State President Graham Spanier. She also chairs the LGBT committee for the Carlisle Inclusive Communities Initiative that is working with the mayor and city council to begin initiatives to address the diverse population in Carlisle.

With help from community activists, Tamara has begun a program to address the concerns of young women of color in the Carlisle community. The mission of the program is to empower females between the ages of 13-18 and help them see their successes by providing them with mentoring, health information, academic assistance and etiquette lessons.

Last October, **Susan Bogart** co-presented a session on student loan exit counseling and debt management issues at the annual meeting of the Pennsylvania Association of Student Financial Aid Administrators in Hershey, PA.

# One for the History Books

Have a fond memory of your old law school days that you want to share with the rest of the world? Now's your chance.

Law School librarian and archivist Mark Podvia '86 is collecting information about life as you remember it at Dickinson Law School for a book in which he will recount the history of the Law School since its founding in 1834.

Dean Burton R. Laub first published his history of the Law School in *The Dickinson School of Law: Proud and Independent* in 1976. Thirty years have passed since the publication of Dean Laub's book and much has happened at the school, including our merger with Penn State University. We now need an updated history.

Podvia, who has written numerous articles detailing the history of the school for *The Dickinson Lawyer*, will author the book.

"This is not just a history of the last thirty years, but a fresh look at our history back to our founding in 1834," said Podvia. "Dean Laub did an excellent job writing his history of Dickinson Law, but there is much that was not covered in his book."

The new history will be less formal than Dean Laub's book, with chapters on topics such as student life, sports, faculty members, alumni, law reviews and moot court teams.

Podvia requests that anyone having stories of their Law School experiences, ranging from deans to faculty members to classes to life in Carlisle—anything dealing with their Law School experience—should please contact him. Mater-



*Emory Hall, the Law School's home from 1890-1917*

ial can be submitted by letter or e-mail, or stories can be recorded and submitted on tape.

"It is important to have input from as many people as possible," said Podvia. "I would like to see this develop as a 'people's history'."

Material should be mailed to Mark Podvia, The Dickinson School of Law of the Pennsylvania State University, 150 South College Street, Carlisle, PA 17013. E-mail submissions should be sent to Mark at mwp3@psu.edu.

# *The* DUKE *celebrates* GOLDEN ANNIVERSARY

While Friday, September 1, 2006, appeared to be like any other work day for most employees at Penn State's Dickinson School of Law, it was a very special one for Professor Louis Del Duca—one that marked the 50th anniversary of his distinguished teaching career at The Dickinson School of Law. During his tenure at Dickinson, Del Duca has been affectionately known as “The Duke,” “Luigi,” “Uncle Lou” and even “El Maestro” for his spirit-filled leadership of the old, familiar tune “Jingle Bells” at the Law School's annual holiday party. Over the years, he has assumed many roles including mentor, counselor, advisor and friend to faculty, staff and students. Additionally, he has been known as a pioneer in the legal world, expanding international educational opportunities in the American legal system.

In the late 1960s, when many educational institutions began introducing more international components into their curriculum, the dean of the Law School at the time called upon Del Duca to lead the way for The Dickinson School of Law. Del Duca willingly accepted the challenge and, in 1968, established Dickinson's LL.M. program for training foreign lawyers.

Not only has Del Duca enhanced Dickinson's curriculum through the creation and coordination of the LL.M. program, he also founded and manages the school's summer programs in Europe. In 1980, he established the Law School's Florence Summer Abroad program with the University of Florence, Italy, and in the mid-1980s, he set up the Capitals of Europe program. For more than twenty years, Del Duca has been directing these summer programs with a true “insider's touch” and provides students with a unique experience through his wealth of international comparative law expertise and an extensive network of distinguished overseas colleagues and friends.

“Professor Del Duca has contributed enormously over the years to the outstanding reputation our law school enjoys among foreign and international scholars and officials, and he is singularly responsible for the superior LL.M. and summer programs



for which our law school is known worldwide,” remarked Law School Dean Phil McConaughay.

Del Duca is a member of the American Law Institute and the U.S. Secretary of State's Committee on International Trade Law. He has served as president of the International Academy of Commercial and Consumer Law and has been The United States' collaborator to the Rome International Institute for the Unification of Private Law (UNIDROIT). In 2000, Professor Del Duca was honored with the W. LaMarr Kopp International Achievement Award for his leadership in international education at Penn State.

# DSL ANNOUNCES TWO LARGEST GIFTS IN SCHOOL HISTORY

**O**n January 18, Penn State University President Graham B. Spanier announced the two largest gifts in the history of Penn State's Dickinson School of Law.

The first is a gift of \$15 million from New Jersey businessman and philanthropist Lewis Katz, whose vision and dedicated efforts over the past three years facilitated the University's creation of a two-campus Dickinson School of Law with new, inter-connected buildings in Carlisle, Pa., the Law School's traditional home, and in University Park, the location of Penn State's largest campus.

Katz's gift ranks as one of the single largest acts of philanthropy in Penn State's history. In recognition of his gift Penn State plans to name the Law School's new signature building in University Park the Lewis Katz Building; to recognize his extraordinary volunteer efforts on behalf of The Dickinson School of Law, Penn State plans to name the new signature addition to the Law School's Carlisle facilities, Lewis Katz Hall.

Katz said of his gift and efforts, "For 173 years, The Dickinson School of Law, my alma mater, has educated law students in Carlisle who have gone on to become leaders of our communities, of the Commonwealth, and of our nation. At the same time, the Law School's recent merger with Penn State University has meant dramatic improvements in faculty stature, student and faculty diversity, and career opportunities for Dickinson School of Law students and graduates. The Law School's new inter-connected facilities will enable the Law School to sustain and strengthen all of these wonderful traditions and achievements. It is my privilege and pleasure to be in a position to help my law school in this way."

The second gift is a \$4 million pledge from noted Philadelphia lawyer and trial attorney H. Laddie Montague Jr., of the firm Berger & Montague, PC. Montague served as chairman of

the Law School's Board of Governors during a critical period between 2004 and 2005 that defined the Law School's relationship with the University.

Montague's high standing with traditional Law School constituencies and his commitment to excellence for the Law School resulted in the agreement to establish a new Law School presence in University Park while preserving the Law School's traditional home in Carlisle.

In recognition of his gift and his determined efforts on behalf of The Dickinson School of Law, Penn State plans to name the Law School's unified library, which includes substantial collections in both Carlisle and University Park, the H. Laddie Montague Jr. Law Library.

Montague said of his gift and efforts, "A law school with a history as rich and proud as that of The Dickinson School of Law deserves an equally promising future. This is now ensured not only by the Law School's new presence in University Park, but also by the Law School's continued grounding in the traditions, and at the Carlisle campus, responsible for a magnificent past. I feel fortunate that I have been able to contribute to this outcome."

Spanier said, "Few institutional changes in higher education have been as transformative or as rapid as the changes under way at Penn State's Dickinson School of Law, thanks in large part to the extraordinary generosity and efforts of Lewis Katz and Laddie Montague. Today's announcement illustrates the remarkably successful union of the storied traditions of Pennsylvania's oldest law school with the dynamic intellectual resources and programs of Penn State University, one of America's great research universities. Penn State is extremely grateful to Mr. Katz and Mr. Montague for their commitment to this vision."

Dickinson School of Law Dean Philip McConnaughay said, "The merger of The Dickinson School of Law and Penn State University has increased applications to the Law School by over 100 percent and tripled the diversity of our student body while simultaneously elevating academic credentials dramatically. We



have been able to appoint internationally renowned faculty at the very top of their fields and create unprecedented professional opportunities for our students and graduates. Thanks to the generosity of Lewis Katz and Laddie Montague, we will be able to sustain and build on these achievements for generations to come. The entire Law School community is extremely grateful.”

Katz was born and raised in Camden, N.J., and earned a bachelor’s degree in biology from Temple University. He served as editorial assistant to renowned journalist Drew Pearson before enrolling in The Dickinson School of Law, where he graduated first in his class. He went on to establish Katz, Ettin & Levine, a Cherry Hill law firm, before purchasing Kinney Systems, one of the largest parking firms in the country.

In 1998, Katz stepped into the world of professional sports as principal shareholder and managing partner in a group of investors who bought the New Jersey Nets basketball franchise. The partnership later merged with the New York Yankees to form YankeeNets and, in 2000, added the NHL’s New Jersey Devils to the affiliation. While the YankeeNets partnership has since been dissolved, Katz retains an interest in the Nets and the Yankees.

Outside of his business ventures, Katz has demonstrated an unwavering commitment to his community and his alma maters. He serves on the Board of Trustees of Temple University and the Board of Counselors of The Dickinson School of Law and he has generously supported both institutions. In 1999, Katz received the Alumni Fellow Award from the Penn State Alumni Association, and in 2004, he received the University’s most prestigious honor when he was presented with its Distinguished Alumni Award. That same year, Temple University honored him with its Distinguished Alumni Award.

Katz has supported a variety of charitable causes. He played a major role in developing Jewish Community Centers in Cherry Hill and Margate, N.J., both named after his parents, and a new Hebrew day school in Voorhees, N.J., named after his children. In his native Camden, Katz helped found the city’s first Boys and Girls Club, and he led the effort to bring a second club to the city, which is to open in April. He also established an annual scholarship program for underprivileged children in Camden.

Montague, who earned his bachelor’s degree from the University of Pennsylvania before graduating from the Law School, is a managing principal and shareholder of Berger & Montague and chair of the firm’s Antitrust Department. *Chambers USA’s America’s Leading Lawyers for Business* has repeatedly recognized Montague as one of the nation’s top antitrust attorneys.

Montague has served as lead counsel in several significant class actions, including his role as co-trial counsel for plaintiffs in the mandatory punitive damage class action in the *Exxon Valdez Oil Spill Litigation*. He is a director of the Public Interest Law Center of Philadelphia and was co-recipient of the Trial Lawyers for Public Justice 1995 Trial Lawyer of the Year Award. He is a

Fellow of the American College of Trial Lawyers.

A staunch supporter of the Law School, Montague established the H. Laddie Montague Jr. Chair in Law, currently held by human rights scholar Tiyanjana Maluwa. Montague also serves as chairman of the Dickinson Law Association and as a member of the Law School’s Board of Counselors.

Penn State University is spending \$60 million on the construction of the Law School’s new signature building in University Park. The Law School’s Carlisle construction budget is \$50 million, \$10 million more than the original capital campaign target. The Carlisle budget is composed of \$10 million from Penn State, \$15 million from private philanthropy and \$25 million in matching funds from the Commonwealth of Pennsylvania, thanks to the efforts of Governor Ed Rendell and others. The architectural firm on both projects is the Polshek Partnership of New York, with lead design architect Richard Olcott.

The remainder of the Katz and Montague gifts will benefit the Law School’s endowment.



Lewis Katz



H. Laddie Montague Jr.



Joe Sohm, Visions of America, Getty Images

# *University Establishes* SCHOOL OF INTERNATIONAL AFFAIRS

Penn State University's Board of Trustees approved the establishment of a new School of International Affairs, effective July 1. The school will be intimately linked to the Law School.

"The need has never been greater for professionals of all walks of life to develop a deeper awareness of a world that is increasingly linked in matters of peace and security, health and commerce, and the sharing of natural resources," said Penn State President Graham B. Spanier. "We believe that Penn State can enhance its contribution to this multidisciplinary challenge by establishing a School of International Affairs."

The new school, which will offer a professional master's degree in international affairs with several specialty concentrations, will be housed administratively within Penn State's Dickinson School of Law. Like the Law School, the new school

emphasizes the practical applications of knowledge for solving complex social problems and the importance of high ethical standards in a variety of challenging situations, Law School dean Philip McConaughay explained. These characteristics, together with the internationalization of law practice and legal education, mean that the two schools will share similar educational objectives.

The advanced digital audiovisual telecommunications capabilities of the Law School's two new buildings, in which the University is undertaking a \$110 million capital investment, will offer the School of International Affairs the ability to reach audiences and students throughout the world and to deliver lectures and programs originating throughout the world to audiences and students within the school.

The proposal to create the new school was prepared by a faculty Strategic Planning Committee whose members were drawn from several academic colleges across the University. Approved by the Faculty Senate Council in November, the school will be multidisciplinary in its curriculum and perspectives, utilizing the expertise of Penn State faculty from many fields relevant to international affairs. The School of International Affairs plans to begin admitting students for fall 2008.

The new School of International Affairs is the latest in a host of international initiatives under Spanier's leadership, including expanded curricular and study abroad opportunities for Penn State students, the increased presence of international students and scholars at Penn State, and enhanced collaborations between Penn State and key universities in other countries.

## DR. JEFFREY D. McCAUSLAND JOINS LAW SCHOOL STAFF



In conjunction with the announcement of the new School of International Affairs (SIA), the Law School is pleased to welcome Dr. Jeffrey D. McCausland, who has joined us as a visiting professor of law and diplomacy. In addition to advising us with respect to the SIA and various international initiatives at the Law School,

McCausland is bringing to the Law School various short-term professional leadership workshops he has developed. He will also work with our faculty to explore how we might expand the Law School's continuing and professional education efforts.

McCausland is a graduate of the United States Military Academy, West Point, and he holds a Ph.D. in International Relations from the Fletcher School of Law and Diplomacy at Tufts University. He is a former dean of academics at the U.S. Army War College in Carlisle, holder of the Class of 1961 Chair in Leadership at the United States Naval Academy in Annapolis, and director of Defense Policy and Arms Control for the National Security Agency. As a senior Army officer, he also served in a variety of command and staff positions throughout the United States and Europe to include command of an artillery battalion during Operation Desert Storm in 1991.

McCausland currently is a Senior Fellow of the Carnegie Council on Ethics in International Affairs, a military analyst for CBS television and radio (he averages thirty to fifty interviews each month), a member of the Board of Advisors to the National Committee on American Foreign Policy and director for National Security Affairs for the law firm of Buchanan, Ingersoll and Rooney. He has also appeared on CNN, CSPAN and MSNBC, and he is often quoted in publications such as the *New York Times*, the *Washington Post* and the *Christian Science Monitor*. McCausland recently appeared as a special guest on Al Jazeera Evening News.

## JANET MURPHY NAMED ACTING DIRECTOR OF GRADUATE AND INTERNATIONAL PROGRAMS



Janet Murphy has joined the Law School administration as the acting director of graduate and international programs. In this role, she will help to strengthen and enlarge the Law School's LL.M. program; facilitate exchange agreements and other international linkage agreements between our law school and other law schools around the world; and explore and establish relationships with international funding agencies. She also will assist with the establishment of Penn State's new School of International Affairs and will act as administrative liaison between the Law School and the new School of International Affairs and other Penn State graduate units.

Murphy is a graduate of the University of California at Berkeley and holds a J.D. degree from the University of California Hastings College of Law. A former lawyer with the United States Environmental Protection Agency, Murphy served most recently as the director of international and graduate programs for the University of Illinois College of Law. At the University of Illinois, Murphy participated in establishing several new education abroad opportunities for law students and in establishing a unique summer program in intellectual property law as a joint venture with two non-U.S. law schools. While at Illinois, Murphy also served on campus-wide advisory committees on education abroad, graduate research ethics and graduate admissions procedures and was active in increasing international graduate alumni involvement with the law school. Before joining the University of Illinois, Murphy lived in Asia for nine years, where she served on the Board of Directors of Nishimachi International School.

# REVIVING THE LABOR MOVEMENT

*The following text is the introduction to Professor Ellen Dannin's book Taking Back the Workers' Law: How to Fight the Assault on Labor Rights, Cornell University Press (2006).*

A few months after graduating from law school, I decided to stop at Detroit's Eastern Market on the way to my new job. As I entered an intersection, I saw the largest Chevrolet Detroit ever made speeding toward me and my new compact car. Before I was hit, I had only enough time to think, "There's no getting out of this one."

When I regained consciousness, my new car was a crumpled mess. I was too. I had a concussion and bruises. But with paid sick leave, health insurance, and car insurance, my body was soon as good as new and my car was replaced. Life is better when you have enough money to live on.

Since then, I have gone on to live a middle-class life. My middle-class child has never suffered from want. Needing a new tire does not mean choosing between eating or getting to work. I do not live one paycheck away from homelessness. I can be confident that my child will have the education, parental guidance, self-confidence, and connections that will enable her to pass on her middle-class status.

But it was not always that way for me. That shopping trip to the Eastern market was the first time I had money. I grew up in poverty that is hard for many to imagine. I was raised by a single parent after my father deserted us. We would have starved had my grandfather not given us food from his small farm, provided us with rabbits and squirrels he shot, and slipped money to my mother. We children worked on that farm and were paid in food, grew our own food, and foraged in the woods for berries,

asparagus, and mushrooms. I never had new clothes, didn't see a dentist for checkups till I was in college, and remember only one visit to the doctor, to put in stitches after an accident at school. He took me as a charity case.

Today, many in this country live in this sort of poverty and worse. In the richest country on earth, many of us live on the edge, always having to tell the kids there is not enough money, never able to make ends meet, housed in ugly and dangerous buildings and neighborhoods, and with hope for the future beaten out of us.

The gap between rich and poor yawns wide in this country and continues to grow, because far too many are not paid enough to live above desperation. Why is this?

Apologists for this state of affairs claim the market pays people exactly what they are worth. They claim that the poor have only themselves to blame, and the rich deserve every penny they get.<sup>1</sup> I have to wonder about people who make these claims from the comfort of a class status inherited from their parents. Are they blind to the structures that support them but weigh down those at the bottom? Don't they see that hard work often goes unrewarded? Do they even try to imagine what it means to be paid too little to live in dignity? If they know, why do they accept this?

I contend that these conditions lie more in who has power and who does not. Money flows to power, and power flows to those with money. Over time, this cycle magnifies differences in wealth and power. Most people in this country—and in the world—have neither wealth nor power.

But it does not have to be this way. In this country—and in this world—the poor get power when they are organized. For workers, the best form of organization has always been unions. This is the only way workers can get a more equal division of power and money. The same workers doing the same work make from \$4,000 to \$10,000 more a year when they have a union.<sup>2</sup>

They can be fired only for cause instead of at an employer's whim. They know they have an advocate to stand beside them when there are workplace problems. That's what power and organization can do.

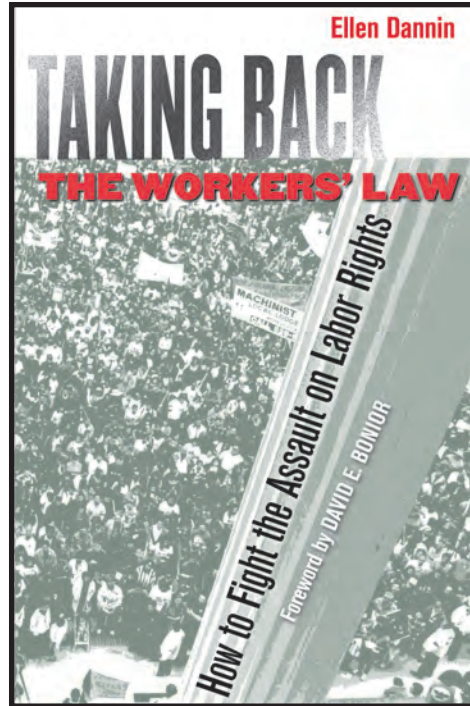
But we are on the verge of losing this power and organization and, as a result, these benefits. As power and organization are lost, wages and working conditions spiral down. There has long been a wholesale attack on the key institutions that create, protect, and buttress power for those who would otherwise be powerless.

This book focuses on unions and on the National Labor Relations Board (NLRB) and National Labor Relations Act (NLRA)—the agency and the law created to promote unionization and collective bargaining. This is not a story of mourning. Rather, this book advocates borrowing from and building on the methods the civil rights movement, and in particular, the NAACP Legal Defense Fund, used to recapture union power. They teach us that a litigation and activist strategy can overturn unjust judicial decisions, even those by the Supreme Court. More recently, the National Right to Work Legal Defense Foundation is proving that a targeted litigation strategy can still be used to “amend” the law. Of course, the NRTW-LDF has powerful friends who have funded and supported it, and it has faced fewer barriers than did the NAACP.

Both these groups provide models that can be used to target judicial decisions that created striker replacement, restricted the right to strike, undermined the right to bargain, denied the NLRA rights of worker freedom of association and speech, and weakened remedies. These and other decisions have perverted the plain language and express intent of the NLRA.

The NAACP experience provides inspiration and helpful guidance. In the 1940s, institutional and legal apartheid were the law of the land. An apartheid state was protected by state statutes and Supreme Court decisions. Brave and visionary individuals put together a multidecade strategy of both activism and targeted litigation to remake the racial landscape of this country.<sup>3</sup> While they have not yet achieved full success, the story is more one of success than of failure. And given the forces of law and power arrayed against them, it is a story of the power of the weak.

The problems unions face today are serious, but unions are not as powerless or as friendless as were those civil rights activists. Union power is rooted in the representation of a huge absolute number of American workers who are already organ-



ized. The basic law of the land is not anti-unionism. The law of the land on unions says:

The inequality of bargaining power between employees who do not possess full freedom of association or actual liberty of contract, and employers who are organized in the corporate or other forms of ownership association substantially burdens and affects the flow of commerce, and tends to aggravate recurrent business depressions, by depressing wage rates and the purchasing power of wage earners in industry and by preventing the stabilization of competitive wage rates and working conditions within and between industries.

Experience has proved that protection by law of the right of employees to organize and bargain collectively safeguards commerce from injury, impairment, or interruption, and promotes the flow of commerce by removing certain recognized sources of industrial strife and unrest, by encouraging practices fundamental to the friendly adjustment of industrial disputes arising out of differences as to wages,

hours, or other working conditions, and by restoring equality of bargaining power between employers and employees....

It is hereby declared to be the policy of the United States to eliminate the causes of certain substantial obstructions to the free flow of commerce and to mitigate and eliminate these obstructions when they have occurred *by encouraging the practice and procedure of collective bargaining and by protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection.*<sup>4</sup>

This declaration of worker rights is from Section 1 of the National Labor Relations Act. This is the Workers' Law. The NLRA's insights about work, conflict, justice, and the role of law are as valid today as they were when it was enacted in 1935. Moreover, if unionists were drafting a statute today, surely they would also include language about promoting freedom of association, self-organization, free choice representatives, equality of bargaining power, improved wages and working conditions, and collective bargaining.

Why, then, do so many union leaders speak so negatively about the NLRA and NLRB? Union representative Wade Rathke accuses the NLRB of being “complicit with employers.”<sup>5</sup> Larry Cohen, CWA president, advocates a national day of civil disobedience to shut down every NLRB office across the country. He says, “Labor needs to show the public that the NLRB is broken.”<sup>6</sup>

The AFL-CIO's Web site is full of condemnations of the NLRA and NLRB as worthless.

This anger is nothing new. Former AFL-CIO president Lane Kirkland repeatedly said he would prefer "no law" to current labor law and that

he prefers "the law of the jungle" over the current system because the law places too many restrictions on what unions can do to assist each other. "The law forces us, our unions, to work on products that are manufactured by law-breaking employers, employers that are in violation of the law in fact and in spirit... [It] forbids us to show solidarity and direct union support," he declared.<sup>7</sup>

Richard Trumka, while president of the United Mine Workers of America, described the NLRB as "clinically dead."<sup>8</sup> He told Congress:

I say abolish the Act. Abolish the affirmative protections of labor that it promises but does not deliver as well as the secondary boycott provisions that hamstring labor at every turn. Deregulate. Labor lawyers will then go to juries and not to the gulag of section 7 rights—the Reagan NLRB. Unions will no longer foster the false expectations attendant to the use of the Board processes and will be compelled to make more fundamental appeals to workers. These appeals will inevitably have social and political dimensions beyond the workplace. That is the price we pay, as a society, for perverting the dream of the progressives and abandoning the rule of law in labor relations.

I have a profound faith in the judiciary and jury system as it exists at common law. It has been the enduring bulwark against biased decision making by "experts."<sup>9</sup>

So if the NLRA still has strong, clear, inspiring language advocating core labor rights, including the rights to organize and bargain collectively, why is it today so detested by organized labor? The simple answer is that the way the NLRA has been interpreted and applied by judges has perverted the express language of the law.<sup>10</sup> Union critics are right to point to problems such as striker replacement, and remedies so weak as to be useless.<sup>11</sup> But they are wrong when they blame the NLRA and the NLRB for these problems.

The NLRA does not say strikers may be replaced. Section 8(a)(3) says that an employer who retaliates against employees for their union activities violates the NLRA. Section 13 says that the right to strike is not to be interfered with or impeded or diminished in any way. Despite this clear language, the Supreme Court invented the employer's ability to replace strikers out of whole cloth. This judicial amendment must and can be overturned.

Section 10(c) says that remedies must make the NLRA's purposes effective. Unfortunately, judges' interpretations have created a menu of remedies that fail to make the NLRA more effective. They do not promote NLRA policies, such as freedom

of association, equality of bargaining power, employee mutual aid and protection, and collective bargaining. Therefore, these remedies violate the NLRA's clear language. Taken together, judicial "interpretations" have "amended" the law to put a heavy thumb on the employer's side of the scale.

It does not have to be this way. But as long as unionists attack the NLRA, as long as they go after the wrong target, they're letting the real perpetrators off the hook and they are complicit in their own demise. It is possible, instead, to go after the real problem and the real perpetrators and put an end to unions' slide. The campaign must enlist allies and develop multiple strategies. There is no single solution. Each strategy is important if workers are to take back their law.

Law must be one part of the campaign. Labor law has enormous potential when practiced by the creative and courageous. It can be used to rock the boat, to push the envelope, and to push steadily forward.

This book maps out a strategy to take back the Workers' Law and the agency Congress created for unions and workers.

#### A STRATEGY FOR TAKING BACK THE WORKERS' LAW

The litigation strategy to take back the Workers' Law is not based on a trivial, esoteric quibble about how judges have interpreted the NLRA. These decisions are lawless actions by judges who have not interpreted the law but have rewritten it. They have created a law that is diametrically opposed to the language of the NLRA and to Congress's clear intent and purpose.<sup>12</sup> How and why this happened is the subject of the early chapters of this book. The later chapters lay out a detailed strategy to reverse these decisions and restore the original values and ideas of the NLRA.

To develop a successful strategy it is necessary, first, to analyze what makes judges rewrite the NLRA. This information is then used to develop ways to repeal the judicial amendments and to enforce the Workers' Law. Both trial and activist strategies must be rooted in the NLRA's policies. The law Congress enacted was supposed to radically remake the workplace and society. It was not some timid law with hidebound procedures and trivial rights. Sadly, most of us do not read the NLRA and are not aware of what it was enacted to do. We have come to believe that the law as amended by judges is in the NLRA. To repeal those judicial amendments, we need to know what the NLRA says. In this book, the core chapters lay out ways to use the NLRA's policies as the foundation on which to build a litigation strategy.

The book also looks for legal allies that can help restore the Workers' Law. Some of these allies are our founding documents, the Declaration of Independence and the United States Constitution. The NLRA also has allies in international law. It cannot be said too strongly that the judicial amendments do not meet human rights standards.<sup>13</sup> All these documents create a law consistent with the NLRA as enacted by Congress.

## THE ATTACK ON UNIONS

Just how badly have the courts distorted the law and set the United States at odds with international law and the NLRA? As an example, here is how collective bargaining is supposed to work under the NLRA. The employer and union are to meet as equals in terms of bargaining power, to codetermine the conditions of work. They are to negotiate, using their full powers of persuasion, including the right to strike. The right to strike is fully protected by Section 13, and it is illegal to interfere with that right, impede its exercise, or diminish it. Employers who fail to bargain in good faith violate the NLRA. They cannot fire or retaliate against workers who support unions, who join with other workers to improve each other's working conditions, or who strike in order to improve their own or other employees' working conditions.

When an employer does any of these things, Section 10(c) imposes whatever remedies are necessary to promote the NLRA's policies. These policies include "encouraging the practice and procedure of collective bargaining" and "protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection." If an employer illegally discharges a worker, the backpay awarded must be substantial enough to ensure that workers feel free to associate with one another and to support their union and to encourage the employer to abide by the law.

But here's how "collective bargaining" works under the judicial amendments. If a union and employer reach an impasse in bargaining, the employer may implement any part of the terms it calls the final offer. Nothing requires, or even encourages, the employer to try to reach middle ground and an agreement. If the union strikes, the employer may hire new workers to permanently take the jobs of the strikers. Even though the strikers may never get their jobs back, this is not to be treated as firing strikers because of their union activities. If the employer bargains in bad faith, it is simply ordered to bargain in good faith and to post a notice telling employees it will bargain in good faith. If the union doesn't strike, the employer can lock out the workers and hire "temporary" replacements. The average lockout now lasts more than three years, so those temporary replacements will fill those jobs for years.<sup>14</sup>

In short, the courts rewrote the NLRA to permit employers to exit collective bargaining and dictate the terms of work. An employer can retaliate against workers by taking away their jobs through a lockout or through permanent replacement if they strike. Moreover, the courts say that Section 10(c) may give only the most limited of remedies.<sup>15</sup>

In doing so, judges have taken away the rights the law gave to workers and have given employers virtually irresistible incentives and opportunities to avoid unions and collective bargaining.

What employer would bargain when the law says it can insist on what it wants even if it is unreasonable and that it can reach impasse, implement its final offer, lock out workers, replace strikers—and use all this as a tool to deunionize and to send a cautionary message to other workers about what happens to employees who vote for a union?

This is not the only attack on the NLRA and NLRB. Republican Congresses have weakened unions directly with actions such as denying employees of the Department of Homeland Security the right to join a union, and a Republican president destroyed the Professional Air Traffic Controllers Organization (PATCO). They have also weakened unions by boldly attacking the NLRA and NLRB. Congress has tried to restrain the NLRB from prosecuting employers for refusing to hire salts (workers who apply for jobs in order to organize an employer) and from expanding the use of Section 10(j) injunctions.<sup>16</sup> Congress has so severely restricted NLRB budgets that investigator and attorney staffing in regional offices fell from 930 in 1994 to 874 by 1999. This has led to a severe backlog of cases.<sup>17</sup>

These actions are part of a program that is returning unionization to its numerical levels and status before the NLRA was enacted. Those were not good times for unions. The NLRA replaced a system that saw unionization as an illegal conspiracy with one that said unionization was a legal right and a social necessity.<sup>18</sup> With this multipronged extremist attack on union rights, unions have not fared well. Unionization has plummeted,<sup>19</sup> and with it the working standards and prospects for so many of us and our families and neighbors.<sup>20</sup> As power has tilted ever more toward employers, workers have lost the ability to be heard and to negotiate their workplace conditions.

This shift in workplace power affects all of us. In the United States, virtually all social benefits come through the workplace and not from the state. As a result, anything that shifts the balance of power toward employers and away from employees has direct consequences for the welfare of individual workers and their families. Our children are robbed of a fair start in life. Lower wages mean less money to spend and fuel the economy. Children who are raised poor suffer from that deprivation all their lives. Some have no reason to buy into the society and may then fight back against it—through crime, for example.

The consequences, however, are even more serious than a decline in social welfare: our very democracy is at risk. Unions and union members play a powerful role in promoting democratic values and action. They are active in all phases of the electoral process, from registering new voters to getting out the vote to lobbying for new laws that benefit us all. Unions were instrumental in the enactment of Title VII, the Occupational Safety and Health Act (OSHA), the Family and Medical Leave Act (FMLA), the Americans with Disabilities Act (ADA), increased minimum wages, improved unemployment insurance, the Employee Retirement Income Security Act (ERISA), and many

other laws.<sup>21</sup> These laws make all workplaces safer and provide greater equality of access to jobs and fair treatment.

Some argue that union decline means that unions are no longer useful. Some claim that unions are adversarial in an era when what is most needed in the workplace is cooperation.

Nothing supports these claims. Day after day, unions are actively involved in protecting workplace privacy, living wages, gender and racial equality, and workplace safety. Unions are the only ones that enter every fight for all these rights and more. Only unions give workers the information they need to protect themselves.

If there were no more unions, how long would these laws exist? Would new laws be enacted to meet new problems? Would they be updated as the need arises? How can a system of individuals come together to exercise the power and vision that make this happen? Who would do the lobbying and research? Who would get out the vote for sympathetic legislators? Without union support, eventually these laws and their protections would be lost.

The judicial rewriting of our fundamental collective bargaining law means that, in the international arena, the United States is a country that fails to abide by international laws declaring that freedom to join a union is a fundamental human right. Human Rights Watch's comprehensive report *Unfair Advantage*<sup>22</sup> details how U.S. labor law now betrays its promise.

It may be easy to shake off concern for the poor or for the opinion of the international community, but all of us are poorer in innumerable ways when workers are denied their rights under the NLRA to collectively assert power. It is, therefore, in the interest of our entire society to make effective the promise of the NLRA to protect workers' "right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection."

#### WHAT CAN UNIONS DO?

Ultimately, union success or failure depends on attacking those who have led the campaign against unionization. Proposals to replace the NLRA or to avoid the NLRB fail to take on the fundamental problem unions face. The NLRB and NLRA are weak because they, just as much as unions, have been under assault. Attacking the NLRA and NLRB means that unions have failed to take action to protect the precious resource that the NLRA is. Furthermore, attacking the NLRA and NLRB is not cost-free.

Attacks distract unions from going after the real sources of their problems. It is curious that more union leaders have not considered why their allies in assaulting the NLRB are archconservatives. Why have unions not thought about whose interests they promote when they are on the same side as those who promote corporate interests?

These attacks actually make the NLRA and NLRB less effective. The public servants who work for the NLRB are themselves members of unions. They work for the NLRB because they believe in the Board's mission. Consider the impact on the morale and effectiveness of these workers—and union brothers and sisters—when they are under attack from both the right and the left. These attacks also hurt workers because they are so broad that workers may not go to the NLRB, even when it is their only recourse.

Unions need to be more active in filing Board charges and using the law. (Chapter 8 discusses strategies for using the Board to enhance union strength and the right to organize.) Because statistics on filed charges are used to measure the level of law violations, when unions let unfair labor practices go without filing charges, they send a message that we have achieved labor peace. Filing charges demonstrates to workers that employer actions are illegal. An increase in filing also supports the case that the NLRB needs more staff and more funding. Rather than calling for sit-ins at NLRB offices, union leaders should be sitting in at congressional offices. They should be even more vocal on judicial appointments, and they should demand money and respect to strengthen the NLRA. To take back the Workers' Law, unions must support the NLRB as an institution and attack those who have undermined it. They must develop a multipronged strategy to take back the NLRA so workers have the power to stand up against corporations. Staughton Lynd said, "From my point of view, the historical miscarriage of the NLRA makes it more and not less important to celebrate and seek to restore to its intended vigor the right to engage in concerted activity for mutual aid or protection."<sup>23</sup>

Unions need to wage a broad campaign that speaks to this country's workers in language about working-class and democratic values. Unions must challenge their political foes and support their allies. As part of this effort, unions must be in the forefront of developing a litigation strategy to reverse the judicial amendments and restore the NLRA to its original purpose. They must fight to make the NLRB a powerful institution that can uphold worker rights.

A litigation strategy can achieve these goals without the need to campaign for





new legislation. These ideas are novel, and it is reasonable to be skeptical. They are based on the contention that, since judges' decisions have radically altered the plain language of the NLRA, it is judges themselves who must be called to account.

First, consider the legal protection of salting. Salts are workers who apply for jobs in order to organize nonunion employers. Once hired, they boldly assert their rights under the NLRA. Having someone in the workplace who is fearless in advocating unionization can be a powerful tool. If employers fire a salt for promoting unionization, unions lose an advocate but can file charges with the NLRB to prosecute the employer for violating the law.

Over the years, the NLRB has found it a violation of the law to fire a salt for union activity or to refuse to hire a salt. But the courts of appeals were hostile to salting. They reversed case after case. Despite this, the NLRB steadfastly supported the right to use salting as an organizing tactic. In 1995, the NLRB persuaded the Supreme Court that its interpretation was right.<sup>24</sup> As a result, an employer could not refuse to hire and could not discharge an employee for being a salt.

That is not the end of the story, however. Employers were outraged that they could not refuse to hire pro-union workers who were also fearless organizers. So the Republicans held congressional hearings at which they condemned the NLRB's decisions, attacked the NLRB for prosecuting employers who discriminated against salts, and tried to enact laws reversing the Supreme Court. They have so far been unsuccessful in amending the law or using the power of the budget to prevent the NLRB from enforcing the law and protecting organizing.<sup>25</sup>

But how long can the agency hold

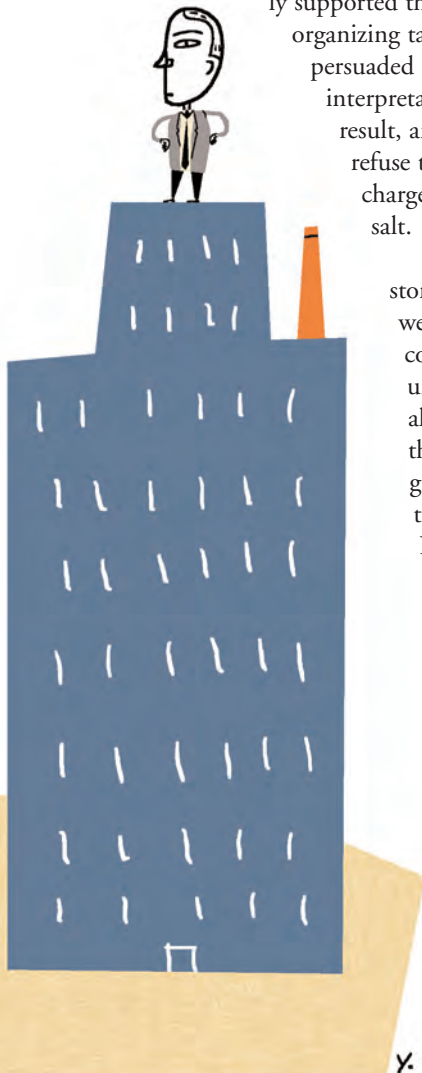
out, given the power of those against it and the lack of union voices in support of the NLRB? Unlike unions, the Republicans take the NLRB very seriously and have gone to the mat to prevent the appointment of NLRB members who would be sympathetic to labor and to the NLRA's policies and to ensure the appointment of pro-business, anti-NLRA members. How long will these NLRB cases stand in the face of this campaign to destroy the Workers' Law?

Or consider the Supreme Court's decision in the case of *Lechmere, Inc. v. NLRB*.<sup>26</sup> This case is widely seen as an anti-union decision that makes organizing more difficult. *Lechmere's* store was located in an open shopping plaza. When union organizers tried to place union literature on employees' cars in the far end of the parking lot, *Lechmere* threatened them with arrest for trespass. Those who refer to the NLRB as labor's enemy should recall that the Board decided that union organizers had the right to go onto *Lechmere's* property to organize workers. It was the Supreme Court that decided the employer's property rights trumped its employees' NLRA rights. The Court—not the NLRB—made it harder for unions to organize.

There is a second aspect of the *Lechmere* decision that is more subtle but potentially more damaging to employee rights to organize and engage in collective bargaining. In order to decide the case as it did, the Supreme Court had to define the word "employee." It said "employees" meant only the employees of a specific employer. This is the common meaning of the word, but the NLRA says exactly the opposite. The NLRA says that the term employee "shall include *any* employee, and *shall not be limited to the employees of a particular employer*."<sup>27</sup> This definition is intended to promote and protect worker solidarity across the workplaces.<sup>28</sup>

Thus, under the NLRA, *Lechmere's* employees, the union organizers, and workers at other employers were all employees and had the right to make common cause with one another so that they could increase their bargaining power and improve their working conditions. But the Supreme Court majority made that very difficult when it wrote the *Lechmere* decision.

It is hard to believe that justices of the Supreme Court cannot read the plain words of a statute, but the only other explanation is that they decided to judicially "amend" the NLRA. In trying to understand what drove the Court to do this, it is not enough to attribute its decision solely to class bias. Doing so does nothing to change this sort of decision making. To make effective change it is necessary to explore what affects judges so that they engage in judicial amendment. In *Lechmere*, this was a force that was powerful enough that the justices decided the case that overturned the plain language of the law. Understanding the processes that lead to judicial amendments makes it possible to develop effective strategies to counter them.



### MAKING THE NLRB PART OF THE SOLUTION

Not only is the NLRB not the enemy, but unions can make it part of the solution. True, the NLRB cannot do everything for unions, but the union movement would benefit enormously by thinking creatively about how to make the best use of the NLRB and the NLRA, rather than throwing them away because they are not perfect.

Of course, the truth is that unions have not avoided the Board. Labor's infantry knows it needs the NLRB. They know that the NLRB is the only place to go for some remedies. No law other than the NLRA makes it illegal to fire workers discharged for union activities. True, the current remedy is not adequate, but it does provide reinstatement and backpay. While it would be better to have a larger remedy, these are certainly better than no remedy at all. There is a price to be paid for union rhetoric against the NLRB. For example, I have seen workers who heard this message fall prey to charlatans who told them that they should not go to the Board. They offered to represent the workers in court and promised huge awards. Of course, those cases were quickly dismissed because the only remedy is through the Board.<sup>29</sup>

Union leaders also need to consider how their anti-NLRB rhetoric affects the public servants who work for the NLRB, who care about its mission, and who put in long hours trying to enforce the law. These are potential allies labor should not alienate. Union leaders need a steady stream of young people who are eager to go to work for the NLRB because they want to promote justice and enforce the Workers' Law. Union leaders need to ask how attacking the NLRB affects who applies for a job with the Board. They should work to make these jobs attractive to graduates from labor studies, industrial relations, or other labor-friendly programs. Unions need to make working for the NLRB a legitimate career goal for these students.

NLRB employees know the remedies are too weak, but they also know what it means to help people who are in desperate circumstances. From my years with the NLRB, I carry the memory of people in trouble who were profoundly grateful that their government had provided them an attorney at no charge who would fight for their rights. Even years after I left, I occasionally received thanks from people who said I had made a difference in their lives.

The NLRB is staffed with many dedicated workers—who themselves are unionized—who work hard to further the NLRA's goals of promoting equality of bargaining power, collective bargaining, and freedom of association. The NLRB has supporters who have good reasons to feel the way they do.

What I propose is building on what exists to make it more effective. I contend that the NLRB can be used even more strategically by unions to increase union power and improve the lives

of workers. Even now, some unions use NLRB filings, decisions, and settlements for propaganda value. They send out messages to the workers and call press conferences to announce that the government had decided that an employer is a lawbreaker. Even in this antigovernment age this is a powerful statement. But when unions vilify the NLRB and NLRA, they risk hurting labor's image. Union leaders need to ask why any worker would risk becoming a member of a movement that says its worst enemy is a small government agency.

Of course, and as our labor leaders know, U.S. common law was and is uniformly hostile to unions and the rights of workers. Thus Congress had to pass law after law before it could outlaw the common law labor injunction and overrule court decisions that said labor unions were criminal conspiracies. Even now, the common law says that an employer can fire a worker for no reason or a bad reason. If the NLRA were repealed, all workers would be covered by that law.

Workers in unorganized workplaces—that is to say, most workers in the United States—are especially vulnerable. They may not be aware that the NLRA applies to them. Employers who retaliate against them for taking the first fledging steps toward collective action violate the law. Recent NLRA cases have protected employees who spoke out against a wide range of employer policies, who challenged rules telling them they could not discuss their working conditions, and who blew the whistle on their employer's illegal conduct.<sup>30</sup> Without the NLRA, they would have no protections at this critical stage.

This is not to say that the NLRA and NLRB don't have flaws. Their critics have made valid charges about the NLRA, the NLRB, and problems unions face in relation to them. Taft-Hartley outlawed important union economic weapons and organizing tools. Election processes can too easily be subverted by anti-union employers,<sup>31</sup> the appeal process means waiting years for a remedy, and remedies are so late and so weak that it may pay to violate the law. Add to this that NLRB regional offices are perennially understaffed, and some Board personnel are bureaucratic and unsympathetic.

In short, the problem is not criticisms; it is that the criticisms have been so extreme that they encourage discarding rights and what can be a useful tool for unions. As long as unions still have these tools and these rights, they need to take a course that is realistic and strategic. This book does not argue that the NLRA is a panacea or that it can solve all labor's problems. No one thing—not even if unions devoted 100 percent of their budgets and time to organizing—can alone make the difference in union success or failure. This book attempts to open a discussion on strategies to make better use of the NLRA and the NLRB now, even without statutory reform.

## NOTES

<sup>1</sup>See Michael D. Yates, *Naming the System: Inequality and Work in the Global Economy* (2003).

<sup>2</sup>Barry T. Hirsch & David A. MacPherson, *How Unions Help Bring Low-Wage Workers Out of Poverty: Pay of Union and Nonunion Workers in Selected Occupations* 2002, <http://www.aflcio.org/joinaunion/why/uniondifference/uniondiff1a.cfm>; Lawrence Mishel & Matthew Walters, *How Unions Help All Workers* (Aug. 2003), [http://www.epinet.org/content.cfm/briefing\\_papers\\_bp143](http://www.epinet.org/content.cfm/briefing_papers_bp143).

<sup>3</sup>Richard Kluger, *Simple Justice* (1975).

<sup>4</sup>NLRA § 1; 29 U.S.C. § 151 (emphasis added).

<sup>5</sup>Wade Rathke, Majority Unionism: Strategies for Organizing the 21st Century Labor Movement (June 2002) (unpublished paper); see also Barbara Ehrenreich & Thomas Geoghegan, *Lighting Labor's Fire*, *The Nation*, Dec. 23, 2002, <http://www.thenation.com/doc.mhtml?i=20021223&cs=ehrenreich>.

<sup>6</sup>Michelle Amber, *AFL-CIO Convenes Organizing Summit to Find New Ways to Expand Membership*, *Daily Lab. Rep.* (BNA), C-1 (Jan. 14, 2003).

<sup>7</sup>*Kirkland Calls for Excluding Employers From Election Process*, *Daily Lab. Rep.* (BNA), D8 (June 18, 1993); *Kirkland Says Many Unions Avoiding NLRB, Calls Board an "Impediment" to Organizing*, *Daily Lab. Rep.* (BNA), A-11 (Aug. 30, 1989); *Senate Labor Subcommittee Holds Hearing on Organizing Right Under Taft-Hartley Act*, *Daily Lab. Rep.* (BNA), A-11 (Feb. 1, 1988).

<sup>8</sup>Richard Trumka, *Build Rank-and-File Activism*, in *The Future of Labor* 64 (Labor Research Association 1992).

<sup>9</sup>Richard Trumka, *Why Labor Law Has Failed*, 89 *W. Va. L. Rev.* 871, 881 (1987).

If section 7 of the Wagner Act were repealed, unions would be thrust back into the common-law regime existing in the 1920s. The common-law doctrines of property, contract, and tort law used by employers' lawyers have never been repudiated by the courts. They are not applied today for the simple reason that statutory rights have taken precedence over them. In the absence of the protections provided by section 7, however, twenty-first century courts would apply existing common law doctrines.

Janice R. Bellace, *The Future of Employee Representation in America: Enabling Freedom of Association in the Workplace in Changing Times Through Statutory Reform*, 5 *U. Pa. J. Lab. & Emp. L.* 1, 7 (2002).

<sup>10</sup>Karl E. Klare, *Judicial Deradicalization of the Wagner Act and the Origins of Modern Legal Consciousness, 1937-1941*, 62 *Minn. L. Rev.* 265 (1977-1978); Karl Klare, *Critical Theory and Labor Relations Law*, in *The Politics of Law* 61, 62-63 (David Karis ed., rev. ed., 1990). David Brody points out: "[The judicial] work of interpreting labor's rights out of existence has steadily proceeded. The incremental dismantling of the duty to bargain ... can be replicated many times over in the case law governing interrogations, captive audience meetings, union access, coercive speech, you name it." David Brody, *Labor vs. the Law: How the Wagner Act Became a Management Tool*, 13 *New Lab. Forum* (Spring 2004).

<sup>11</sup>For examples of this discussion, see *Labor Notes Roundtable, Organizing: What's Needed* (Nov. 2002-Apr. 2003), <http://www.labornotes.org/archives/2003/organizing.html>.

<sup>12</sup>"In a variety of contexts, the Supreme Court, often with the prodding of the circuit courts, and sometimes, particularly in the 1980s, even the Board itself, has provided cramped and narrow interpretations of the Act that have countered its basic policy contained in the preamble." William B. Gould, *Labor Law and Its Limits: Some Proposals for Reform*, 49 *Wayne L. Rev.* 667, 674-75 (2003).

<sup>13</sup>Human Rights Watch, *Unfair Advantage: Workers Freedom of Association in the United States Under International Human Rights Standards* (2000). See ILO Convention No. 98, Right to Organise and Collective Bargaining Convention, 32 Sess., art. 1 (1949); ILO Convention No. 87, Freedom of Association and Protection of the Right to Organise Convention, 31st Sess., art. 11 (1948); see also ILO Convention No. 154, Collective Bargaining Convention, 67th Sess. (1981); ILO Declaration on Fundamental Principles and Rights at Work, 86th Sess. (1998).

<sup>14</sup>Michael LeRoy, *Lockouts Involving Replacement Workers: An Empirical Public Policy Analysis and Proposal to Balance Economic Weapons under the NLRA*, 74 *Wash. U. L. Q.* 981 (1996).

<sup>15</sup>"The remedies, along with substantive law, have been fashioned without regard to the broad equitable purposes of remedial authority, i.e., to act both as a prophylactic and to reorder the employment relationship." Gould, *Labor Law and Its Limits*, 675.

<sup>16</sup>*Id.* at 676-77; *United Automobile Workers, Community Action Program, Labor Laws: Assaults on the National Labor Relations Act* (2001), <http://www.uaw.org/cap/01/issue/issue06-2.html>.

<sup>17</sup>Office of the NLRB General Counsel, *Memorandum GC 03-01: Summary of Operations Fiscal Year 2002* (Feb. 4, 2003), <http://nrlb.gov/gcmemo/gc03-01.html>.

<sup>18</sup>For a description of pre-NLRA judicial values, see Reinhold Fahlbeck, *The Demise of Collective Bargaining in the USA: Reflections on the Un-American Character of American Labor Law*, 15 *Berkeley J. Emp. & Lab. L.* 307, 312-15 (1994).

<sup>19</sup>In 2002, 13.2 percent of workers were union members, down from 13.4 percent in 2001. The number of persons belonging to a union in 1983 fell by 280,000 to 16.1 million in 2002. Department of Labor Bureau of Labor Statistics, *Union Members in 2002*, USDL 03-88 <http://www.bls.gov/cps/> (Feb. 25, 2003).

<sup>20</sup>See Valerie E. Lee & David T. Burkam, *Inequality at the Starting Gate: Social Background Differences in Achievement as Children Begin School* (2002); Lawrence Mishel et al., *The State of Working America, 2002/2003* (2003).

<sup>21</sup>Michael D. Yates, *Why Unions Matter* 81-103 (1998).

<sup>22</sup>Human Rights Watch, *Unfair Advantage*.

<sup>23</sup>Staughton Lynd, *Communal Rights*, 62 *Tex. L. Rev.* 1417, 1424 (1984).

<sup>24</sup>*NLRB v. Town & Country Elec., Inc.*, 516 U.S. 85 (1995).

<sup>25</sup>*Rep. Johnson Issues Statement on Emerging Trends in Labor Laws in U.S.*, *U.S. Fed. News*, May 10, 2004; *Salting: A House Bill Blocking Companies from Having to Hire Union Organizers*, 54 *Underground Construction* 8 (July 1, 1999); James Worsham, *House-Passed Bill Would Help Firms Resist Union Organizing*, *Nation's Business*, June 1998, at 8; *Prepared Statement of Associated Builders and Contractors ABC Before the House Small Business Committee*, *Federal News Service*, Mar. 4, 1998.

<sup>26</sup>502 U.S. 527 (1992).

<sup>27</sup>§ 2(3); 29 U.S.C. § 152(3) (2002).

<sup>28</sup>In fact, Congress rejected limiting the definition of employee to the employees of a particular employer and even to those in the same industry, a limitation found in the Norris-LaGuardia Act, 29 U.S.C. § 113(a) (2002). Richard Michael Fischl, *Self, Others, and Section 7: Mutualism and Protected Protest Activities under the National Labor Relations Act*, 89 *Colum. L. Rev.* 789, 852 (1989); George Feldman, *Workplace Power and Collective Activity: The Supervisory and Managerial Exclusions in Labor Law*, 37 *Ariz. L. Rev.* 525, 526 (1995).

<sup>29</sup>Ellen Dannin, *Finding the Workers' Law*, 8 *Green Bag* 19 (2004).

<sup>30</sup>William R. Corbett, *Waiting for the Labor Law of the Twenty-First Century: Everything Old Is New Again*, 23 *Berkeley J. Emp. & Lab. L.* 259, 287 (2002).

<sup>31</sup>For some recent examples, see Office of the General Counsel, Division of Operations-Management, *Administrative Investigations vis-à-vis Hearings in Post-Election Proceedings*, Memorandum OM 04-26 (Feb. 12, 2004), [http://www.nrlb.gov/nrlb/shared\\_files/ommemo/ommemo/om04-26.pdf](http://www.nrlb.gov/nrlb/shared_files/ommemo/ommemo/om04-26.pdf); Office of the General Counsel, Division of Operations-Management, *"Test of Certification" Bargaining Order Summary Judgment Cases*, Memorandum OM 04-25 (Feb. 12, 2004), [http://www.nrlb.gov/nrlb/shared\\_files/ommemo/ommemo/2004index.asp](http://www.nrlb.gov/nrlb/shared_files/ommemo/ommemo/2004index.asp).

# AN INTERVIEW *with* ELLEN DANNIN *Taking Back The Workers' Law*

By Michael D. Yates

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Ellen Dannin is one of the most eminent labor law scholars in the United States. A former National Labor Relations Board (NLRB) attorney and currently professor of labor law at The Pennsylvania State University's Dickinson School of Law, Ellen is also a champion of working-class rights. Her new book, *Taking Back the Workers' Law: How to Fight the Assault on Labor Rights* (Cornell University Press, 2006), combines her scholarly understanding of U.S. labor law and her commitment to rebuilding the U.S. labor movement. While many in organized labor say that U.S. labor law, the NLRB, and the courts are so hostile to workers that unions should avoid using them, Ellen argues organized labor and its allies must engage in a broad struggle to bring to fruition the democratic and pro-labor core of the labor law. At the center of her argument is a litigation strategy, pioneered by the civil rights movement, aimed at relentlessly and creatively bringing to both the NLRB's and the courts' attention the stated values and purposes of the National Labor Relations Act, compelling them by the force of the litigation and the zeal of its supporters to make rulings that effectuate these values and purposes.

**Michael Yates (MY):** Ellen, before we discuss your new book, perhaps you could tell *MRZine* readers a little about yourself. How did you come to be interested in labor law and the role law can play in people's lives?

**Ellen Dannin (ED):** To answer that you need to know something about my background. To me these issues are not theoretical. They matter on a personal level.

I did not grow up in a union family. I grew up very poor in an impoverished rural area of Ohio. It was not until junior high school that I even had teachers with bachelor's degrees.



Photo: Rick Bielasyv

The first I heard about unions was as a child when farmers were dumping milk to protest milk prices. My grandfather was a farmer and selling milk was a large part of his income, so these issues mattered to us personally. Around the same time, I saw civil rights protests in the news, and I was inspired by the courage of the protesters and the justice of their cause.

When I was about ten, I got my brother and sister to march in front of our house with signs demanding more pay and less work. This was a tiny town of less than 1,000 people, and they were scandalized. My mother, though, thought it was pretty funny. She called herself a Republican, but she sympathized with the civil rights protests.

It took me a long time to get through college. I put myself through school and had to drop out for a few years when I ran out of money. During that time I decided that what I ultimately wanted to do was become a lawyer. I liked to write and I wanted to do justice. Law seemed the best way to combine the two. When I finally got back to college, I studied the equal rights and women's suffrage movements around the time of the Civil War. That was when I really became interested in unions. When I went to law school I had decided I wanted to practice labor law.

**MY:** Until Congress passed the National Labor Relations Act in 1935, workplace relationships were governed by the common law. What exactly is the common law? Why was (and is) it so hostile to working people?

**ED:** All countries that were British colonies use the common law system in which law is developed by judges as they decide cases. This system is over a thousand years old. There were some statutes even hundreds of years ago, but most of the law was—and still is—found in court decisions. The basic common law still applies to the workplace. This includes at-will employment, which permits an employer to fire a worker without just cause, master-and-servant law, which means just what it says, “freedom” of contract, which has been consistently used to take away any protections for workers, and property law, which gives employers property rights in the job and gives workers none.

Why is the common law so hostile to working people? That's a good question. We certainly know that is. We can see

that, for hundreds of years, judges have consistently overturned laws intended to allow workers to form unions or guilds or to strike or boycott for fair working conditions. In cases where judges have not overturned these laws, they have interpreted them into meaninglessness. This is still the case today. There is no US workplace law that judges have not gutted through interpretation.

My view is that judges do this for a number of reasons. One is that the common law tradition is quite strong. We lawyers learn common law ideas as the basis for our entire legal education. As a result, when we encounter new situations, we tend to turn to the common law for answers. In addition, many judges do not have any personal experience with the lives most people live. It is a closed book to them. But they do understand business, and they understand their own lives and interests and those of people like them. I think that while some judges may be biased against workers, most are just ignorant.

Unfortunately, with the appointments made to the federal courts of appeals in recent years we may have far more judges whose decisions are made through the lens of their limited understanding.

**MY:** What changed with the enactment of the NLRA? Why was this such an important, even radical, piece of legislation?

**ED:** First, the NLRA was enacted against a background in which the courts had repeatedly overturned progressive legislation, and Congress had reacted by passing new laws to “overrule” the courts' decisions. This meant that the NLRA was drafted with an eye to making it stand up under judicial scrutiny.

This can be seen in its policy sections which spell out in no uncertain terms what the purpose of the law is. Congress had hoped, since judges are supposed to interpret laws in a way that promotes their policies, that, if Congress was clear about its policies, judges would be unable to overturn and subvert the law.

You can see just how radical a piece of legislation it is when you read the parts of the NLRA that set out its policies. Those policies state that the purpose of the NLRA is to protect and promote worker mutual aid and protection, and the right to act collectively with any worker—not limited to those employed by the same employer, and to strike. The purpose of these protected rights was to create equality of bargaining power and to promote the practice of collective bargaining in order to raise wages, to improve working conditions, and to establish stable terms of work within and among industries. In other words, it intended to put an end to playing workers off against one another in a bidding war to lower wages and working conditions.

Compare this to our common law tradition of master-and-servant law where the master/employer owns the job and the servant/employee may have access to the job only by the master's permission.

**MY:** How has the radical promise of the NLRA been subverted? How have things reached the point that, as you note in the book, AFL-CIO vice president and former United Mine Workers president Richard Trumka, himself an attorney, can argue that the NLRA should be repealed and we should go back to the legal regime of the common law?

**ED:** The NLRA has been subverted in several ways. One was that in its critical early years several things happened that prevented the NLRB from developing the law along the lines Congress had spelled out.

First, as soon as it was enacted, employers began filing injunction cases to prevent its operation. Every time someone filed an NLRB charge against an employer, the employer went to court to get an injunction to keep the NLRB from acting. These tended to be dismissed, but the effect of having to spend so much time in court took away energy and attention from making the law effective.

Second, the NLRB was focused on ensuring the NLRA would be found con-

stitutional. Everyone knew that the Supreme Court was likely to find it unconstitutional, because it had just done so with a similar law. So enormous resources went into developing records that would lead the Court to uphold the NLRA. As we now know, the law was upheld for various reasons, including changes in the Court's makeup. But while the focus was on this one critical issue, attention was taken from other important legal issues.

Third, NLRB attorneys suffer from the same limits of imagination we all do. In early cases, they made concessions as to how the law should be interpreted. As it has turned out, many of those concessions have come to undermine key parts of the statute.

Finally, I don't think the NLRB attorneys were really ready to cope with the forces that make judges judicially amend workplace laws and, as a result, destroy their effectiveness.

When I look at all of these problems, it becomes apparent that the NLRA has yet to be enforced as intended.

**MY:** You disagree completely with Trumka. Why?

**ED:** First, I cannot understand how anyone can see the common law as the workers' friend. It never has been. There is just no question that the NLRA still offers far more protections than does at-will employment, master-and-servant law, employer property rights in the job, and workers' freedom to contract away their protections. That's what the common law offers.

Second, I see no reason to declare unilateral withdrawal and cede territory that should be the workers' territory. I think we need to fight where the battle lines are now, not withdraw to ever smaller and weaker "rights." I saw that happen recently when the Brown University case on graduate students' rights was handed down by the NLRB. Everyone acted as if it meant that no graduate students could

organize unions, and by expanding that one case, they made that the reality. In fact, the NLRB has no power to rule on graduate student rights or any worker rights except as to those in the single case that is before them. Unfortunately, many union supporters gave that one case the power that the NLRB could not. This is not the only case where this has happened. We have to stop ceding territory.

Third, my view is that you get nowhere by thinking small and by being defeatist. To get rights, you need to claim them. A good example is Kyle MacDonald who spent a year making trades starting with a red paper clip and ending with a house. (See <oneredpaperclip.blogspot.com>.) He was helped by getting publicity for his cause. The publicity created allies who helped him get what he wanted. I am certain that at the start and along the way he had people who told him he was crazy and it could not happen. They were thinking small and realistically. He was scheming to make the most of his opportunities.

Unions and their allies need to draw a lesson from this story.

Most NLRA critics will tell you that the law was passed to promote interstate commerce and therefore it is no good. They are correct that the NLRA does include promoting interstate commerce as one of its policies. But that is only one of its policies. It is not the whole policy. Yet NLRA critics talk as if promoting collective bargaining, equality of bargaining power, and all the other NLRA rights and policies should be tossed away because the word commerce is used.

And maybe it would have been better had it been grounded in the Thirteenth Amendment or the First Amendment. But that is not what happened.

So the choice we now have is whether we throw away the law we do have on the hope that someday there will be a good Congress and a good president and we will get the perfect law, whatever that law is.

I come from poverty, and the way I see it, you do not throw out anything that has some use. It is easy to dismiss the

NLRB and NLRA for not being perfect, but that ignores the fact that it still provides remedies for workers fired for union activities. Sure, it may only be a few thousand dollars, but, for the average worker in this country, that is real money.

There is no question in my mind that this law can become what its drafters meant for it to be—the Workers' Law—if we want it to be and if we are willing to put as much work into this project as in attacking the NLRA.

**MY:** Can you tell us, without of course going into the detail you do in the book, the basics of your strategy for "taking back the Workers' Law"?

**ED:** Probably the best way to summarize it is to say that I constructed this strategy by borrowing from the NAACP Legal Defense Fund strategies developed in the late 1920s to overturn the legalized racial apartheid that was then the law of this country, a law fixed in statute and in decisions by the U.S. Supreme Court. I told you earlier that as a child I was impressed by the Civil Rights movement. I read Richard Kluger's *Simple Justice*—the story of the path to *Brown v. Board of Education*—just after I finished law school, and that made a huge impression on me.

The NAACP LDF lawyers were brave and visionary individuals. They created a multi-decade strategy of education, targeted litigation, and activism directed to changing this country's dominant values and to remake the legal and social landscape of this country.

They have not yet achieved full success, but their story is more one of success than one of failure. The NAACP experience teaches us that it is possible to overturn unjust judicial decisions, even those by the Supreme Court. And given the forces of law and power arrayed against them, the lesson of the civil rights movement is the power of the weak—when they are organized and strategic.

*Taking Back the Workers' Law* advocates creating both a campaign to change

this country's dominant values and a targeted litigation strategy. The values campaign is intended to replace the current values of greed and selfishness with the NLRA's values of solidarity, equality, industrial and social democracy, social and economic justice, fair wages and working conditions, and industrial and social peace. Just as with the civil rights movement, this is a battle that must be fought on many fronts and for which we must make a long-term commitment. If we have the courage and dedication to do this, we can at last make the NLRA's rights a reality.

I recognize that I haven't explained the details of the strategy here, but that is because to do them justice I had to explain them at book length.

**MY:** It seems to be that two groups will have to come on board to accomplish this—labor leaders and the larger radical and progressive community. How can we get them on board? Labor leaders will surely be skeptical, given their antipathy to the NLRB and the courts. And at least some radicals and progressives will say that a larger social movement must be built before such a litigation strategy could work.

**ED:** I don't agree. While it would be nice if labor leaders and the progressive community

would enlist in and support this fight, their skepticism and opposition to the NLRB may not allow them to. That would be unfortunate, of course.

I think this fight will happen to some degree whatever these groups decide. As I have traveled the country giving talks about the ideas in my book, I have found that union audiences are overwhelmingly positive about them. One union organizer told me that he feels that labor has been wandering in the wilderness for over twenty years, and these ideas were the first thing that made sense and gave him hope. Others have said the same thing.

In addition, one of the NLRB's regions has held a training session to

discuss the strategy. This tells me that the people who work for the NLRB are hungry for making the law more effective.

There is a hunger out there and a sense that this strategy makes sense. I think that many people will start to try some of the ideas on an individual basis. But to be truly successful there must be a coordinated long-term strategy. That cannot be done by individuals acting alone.

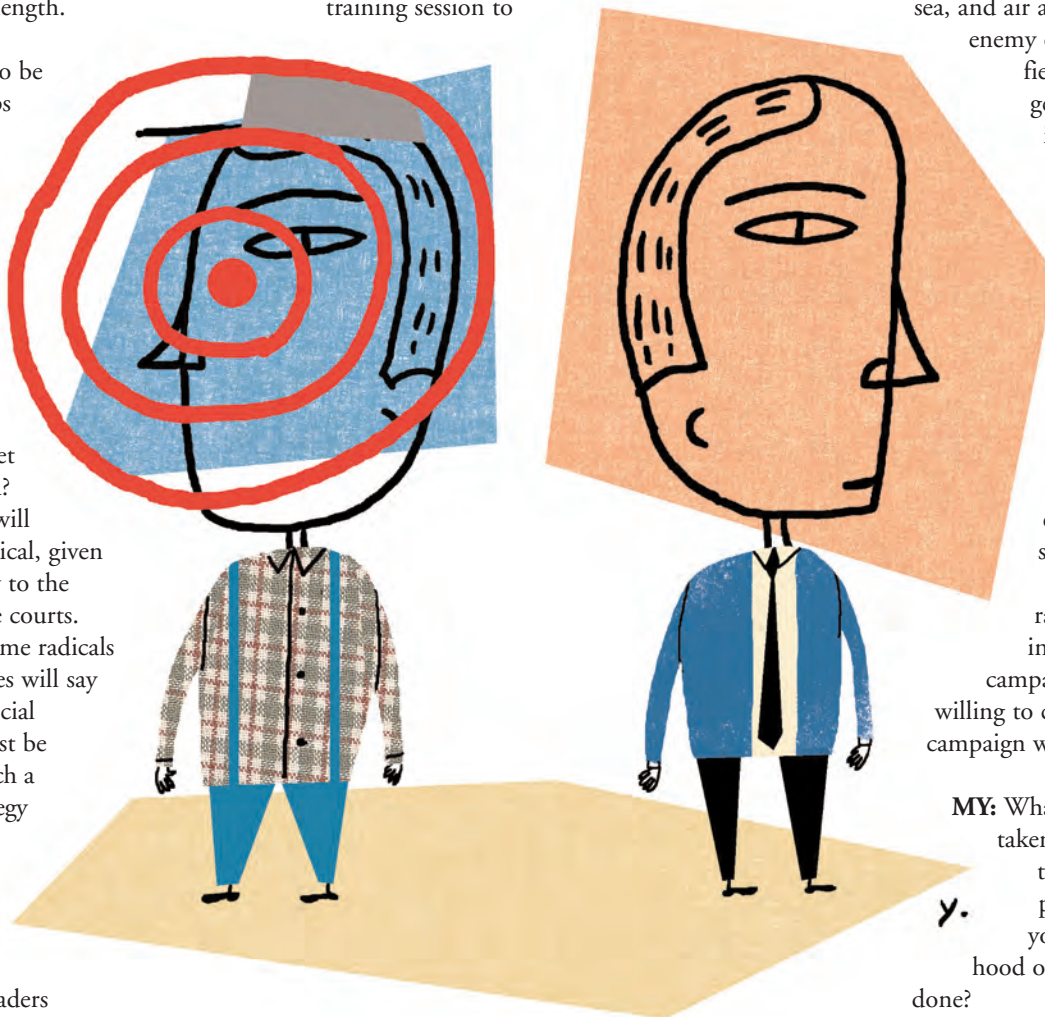
My view is that the time for debating "the one best way" to achieve success has to be over and that it has always been a distraction for meaningful action.

We must view ourselves as engaged in the equivalent of World War II. Success will depend on waging this fight on land, sea, and air and engaging the enemy on many battle

fields. And just as generals sent troops into battle knowing there would be losses, we must recognize that there will be setbacks and victory will be slow in coming. But just because there will be losses does not mean we can avoid engaging in this struggle.

If labor and radicals are unwilling to engage in this campaign, if they remain willing to cede terrain, the campaign will pass them by.

**MY:** What steps should be taken right now to begin to implement your proposals? How do you assess the likelihood of these things being done?



**ED:** Well, first people should read the book and read it with an open mind. People need to be creative and excited about mining the law for opportunities. We need to take the red paper clips we have and see how we can parlay them into a house.

Second, there must be input by many different people into constructing and advancing the strategy. Some of the ideas can be implemented on an individual basis, but for real change we must have thoughtful strategies and the resources to implement them.

Will these things happen? I am optimistic that they will. I am optimistic that there are people who will feel the same way as one person who read the book. He told me that reading the book had changed how he saw the world, that it had been a paradigm shift for him.

**MY:** Any final thoughts?

**ED:** I am going to include here one idea for your readers of a strategy they can consider right now. Others are mapped out in the book.

While judges have undermined the NLRA, they have not been the only source of problems. The NLRB has tended to try NLRA cases in a lackluster way. Attorneys cut corners—often because they are short on resources but also because of a failure of imagination. In addition, the NLRA and its amendments have been the target of opposition from those who seem to want to make it fail and would rather look flaws and failures than see the NLRA as an exploitable resource in labor's arsenal.

Finally, not to be too hard on judges, the NLRB, and NLRA critics, we all would benefit from taking the time to examine our assumptions and what we “know” to be true. Here is an example of just such an assumption.

If I were to ask what § 8(c) is, most labor lawyers would say that it is the employer's free speech right. Some would add that § 8(c) is just more evidence that the NLRA is anti-union. These are the responses I have uniformly gotten.

In fact, § 8(c) says nothing about employers nor about rights.

What § 8(c) does say is: the “expressing of any views, argument, or opinion, . . . if such expression contains no threat of reprisal or force or promise of benefit” is not a violation nor evidence of a violation. Whatever Congress intended, § 8(c) was drafted with language that gave employers no more rights than it gave employees or unions. It was only through the process of applying the law that the courts and others completed the work of those who wanted § 8(c) to give employers expansive rights to make anti-union speeches.

In other words, § 8(c) is now the employer free speech right only because everyone has stopped reading the statute and come to accept this label. We can change that. There is no reason why unions and employees can not argue for rights that parallel the speech rights of employers. In fact, it would be an interesting project to take the case law developed around 8(c) and employers and extend those protections to unions and employees. There is no such union or employee right now only because no one has tried to do this, but there could be.

One important lesson here is that, rather than assuming what the NLRA says, or relying on our memories, or assuming the worst and the least, we need to pore over every word of the NLRA, with fresh eyes, looking for opportunities. That must be a collective effort.

**MY:** Thanks, Ellen. And good luck with the book.

Michael D. Yates is associate editor of *Monthly Review*. He was for many years professor of economics at the University of Pittsburgh at Johnstown. He is author of *Longer Hours, Fewer Jobs: Employment and Unemployment in the United States* (1994), *Why Unions Matter* (1998), and *Naming the System: Inequality and Work in the Global System* (2004), all published by Monthly Review Press.

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# *Law School hosts* INTERNATIONAL CRIMINAL JUSTICE SYMPOSIUM

*Former president of Ireland delivers keynote address*



On October 30, the Law School hosted “The Future of International Criminal Justice” symposium featuring renowned international criminal law and human rights experts, including the Honorable Mary Robinson, former president of Ireland and U.N. High Commissioner for Human Rights.

Additional symposium participants included: Richard Goldstone, former chief prosecutor at the United Nations International Criminal Tribunals for the Former Yugoslavia and Rwanda; Ambassador Herbert Okun, special representative of the United Nations and one of the principal negotiators in the Yugoslav crisis; Professor Dermot Groome, former senior trial attorney in the Slobodan Milosevic case at the U.N. International Criminal Tribunal for the former Yugoslavia; Professor David Crane, former chief prosecutor of the Special Court of Sierra Leone; and Ambassador Clint Williamson, current U.S. Ambassador at Large for War Crimes.

Robinson delivered the symposium’s keynote address, in which she explained her views on the wider issue of rule of law and international human rights in the aftermath of the terrorist attacks on 9/11.

She began by expressing her optimism about the “increasing awareness among judges, lawyers and law schools of the need to research the vital role of rule of law ... and the need to restore proper balance between protection of populations from acts of terrorism ... and adherence to international human rights norms and standards.”

Robinson stressed the need for more effective international criminal justice. “I believe strongly that promoting and strengthening the rule of law around the world is fundamental to achieving greater human security, human development and human rights for all people,” she said.

Robinson went on to say that she believes language is vital in shaping our reaction to very severe events. “Words used may determine the nature of the response,” she explained.

After the attacks of 9/11, Robinson and her colleagues in the Office of High Commissioner for Human Rights met and concluded that the attacks constituted crimes against humanity under international human rights law.

“Despite efforts to frame the response to terrorism within the framework of crimes under national and international law, an alternative language emerged post-9/11. That language ... has spoken of a war on terrorism. As such, it has brought a subtle change in emphasis in many parts of the world; order and security have become the overriding priorities. As in the past, the world has learned that emphasis on national order and security often involved curtailment of democracy and human rights.”

Robinson explained that characterizing major terrorist attacks as crimes against humanity does not rule out the possible need for an appropriate military response, such as the invasion of Afghanistan when the Taliban refused to hand over Osama Bin Laden and his associates.

“However, the conflict there and, in particular, the subsequent decision to go to war on Iraq, have re-enforced the perception of a war on terrorism which goes beyond the rhetorical use of the term, as in a ‘war on poverty’ or a ‘war on hunger.’ The reality is that by responding in this way the United States has, often inadvertently, given other governments an opening to take their own measures which run counter to the rule of law and undermine efforts to strengthen democratic forms of government.

“The language of war has made it easier for some governments to introduce new repressive laws to extend security policies, suppress political dissent and stifle expression of opinion of many who have no link to terrorism and are not associated with political violence,” Robinson explained.

She added that she believes the authority of law has been undermined in many important ways over the last five years. “The question facing us today is: How are we to respond to this situation and what steps can we—and must we—take to restore and protect the international rule of law?” she asked.

Robinson concluded her talk by saying that she is hopeful that the mistakes of the past five years are beginning to be recognized and steps are being taken in the right direction to reassert the importance of the rule of law in the struggle against terrorism.

Detailed biographies of all symposium participants, as well as audio and video recordings of their lectures, can be accessed at <http://law.psu.edu/events/FutureofInternationalCriminalJustice.cfm>.

# ALUMNI *and* REUNION

More than 180 alumni, students, staff, faculty and friends gathered in Carlisle October 13-15 to celebrate the Annual Penn State Dickinson School of Law Alumni Weekend.

Participants kicked off the weekend on Friday evening with the Welcome Reception in Trickett Hall. Saturday's activities included the General Alumni Association (GAA) meeting; CLE programs presented by **G. Philip Rutledge '78** of Bybel Rutledge LLP; **The Honorable John E. Jones III '80** of the U.S.



District Court, Middle District of PA; and **David A. Fitzsimmons '84** of Martson Deardorff Williams & Otto; an update on Law School achievements and building plans by Dean Philip McConnaughay; the annual Scholarship Luncheon honoring donors and scholarship recipients and sponsored by Yelen Law Offices; the annual Golf Tournament at Mayapple Golf Course; and an afternoon party, complete with hotchi dogs, sponsored by Burke '77 and Barbara '78 McLemore.

On Saturday evening, attendees once again convened in Trickett Hall for the GAA reception and awards ceremony sponsored by Stevens & Lee, P.C.

The GAA bestowed honorary alumni honors to **Jon F. LaFaver**, who served as an adjunct professor at Penn State Dickinson for fifteen years before his retirement last spring. LaFaver taught seminars on Anglo-American legal history and religious liberty. In 2006, the Law School established the Jon F. LaFaver Outstanding Adjunct Faculty Award, which is given to adjunct faculty members who embody Professor LaFaver's outstanding commitment as an adjunct professor. In 1993, LaFaver received the Edward C. First Award for Excellence of an Adjunct Faculty Member.

**The Honorable John E. Jones III**, class of 1980, was honored with the Outstanding Alumni Award. Judge Jones is a United States district judge for the Middle District of Pennsylvania. Appointed by President George W. Bush, he was unanimously confirmed by the United States Senate on July 30, 2002. Since his elevation to the federal bench, Judge Jones has presided over several high profile case,

including the landmark 2005 *Kitzmiller v. Dover School District* case. In his decision, Judge Jones ruled that it was unconstitutional to teach intelligent design within a public school science curriculum.

**The Honorable Thomas I. Vanaskie**, class of 1978, received the GAA's Career Achievement Award in honor of his distinguished professional accomplishments. Judge Vanaskie recently completed a seven-year term as chief judge for the United States District Court for the Middle District of Pennsylvania. He was appointed to the court as district judge in 1994. He currently serves on the Third Circuit Judicial Council and is chair of the Information Technology Committee of the Judicial Conference of the United States.

The GAA also recognized **John J. Miravich**, class of 1989, as the recipient of the Distinguished Service Award. Miravich is a shareholder with the law firm of Stevens & Lee, P.C. in Reading, PA. He concentrates his practice in municipal law, municipal and tax-exempt finance, government affairs and advising local governments and school districts on legal and financial issues. He also represents governmental and private entities in contract, construction, commercial litigation and employment disputes and advises clients on litigation avoidance and insurance coverage issues.

Following the awards ceremony, attendees headed off for reunion and alumni dinners at local restaurants before returning to Trickett for the Penn State vs. Michigan Game Party. The weekend concluded Sunday morning with a Farewell Brunch in Trickett Hall.

# WEEKEND 2006





*Meghan Cashman is a first-year student and the recipient of the Patricia A. Butler Scholarship*

# SCHOLARSHIP RECIPIENTS SHARE THEIR APPRECIATION

*Adapted from speeches at the 2006 Scholarship Luncheon*



*Ronni Bright is a first-year student and the recipient of the Jacob Levinson Scholarship*

*Meghan Cashman:* As I am sure you are aware, the first year of law school is overwhelming. First-year students are pushed to the limits with reading and writing assignments and could probably recite black letter law during sleep.

Attending law school is a huge commitment. There are times when I wonder if I made the right decision by going to law school, and then something inspires me, and I am reminded exactly why I am here. The fact that you continue to contribute to Dickinson is a testament to the value you have placed on your legal education. You believe in the future of The Dickinson School of Law which is comforting to current and aspiring students. Despite having graduated and passed the bar, your commitment to legal education continues. The generous contributions show your faith in the future of Dickinson, my classmates and me, and ultimately the legal profession.

*Ronni Bright:*

I am here to share with you what the Jacob Levinson Scholarship means to me, and after giving it much thought, I have one word—encouragement!

First, I want to thank Mr. Richard Levinson, family and friends who make the Jacob Levinson Scholarship possible. I also would like to thank all of you who have decided to give back by sponsoring scholarships and kindly making donations.

I am a first-generation law school student coming from a family of teachers. When I first arrived in Carlisle, I was a bit overwhelmed in beginning my legal profession. Everything about this new phase in my life was unfamiliar: the people, the area, the study habits, the method of instruction.

I must say coming up here I was ready to discuss all the trials and tribulations I have encountered in my law school experience. But today, I had the pleasure to sit and talk with Judge Alexander '54, and after speaking with her, I realize my trials are nothing.

Judge Alexander was telling me about her experience as the first woman secretary of agriculture and the first and only woman to serve on the Pennsylvania Bar Association for twenty years. I really appreciate the wisdom Judge Alexander shared with me.

I am very appreciative of my scholarship, for without the achievements of women like Judge Alexander and alumni such as yourselves, that scholarship would not be available to me. I realize you have all paved the path to my success. Without your achievement I would not be able to stand before you today. Again thank you Judge Alexander, the Levinson family and every Dickinson School of Law alum.

Luckily, at Pennsylvania State University, The Dickinson School of Law, we have something that makes the process more bearable and even comforting, and that is the strong sense of camaraderie. The feeling of camaraderie transcends the boundaries of the two campuses, the years that separate 1Ls and 3Ls, and extends to the distinguished alumni as well. The strong ties between students, faculty, and alumni are vital in keeping the Dickinson community alive.

The contributions that you, as alumni, make to this law school are invaluable. As a scholarship recipient, my anxiety over money and loans has been substantially reduced. However, being awarded a scholarship means so much more than alleviating a financial burden. Mr. Epstein and Mr. and Mrs. Butler have never met me, nor spoken with me in person prior to today, yet have given me a tremendous gift. They have shown their faith in me by awarding me with the Patricia A. Butler Scholarship, for which I can not express my gratitude in words.

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# LAW SCHOOL REMEMBERS TWO EDUCATIONAL ICONS

*The Dickinson School of Law suffered two great losses this year with the passing of professors Joseph Burns Kelly and Arthur Saul Frankston, two well-respected and cherished members of the Dickinson Law community.*

## JOSEPH BURNS KELLY

*by Mark Podvia '86*

Joseph Burns Kelly passed away on Easter Sunday, April 16, 2006. He was born on July 31, 1923, in Fort Smith, Arkansas, and grew up in Ludlow, Kentucky. He graduated from St. Xavier High School and began work on his undergraduate degree at Xavier University, however his education was interrupted by the Second World War. He was commissioned as a second lieutenant in the United States Army and served in the China-Burma-India Theater as an artillery advisor to the Nationalist Chinese Army.

Following his wartime service, Professor Kelly completed his undergraduate education and was a 1949 graduate of the University of Cincinnati College of Law, where he was a member of the Order of the Coif and editor-in-chief of the law

review. Following a year in private practice, he re-entered the Army, serving in the JAG Corps until 1969, when he joined the faculty at The Dickinson School of Law. He taught at Dickinson for twenty-seven years until his retirement in 1996, and he remained a fixture at the school for several years thereafter.

To a generation of law students Joseph B. Kelly was more than a member of the Dickinson Law faculty; he was an institution. It was Professor Kelly who regularly emceed the final rounds of the annual Law School Trivia Bowl, who fired the rifle that started the yearly Race Judicata, and who dressed the Law School's LL.M. students in Union blue and sent them off to battle in various Civil War reenactments. It was he who took the stage as "The Wizard of Contracts" at the Faculty Follies and was featured in Phi Alpha Delta's "Kelly Calendar." Professor



*Joseph Kelly*

Kelly's favorite classroom phrases— "Just read what you have;" "Give it the old college try;" "If it doesn't fit, give it a little push;" "You may pass in football, but you may not pass in this class;" and "Get down here, Ever-Tite"— became part of the Law School's everyday lingo.

Professor Kelly's kind nature and sly sense of humor were perhaps best captured in the following interview that was published in the Law School's student newspaper, the *Judicial Notice*, in 1992:

**J.N.:** Why did you decide to study law?

**J.B.K.:** Being on the Admissions Committee, you often see this question answered by one saying, "I want to help humanity," or the classic, "I wanted to become a lawyer since I was 6." I myself wanted some skill that I could carry around with me, under my hat, wherever I went. I wished to become a "professional" man whatever that means. Bloodline is not a factor in this profession. A poor person can be a pope, but not a prince.

**J.N.:** Have you ever had a Carbolec Smokeball?

**J.B.K.:** That's a good question, but I can't say that I have...

**J.N.:** Why did you become a teacher?

**J.B.K.:** It's a good place for a ham. It's like theater. Your juices flow when you're in front of a class; it's like being on stage. If you're a ham and an attorney, teach.

**J.N.:** When was the last time you were "High as a Georgia Pine?"

**J.B.K.:** I'm not sure.

**J.N.:** Well, just read what you have.

**J.B.K.:** It was probably at a Chinese Gombay Dry Cup Party. It's really just a drinking contest where you go around toasting one another back and forth. People begin to pass out right in their Egg-Foo-Yung.

**J.N.:** Did you vote in Tuesday's primary?

**J.B.K.:** Yes, certainly.

**J.N.:** Did you vote in the Post Office's Elvis Presley stamp election?

**J.B.K.:** No, but the younger Elvis gets my vote. The young Elvis presents a southern image, that of the old south.

**J.N.:** What's your most memorable teaching experience?

**J.B.K.:** That's a tough one.

**J.N.:** Well, just give it the old college try.

**J.B.K.:** I once had a student who apparently had heavy commitments in Philadelphia. Every Friday he would come to class for roll call and then he would sneak towards a window on his hands and knees, and then climb out of the window. He stopped when he eventually sprained his ankle while going out the window.

Those of us who sat through first-year Contracts with "Machine Gun Joe Kelly" never forgot the experience. Each week during the fall semester we faced three hours of terror, never knowing who would be asked to "just read what you have." By spring semester the terror had faded to a more fatalistic resignation. Only when it was over did we realize just how much we had learned under the tutelage of this wonderful man.

Professor Kelly was an advisor to the *Dickinson International Law Annual* when it debuted in 1982. He continued in that capacity until 1995, overseeing the publication as it expanded and grew into the *Dickinson Journal of International Law*. In 1988, the winter issue of the *Journal* was dedicated to him "in recognition of his encouragement and support in the founding of this international law journal." In 2003 the *Penn State International Law Review*, the successor to the *Dickinson Journal of International Law*, published Professor Kelly's World War II memoirs. This year the editors of the *Penn State International Law Review* dedicated the Fall 2006 issue to Professor Kelly in recognition of his many contributions to both The Dickinson School of Law and to the journal.

## ARTHUR SAUL FRANKSTON

by Pamela Knowlton

Arthur Saul Frankston passed away on Saturday, September 9, 2006. Born June 16, 1919, in Pittsburgh, Pennsylvania, he graduated from Taylor Allderdice High School, the University of Pittsburgh and the University of Pittsburgh Law School. His education also included post graduate study at Yale Law School and spending a sabbatical semester at the Law Faculty, Hebrew University of Jerusalem.

After serving in the military during World War II, Professor Frankston began his legal career as a law clerk for a federal district court judge in the Western District of Pennsylvania followed by several years of private practice in Pittsburgh and Harrisburg. His career included distinguished public service as administrator of the Pennsylvania Arbitration Panels for Health Care and consultant to many Pennsylvania executive and legislative agencies.

Professor Frankston began his career at The Dickinson School of Law in 1956 and, for nearly forty years, taught generations of law students about the mysteries of torts and products liability law and the intricacies of the conflict of laws until his retirement in 1995. Known for his jovial character and robust smile, he often began class with the phrase, "Isn't it great to be able to teach out of a newspaper?" while sucking on a sour ball.

He was considered a pioneer in the field of law and medicine and co-taught a course with Dr. Mary Dufner about how the two fields intersected, often bringing in guest physicians to discuss legal issues related to their practices. Additionally, he taught as a visiting professor at Pennsylvania State University Hospital and School of Medicine at Hershey. Long before discussion of the Law School's merger with Penn State University, Professor Frankston was constantly looking for ways to link the Law School to the medical school in Hershey.

In 2000, Professor Frankston received an Honorary Alumni Award from the

General Alumni Association of the Law School for his dedication to students and his continued involvement with alumni. Former student and colleague Harvey Feldman '69 commented on Frankston's passion for education: "Arthur was a strong advocate for the Law School and for legal education. In fact, he valued education of all kinds, including education in the Jewish tradition, immeasurably."

Professor Frankston's affection for his students did not end in the classroom. For many years, he invited the Jewish law students over to his home located in the Italian Lake district of Harrisburg to help build a sukkah in his backyard to celebrate the harvest holiday of Sukkos.

Professor Frankston's dedication to teaching is best illustrated below by a selection taken from comments published in the Fall 1995 edition of *The Dickinson Lawyer* that were submitted by former students for a scrapbook given to him at his retirement celebration:

"On the occasion of your retirement, you can look back with pride on the legions of successful tort attorneys you helped forge during your distinguished academic career. Your effect on the lives of your students is immeasurable and ongoing, as a piece of you soldiers on in the heart of every Dickinson advocate."

– E. Max Weiss '72

"When I meet lawyers today and tell them I really liked law school, they seem to question my sanity. But I really did, and you and the many other fine professors at Dickinson can take credit for that. Your interest and enthusiasm for the law were infectious. We are all better lawyers and judges as a result of studying under you."

– Hon. Ila Jeanne Sensenich '64



Arthur Frankston

"When I have time to reflect about my career, I find myself saying, 'I should thank Frankston.'"

– H. Clay Davis III '72

"During my three years at Dickinson, you were always more than just a professor, you were a friend, mentor, and confidante. I owe you a great deal."

– A. Richard Barros '64

"Professor Frankston's intellectual approach to the subject, his leadership in forging understanding between the medical and legal professions, and his lifelong professionalism and contribution to the legal community are enduring legacies. He has influenced more than a generation of Dickinson lawyers in a very positive way."

– Ward A. Bower '75

"Sadness comes as we commemorate the passing of an historical era in the development and grandeur that is our law school; that era is the 'Frankston Years' and none who have come under your tutelage believeth to the contrary—not even the 'reasonable man'."

– Nathan H. Waters Jr. '72

"My strongest recollection of my junior year is that Torts was the one class which made sense in those early months. Your class also kept students alert and interested without generating a 'fear' factor."

– Dale Shughart Jr. '74

*Because The Dickinson School of Law was such a big and meaningful part of Professor Frankston's life, his family has established the Professor Arthur S. Frankston Memorial Fund at the Law School. Memorial contributions, payable to The Pennsylvania State University, may be sent to The Dickinson School of Law, Professor Frankston Memorial Fund, c/o Doris Orner, 150 South College Street, Carlisle, PA 17013.*

# The LISTENING POST

## WE WANT TO HEAR FROM YOU!

The Alumni Office welcomes news for class notes that is less than a year old. Please include your name, class year and contact information with all submissions. Photos are also appreciated. You can submit your news at [www.dsl.psu.edu/alumni/info](http://www.dsl.psu.edu/alumni/info). cfm or mail it to: The Dickinson School of Law, Alumni Office, 150 South College Street, Carlisle, PA 17013.

## 1957

**Maxwell E. Davison** announced the formation of Davison & McCarthy, P.C. The firm's practice will concentrate in all areas of business law and litigation including real estate, land use and development, corporate, non-profit and employment law, and alternative dispute resolution.

## 1958

**Neil Hurowitz** was chosen as one of the Top 100 Pennsylvania Super Lawyers and as one of the Top 100 Philadelphia Super Lawyers for 2006. Neil is a partner with Astor Weiss Kaplan & Mandel, LLP in Philadelphia, PA.

## 1959



**The Honorable LeRoy S. Zimmerman**, senior counsel with Eckert Seamans Cherin & Mellott, LLC and former attorney

general of the Commonwealth of Pennsylvania (1981-1989), recently was awarded the

degree of doctor of public service *honoris causa* by the Harrisburg University of Science and Technology in recognition of his many career achievements and his contributions to the citizens of Central Pennsylvania.

General Zimmerman was also recently honored by Jump Street, a charitable organization dedicated to developing educational and economic opportunities with the arts for all age groups, with its 2006 Spectrum Award for Leadership.

## 1960

**H. Weston "Wes" Tomlinson**, a Delaware County (PA) attorney, received summa cum laude honors with a business management bachelor of science degree at Widener University's graduation ceremonies on May 20, 2006. Wes was also elected to Who's Who in American Universities and Colleges (2005-2006) at both Widener and Penn State.

## 1961

**William F. Hoffmeyer** was named by *Law & Politics* as a Pennsylvania 2006 Super Lawyer in the real estate field. William is a senior partner with Hoffmeyer & Semmelman, LLP in York.

## 1962

In December 2006, Xethanol Corporation, a renewable fuel developer, announced that its Board of Directors had elected **Edwin L. Klett** as a new independent member of the Board of Directors. In addition to his board participation, Ed will chair the Governance Committee and be a member of the Compensation Committee.

Ed is currently senior counsel with Buchanan Ingersoll &

Rooney and in November 2005, was noted for his accomplishments as a trial lawyer in *American Lawyer*.

## 1965

**James W. Durham** has become a Fellow of the College of Commercial Arbitrators. An independent arbitrator and mediator with a national practice, he is also on the large complex case and energy panels of the American Arbitration Association and the CPR International Institute for Conflict Prevention and Resolution.



**Gerald K. Morrison**, of the Harrisburg, PA, firm McNeese Wallace & Nurick, has been named a 2006 Super Lawyer by *Law & Politics* magazine. Gerald is the co-chair of the Business Counseling Group at the firm.

## 1966

**The Honorable George E. Hoffer** was featured in the "In Chambers" section of the *Pennsylvania Law Weekly* on October 24, 2005. Judge Hoffer retired in November 2005.

**Robert D. Yeager**, founder of the Pittsburgh (PA) Youth Golf Foundation, was honored with the Distinguished Service Award by the Tri-State Section Professional Golfers' Association in mid-October. Robert is a patent trial lawyer and a partner at Kirkpatrick & Lockhart, LLP.

## 1967

**David E. Lehman**, of the Harrisburg, PA, firm McNeese Wallace & Nurick, has been named a 2006 Super Lawyer by *Law & Politics*

magazine. David works in the Business Litigation Group.

## 1968

**Howard M. Goldsmith** has been appointed to the Pennsylvania Bar Association Professional Practice Standards Committee. He also was selected as a 2006 Super Lawyer and was also listed as a 2006 Top 100 Philadelphia Lawyer. Howard is the principle shareholder of the Philadelphia law firm of Howard M. Goldsmith, P.C.

**Robert H. Long Jr.** has joined Wolf, Block, Schorr and Solis-Cohen, LLP, Harrisburg, PA, as counsel resident. Robert has thirty-seven years of bond counsel experience and is serving as the firm's senior municipal bond attorney.

## 1969

**Richard Gray** was elected mayor of Lancaster, PA.



**G. Robert Marcus** has been selected for inclusion in the Mergers & Acquisition Section of New Jersey Super

Lawyers 2006. Robert is a member of the Somerville, PA, law firm Norris McLaughlin & Marcus.

**Stephen Volpicelli**, of counsel to Kelley & Murphy, recently presented "The End Game – Sales, Leasing and Property Management," a real estate development continuing legal education program in Philadelphia for Sterling Educational Services. The program covered the key elements of the real estate development process.



## 1970

**Niles S. Benn** was re-elected as chairman of the Board of Holy Spirit Health System, Camp Hill, PA. Niles is the first individual to hold the position, having previously served five years as chairman of the Board of Holy Spirit Hospital.

**James A. Young** has been elected to the International Academy of Trial Lawyers and recently, after serving for twelve years, stepped down as the managing shareholder of Christie, Pabarue, Mortensen & Young.

## 1971

*Law & Politics* named **Stephen S. Russell** of the York law firm Stock and Leader a 2006 Pennsylvania Super Lawyer. Stephen has represented public schools for more than thirty years in state and federal courts, before state and federal agencies focusing on labor relations, special education law, civil rights and general educational issues.

## 1972

**The Honorable Thomas Ridge** delivered the keynote address at the Technology Marketing Corporation (TMC©) Internet Telephony Conference & Expo East 2006, held January 24-27 at the Fort Lauderdale-Broward County (FL) Convention Center.

## 1973

**Bruce W. Ficken** is now a Fellow of the American College for Trial Lawyers, a premier legal association in America. Bruce was inducted at a ceremony in Chicago on October 22, 2005.

In November and December, **William C. Roeger** took part in a Pennsylvania Trial Lawyers Association sponsored seminar

series, "Auto Law Strategies." Bill is a partner in the Litigation Department at Hamburg, Rubin, Mullin, Maxwell & Lupin, with offices in Lansdale, Perkasie, Limerick and Allentown, PA.

## 1974

**Barbara Drake** joined legal management consultancy Altman Weil, Inc. Barbara will advise government legal offices on client service, client relations, practice management and human and technology resources.

**Ken Nicely** wrote, "Retirement has been good! I scored my first hole-in-one yesterday (April 19, 2006) on my home course, Dataw Island Club, on St. Helena Island, SC. Hope everyone is well!"

## 1975

**Michael C. Fox** recently earned the certified financial planner designation. He is a financial planner associated with Prudential Financial in Camp Hill, PA, where he focuses his practice on attorneys and partnering with attorneys to serve their clients who need individual and business financial planning and financial products and services. Michael is a registered investment advisor with Pruco Securities, LLC and an agent with The Prudential Life Insurance Company of America.

**David F. Henschel** joined the Lancaster, PA, law office of Harmon & Davies, P.C. as managing attorney. David has twenty-seven years of experience in business and corporate law. Prior to Harmon & Davies, David served as a corporate attorney at Porr & Devine, LLC.

**Robert Mauro** was named a Pennsylvania Super Lawyer by *Philadelphia Magazine* for his practice of real estate law with Meyer, Unkovic & Scott, LLP.

## 1976

**Joe Perry** has retired from the practice of law and has moved to Summerville, SC. In furtherance of his love of golf, Joe is working in the pro shop of The Ocean Course on Kiawah Island.

**Geoffrey S. Shuff** recently became of counsel to McNees Wallace & Nurick LLC. Geoffrey will practice in the Financial Services Group.

**James C. Walker** accepted a "Foundations Behavioral Health Partnership in Youth Services" grant on behalf of Children's Developmental Program. Walker sits on the Board of Directors of the Quakertown based program. He is an associate of Hamburg, Rubin, Mullin, Maxwell & Lupin with offices in Lansdale, Perkasie, Limerick and Allentown, PA.

## 1977

**Charles E. Fryer** has joined the Law Offices of Mogel Speidel Bobb & Kershner. Fryer will be responsible for real estate and estate law and is a title agent working out of the firm's Boyertown, PA, office.

**Leslie A. Miller** received both an appointment and an honor from Temple University. Leslie was appointed to the Board of Visitors of Temple University Beasley School of Law. She was also inducted into The Hall of Fame, sponsored by Temple University's League for Entrepreneurial Women, which honors women for their achievements as innovators, entrepreneurs and leaders.

**Deanna R. Pealer**, of the Law Offices of Deanna R. Pealer, was welcomed into the Heritage Registry of Who's Who for 2006-2007. Deanna maintains an office for the general civil practice of law in Bloomsburg, PA.

In April 2006, **Linda J. Williams** was named chief deputy attorney general of the Bureau of Consumer Protection. Linda also represents the Office of Attorney General on fifteen Pennsylvania Department of State licensing boards including the State Real Estate Commission and Board of Pharmacy. Additionally, Linda represents the office on the Pennsylvania Bar Association's Unauthorized Practice of Law Committee and various multi-state investigations through the National Association of Attorneys General.

## 1978

**Larry Bowman**, managing partner of Cozen O'Connor's Dallas, TX, office, has been named chair of the General Litigation Department. He began his career with Cozen O'Connor in Philadelphia, PA, in 1982 and is credited with fostering the firm's expansion across the Southwest. Larry also was named a 2006 Texas Super Lawyer by *Law & Politics*.

**Eric L. Brossman**, a partner in the Business Department and vice office managing partner of Saul Ewing's Harrisburg office, was selected on behalf of the Pennsylvania Bar Association (PBA) Board of Governors to receive a PBA Special Achievement Award for his various efforts for the PBA Business Law Section.

**Karl F. Longenbach** was appointed solicitor for the County of Northampton (PA) in January

2006. Karl continues to maintain his private law practice in Bethlehem.

**Francis Mardula** has been selected chief counsel for the Pittsburgh (PA) District of the Corps of Engineers. Francis began his new post in January 2006 after serving as chief counsel for the U.S. Department of Transportation's Maritime Administration.

## 1979

**Karen Faulds Copenhaver**, general counsel for Black Duck Software, Inc. in Waltham, MA, has joined Choate, Hall & Stewart LLP as a partner in its Business & Technology Group. Karen is a nationally recognized attorney in technology transfer and licensing of intellectual property, particularly in the areas of software licensing and open source business models.

Cambria County (PA) attorney **George Gvozdoch Jr.** has received an Everyday Leader Award from the Pennsylvania Bar Association. George is a sole practitioner with law offices in Ebensburg. He is also the solicitor for the Cambria County Domestic Relations Office, adjunct associate professor at the University of Pittsburgh at Johnstown and bar examiner for the Pennsylvania Board of Law Examiners.

**Joseph W. Weik** was recently selected one of Delaware's Top Lawyers by *Delaware Today* magazine. Joseph sits on the Board of Governors of both the American Association for Justice and the Delaware Trial Lawyers Association (chairman of the Council of Past Presidents). Joseph is also the senior partner in the firm of Weik, Nitsche, Dougherty & Componovo, located in Wilmington, DE.

## 1980

*Lawdragon*, a legal services information publication, recently named **The Honorable John E. Jones III** and **The Honorable Thomas J. Rueter** among the 500 leading judges in America. The judges were selected from more than 30,000 federal and state judges as well as an estimated 20,000 retired judges, arbitrators and mediators nationwide.

## 1981



**Craig Staudenmaier**, managing partner in the Harrisburg law firm Nautman, Smith, Shissler and Hall, LLP, was appointed

general counsel for the newly formed Pennsylvania Freedom of Information (FOI) Coalition. He also appeared on WITF's *Smart Talk*, a public affairs television show, on Thursday, March 23, 2006, as part of a panel discussion on Pennsylvania's Right to Know Law and Sunshine Act.

## 1982

**Michael Deckman** retired from his solicitor position after forty years with the Mount Wolf (PA) Borough Council.

**George Joseph** was elected to serve a one-year term as secretary of the Pennsylvania School Boards Solicitors Association.

**Jeffrey H. Sunday** retired from the U.S. Naval Reserve on July 1, 2005, after thirty years of commissioned service. Jeffrey retired with the rank of captain and received the Navy and Marine Corps Commendation Medal. He also received the Commandant's Award from the

U.S. Naval Academy for his work as Naval Academy information officer.

## 1983

After an eighteen-year career in the Office of Attorney General, **Eugene Creany** left his position of senior deputy attorney general to accept the position of senior counsel for the Pennsylvania Gaming Control Board's Office of Chief Counsel.



**Robert J. Hobaugh Jr.** has been named shareholder of the Reading, PA, firm Stevens & Lee. Bob concentrates his practice in

structured finance and assists clients in buying, selling and securitizing financial assets and sales of servicing portfolios.

**Lisa Hook** was appointed president and chief executive officer of SunRocket, one of the nation's fastest-growing Internet phone service providers. Lisa also serves on the boards of Covad Communications Inc., Reed Elsevier, National Geographic Ventures and K12, Inc.



**Elizabeth Dougherty Maguschak** was honored with the 2006 Lynette Norton Award, which is bestowed by the Pennsylv-

vania Bar Association's Commission on Women in the Profession. Elizabeth is the member-in-charge at the Hazleton office of McNees Wallace & Nurick LLC. She has been with the law firm for twenty years and was among its first

women partners. She now chairs the McNees Wallace & Nurick Education Law Group and is a member of the Labor and Employment Group. Her practice focuses primarily on the areas of human resources and employment law, education law and litigation.

## 1984

**Maria Musti Cook** took her seat on the York County (PA) Court of Common Pleas after taking her oath of office in January 2006. As a new judge, Maria will serve a ten-year term.

**Linda Cox** has established the Law Offices of Linda T. Cox, a civil practice firm located in Annapolis, MD. She is married, has two children and lives in Annapolis.

## 1985

**Candy Barr Heimbach** is currently the senior vice president of Marshall Dennehey Warner Coleman & Goggin, P.C. located in Bethlehem, PA.

**Mark M. Wall** was elected shareholder of Hill, Ward & Henderson, PA in Tampa, FL. His practice focuses primarily in the areas of general commercial litigation and real estate litigation.

**Captain Jeffrey M. Wasileski**, was recently selected to serve as commanding officer of Navy Reserve Civil Law Support Activity 106, which supports the Navy's Office of the Judge Advocate General in Washington, D.C. This will be his second command tour. His civilian job is as staff counsel for the Pennsylvania Supreme Court's Criminal Procedural Rules Committee.

**1986**

**Frank Chmielewski** is currently the director of examinations at the American Institute for Chartered Property and Casualty Underwriters/Insurance Institute of America, in Malvern, PA.



**John H. Driscoll Jr.**, senior vice president and senior financial planner for U.S. Trust's New England region, received the 8th annual Deborah Eldridge Award from the Estate and Business Planning Council of Hartford, CT, at the Council's 2006 annual meeting.



Cozen O'Connor member **Michael A. Hamilton** recently presented at the Property Loss Research Bureau Annual Claims Conference in Nashville, TN. He spoke on the topic of "Intellectual Property Claims and Advertising Injury Coverage." Hamilton concentrates his practice in insurance coverage, bad faith defense and commercial litigation from the firm's Philadelphia, PA, office.

**Laura Davis Jones** was named one of the 500 Leading Lawyers in America in the October 2005 issue of *LawDragon*.

**Lawrence "Skip" Persick**, partner and chairman of the Family Law Department at Lamb McErlane P.C., a full-service law

firm in West Chester, PA, recently appeared on WHYY-FM's "Voices in the Family" to share insights into the changing nature of grandparents' rights in Pennsylvania.

**Stephen H. Sherman** became vice president, general counsel and corporate secretary for SGS North America, Inc. in Rutherford, NJ. SGS North America, Inc. is the regional subsidiary of SGS Group of Geneva in Switzerland, the world's largest testing and certification company.

**1987**

**Jacqueline Conforti Barnett** has been promoted from university legal counsel to associate chief counsel of the Pennsylvania State System of Higher Education. In addition to administrative duties, Jacqui represents Cheney University of Pennsylvania, the Construction Support Office of the Office of the Chancellor and serves as the lead attorney for the agency in construction and general procurement issues.

**Raymond J. Conlon** has affiliated with Dallas W. Hartman, P.C. to establish Hartman and Conlon, P.C. in Butler, PA. The practice specializes in plaintiff's personal injury litigation.

**Vicky Ann Trimmer**, a partner with the Harrisburg, PA, firm of Mette, Evans & Woodside, presented an identity theft program to the Hershey area AARP chapter on November 17, 2005.

**Melissa Vance** is now employed by the New Jersey Office of the Public Defender, Law Guardian, representing children in cases of alleged neglect and abuse. Melissa was recently on *Good Morning America* as a member of the Legal Advisory Committee of La Leche League International.

**1988**

**Terry Camp** is a partner with Budd Lerner, P.C. in Short Hills, NJ, and vice chair of the NJSBA Entertainment, Arts &

Sports Law Section. Terry recently served as counsel and co-producer to the Liberty JAM multi-artist concert at Liberty State Park featuring Cheap Trick, George Clinton & P-Funk, Patti Smith and many others. His other practice areas include litigation involving consumer law, real estate, environmental and mass tort.

Lancaster, PA, firm Deem & Lopez Law Offices recently welcomed **Carol Deem** as a shareholder and announced its new name as Deem, Farney & Lopez Law Offices. The firm continues to focus on appeals, civil rights litigation and employment law.

In March of 2006, after practicing civil litigation for close to eighteen years with Peters & Wasilefski in Harrisburg, PA, **Thomas A. Lang** left the active practice of civil litigation and accepted the position of director of operations for Real Alternatives, also located in Harrisburg. Real Alternatives, a non-profit corporation, is the prime contractor for the Commonwealth of Pennsylvania's Alternatives to Abortion Services Program.

**Laurie Quinn** and husband, Kevin, announced the birth of their daughter, Taryn Olivia, who joins an older sister and three older brothers.

**1989**

**Clifford Gibbons** opened F. Clifford Gibbons, LLC, in Princeton, NJ.

**William M. Lafferty**, partner at Morris, Nichols, Arsht & Tunnell, LLP, was selected as among the 500 Top Stars by *LawDragon*. William was also recognized for legal excellence in the 13th edition of *The Best Lawyers in America*, a prestigious biennial list published by Woodward/White, Inc. He is well regarded for his work in complex corporate and commercial litigation. He also appears in the 2005, 2004 & 2003 editions of the *Chambers USA Guide to America's Leading Lawyers for Business* as one of the leading practitioners in the Delaware Court of Chancery.

**Gregory Melucci** recently accepted an appointment to the U.S. Attorney's Office in Pittsburgh, PA.

**1990**

**Susan Jin Davis** has been named vice president of corporate development at Comcast Corporation. Susan is located at Comcast's corporate headquarters in Philadelphia, PA.

**James Delduco** was married to Dana on New Years Eve 2005. James is associate general counsel for the Defense Threat Reduction Agency.

**Matthew J. Holden** has been promoted to assistant general counsel at Lowe's Companies, Inc., a Fortune 50 company headquartered in Mooresville, NC.

**Stephen Kulla**, and wife, Kimberly, became proud grandparents for the second time on December 14, 2005.

**Paula A. Roscioli** joined the Northampton County (PA) Court of Common Pleas.

## 1991

**Jeff S. Gross** is currently a partner with Batt & Gross in Philadelphia, PA.

**Pamela Jane (Collins Longhi) Stead** married Kevin Stead on November 25, 2000. The couple welcomed a daughter, Lilian, on July 31, 2005. Pamela switched careers in 1997 and now teaches 7th grade Social Studies and French in Metuchen, NJ.



**Melissa Klipp**, a partner in Drinker Biddle & Reath's Litigation and Intellectual Property Practice Groups, has been chosen

by *JNBiz* as one of New Jersey's Best 50 Women in Business. She was featured in the March 27, 2006, issue of the magazine. Melissa focuses her practice on internet and computer-related litigation and counseling, electronic discovery and forensics, as well as IP disputes involving trademarks, copyrights and theft of proprietary information.

**Wendy P. (Goodspeed) Witt** has established The Three Rivers Estate Planning Firm, LLC and practices mainly in Pittsburgh, PA. Wendy recently became licensed to practice law in Florida as well. Wendy, her husband and three children live in the Fox Chapel area.

## 1992

Poor & Devine, LLC has promoted **Donald H. Blackwell** to part-

ner. Donald practices in the areas of civil litigation, employment law and trusts estates.

**Leah Burnham Grinnen** and her 6-year-old son, Ethan, relocated from Indianapolis, IN, to Phoenix, AZ, "to be in the sun and surrounded by mountains." Leah retained her position as general counsel for Oak Street Financial Services, headquartered in Carmel, IN, and currently works from an office at Oak Street's western region mortgage lending center in Scottsdale, AZ. She is part-owner of the company.

**Brian F. Jackson** joined the new management committee for McNees Wallace & Nurick, LLC. Brian specializes in labor and employment law.

**The Honorable Kathy (Donnelly) Keating** was re-elected as Carlisle (PA) Borough's magisterial judge.

In January 2006, **Jennifer M. McHugh** rejoined the Cozen O'Connor firm's Philadelphia, PA, office as a member in the Business Litigation Department. Jennifer concentrates her practice in the areas of commercial litigation, professional liability, medical malpractice, insurance, real estate litigation and other general civil litigation matters.

**Peter M. O'Mara** has been named a New Jersey Super Lawyer in both 2005 and 2006 in the practice areas of DWI and criminal defense.

**Catherine (Tucker) Peglow** married Mark Peglow on September 2, 2006, in Greensboro, NC.

## 1993

**Daniel E. Cummins**, a civil litigator and partner with the Scranton,

PA, law firm of Foley, Cogneetti, Comerford, Cimini & Cummins recently published an article in the *Pennsylvania Law Weekly* entitled "Hills and Ridges: Pro-defense trial court decisions tempered by pro-plaintiff appellate decisions." He was also recently selected as the first place winner in the Weekly Newspapers category of the 27th annual William A. Schnader Print Media Awards. His award-winning article, which appeared in his column in the *Pennsylvania Law Weekly*, was entitled "What I Learned From the Corleone Family."

**Clark DeVere** of Metzger Wickersham Knauss & Erb, P.C. in Harrisburg, PA, has been certified as a member of The Million Dollar Advocates Forum, recognized as the most prestigious group of trial lawyers in the United States. Membership is limited to attorneys who have won million or multi-million dollar verdicts, awards and settlements.

**John M. Domurad**, the chief deputy clerk to the U.S. District Court for the Northern District of New York, has been selected as the 2006-2007 Supreme Court Fellow assigned to the Administrative Office of the U.S. Courts.

**Jill A. Moran** won the race for prothonotary for Luzerne County (PA) by a nearly two-to-one margin.

**M. Jeffrey Noonan** has partnered with C. Ryan Horne to expand the Wealth Management Group through UVEST Financial Services, Inc. Jeff will be available for all Cooperative Bank offices and will provide a full range of investment and planning services to both individual and commercial clients.

**Susan M. Day Schilp** and her husband, Joe, announced the birth of their son, John Nicholas, born on February 22, 2006. John joins sisters Katie (5) and Mary (3).

## 1994

**Barbara Ruth-Cook** and her husband, Chris, are pleased to announce the birth of Adam Christopher on August 9, 2005. Adam has two older brothers, Benjamin and Conor.

In May 2006, **Elizabeth Gant** became associate counsel to the Blue Cross Blue Shield Association in Washington, D.C., and relocated to Arlington, VA.

**Paul W. Minnich**, an attorney at Barley Snyder, LLC has been named a Pennsylvania Super Lawyer Rising Star by *Law & Politics*.

**Dina Ellis Rochkind**, her husband, Steve, son, Reuben, and daughter, Camryn, celebrated the birth of Darci Nicole on February 20, 2006. Dina and her family reside in downtown Bethesda, MD. She is senior counsel to the House Financial Services Committee.

## 1995



**Alan R. Boynton Jr.** of the Harrisburg, PA, firm McNees Wallace & Nurick, has been named a 2006 Super Lawyer by

*Law & Politics* magazine. Alan is the chair of the Injunction Group at the firm.

**Tobin A. Butler** recently joined Litchfield Cavo, LLP working in insurance defense as an associate in the Cherry Hill, NJ, office.

**Amy Coutant** has been in the felony unit of the Public Defender's Office in Baltimore City for four years. Avraham (Avie) Raphael Stone and Amy were married July 5, 2006, in the Dominican Republic. Avie is also an assistant public defender in the felony unit in Baltimore City.

**Steven F. Fairlie** is among Pennsylvania's Lawyers on the Fast Track, according to *Pennsylvania Law Weekly* and *The Legal Intelligencer*. Steven is a partner at the law practice of Rubin, Glickman, Steinberg and Gifford of Lansdale.

**Mark Fetterman** married Sarah Trabulsi on March 4, 2006, in Wilmington, DE. The best man was **Chris Froelich '95**. Also present was **Scott Amori '95** and **Layne Oden '95**. Mark is a trial team leader with the Delaware County District Attorney's Office. He also is an adjunct professor of political science at Penn State's Delaware County campus.

**Marga (Torrence) Mikulecky** and husband, Paul, are proud to announce the birth of their son, Colin, on June 12, 2006. Marga currently consults on education policy issues, and Paul is an internal medicine physician in Denver, CO.

**Kurt Williams** is an associate with Salzmans Hughes, P.C. in Carlisle, PA, concentrating in the areas of corporate, environmental land use, municipal law and real estate.

**Michael Yelen**, and his wife, Sherry, welcomed Olivia Morgan to their family on February 16, 2006.

## 1996

**Michele Stawinski Burkholder** married Anthony Burkholder (PSU '04) on October 15, 2005.

**Stacey (Free) Farley** and her husband, JJ, announced the birth of Joshua Thomas on September 20, 2006. He joins big sister Brittan and big brother Will.

**Dana McDade** and **Jeffrey Grossman** welcomed their second daughter, Kara, in June 2005. Kara joins older sister Mallory. Jeffery was also named partner at Stradley Ronon Stevens & Young, LLP.

The Philadelphia, PA, firm Pepper Hamilton, LLP elected **Matthew J. Hamilton** to counsel. He concentrates his practice in pharmaceutical and medical device product liability litigation, including complex mass torts litigation, federal multidistrict litigation, coordinated state court actions and class actions.

**Angela L. Heim** recently became a Federal Region III program manager for the Department of Homeland Security in Philadelphia, PA.

In February 2006, **Beth (Hermanston) Kinsley**, her husband, John, and their son, Johnny (2), welcomed Louisa Elizabeth to their family. Beth is currently practicing real estate law as senior counsel at Goodwin Procter in Boston, MA.

**Robert G. Minnich** recently joined Hahn Loeser & Parks as an associate in Naples, FL.

**Michael O'Mara** was recently named a 2005 Pennsylvania Rising Star by *Philadelphia Magazine* and *Pennsylvania Super Lawyer Magazine*.

## ALUMNI EVENT CALENDAR

### March 2007

Northeastern PA Chapter Luncheon  
Thursday, March 15 – 12:00 to 1:30 p.m.  
Westmoreland Club, Wilkes-Barre, PA

Lehigh and Northampton County (PA) Alumni Reception  
Thursday, March 15 – 5:30 to 7:00 p.m.  
Hotel Bethlehem, Bethlehem, PA

Southeastern Pennsylvania and Delaware Alumni Reception  
Wednesday, March 21 – 6:00 to 8:00 p.m.  
Home of Stephanie '97 and James Deviney  
540 Cory Lane, Aston, PA

### April 2007

Washington, D.C. Alumni Reception  
Monday, April 2 – Time and Location TBA

Florida Alumni Reception,  
Thursday, April 19  
West Palm Beach, FL – Time and Location TBA

Race Judicata 5K Race  
Saturday, April 14 – 8:30 a.m.  
Trickett Hall, Carlisle, PA

### May 2007

Law School Commencement  
Saturday, May 12 – 10:30 a.m.  
Old West, Dickinson College Campus, Carlisle, PA

Northeast PA Chapter Dinner  
Date, Location and Time TBA

### June 2007

PBA Annual Meeting Reception  
Wednesday, June 20 – 5:00 to 7:00 p.m.  
Sheraton Philadelphia Center City Hotel  
Philadelphia, PA

Additional events being planned for this spring and summer include a Northern New Jersey Alumni Reception and an Erie Alumni Golf Outing.

For more information or to RSVP for an event in your area, please email Dyanna Stupar at [djs66@psu.edu](mailto:djs66@psu.edu) or call 814-863-7047. Please contact us at [dslalumni@psu.edu](mailto:dslalumni@psu.edu) if you would like to help us plan an alumni event in your area.

In cooperation with Penn State's colleges and local alumni groups, the Penn State Alumni Association is hosting a series of City Lights cultural events this spring. Penn State's faculty and student stars will hit the road to present educational and entertaining programs for alumni and friends as part of the City Lights program. All City Lights events require pre-registration and most have minimal fees, with discounted fees for Alumni Association members and their guests. For more information, call 800-548-LION (5466), option 2, or visit [www.alumni.psu.edu](http://www.alumni.psu.edu)



### UNCORKING A GOOD TIME

In celebration of the Law School's new location at University Park, this past October more than 130 students, faculty, DSL alumni and distinguished guests gathered together for a Wine Tasting at the Hintz Family Alumni Center, University Park.

The event was sponsored by The Dickinson School of Law Student Bar Association, the Blue and White Society, and The Dickinson School of Law Alumni Office. The event is the first of many opportunities for the Penn State's Dickinson School of Law to build relationships with the greater State College legal community.

**Traci Sarnataro** announced the birth of her second child, Duke Christopher, on February 20, 2006. Duke has a big sister, Rosalie, who is 4 years old.

**Joel Solomon** joined Eckert Seamans Cherin & Mellott, LLC as a member in the Business Division. He focuses his practice on real estate law, creditors' rights, corporate finance and acquisitions.

### 1997

**Richard S. Caputo** has been named shareholder of the Reading, PA, firm Stevens & Lee. Richard represents exempt organizations on a wide range of tax and related issues and spends a majority of his practice forming nonprofit organizations such as public charities, private foundations, corporate foundations and trade associations.



**Matt M. McClenahan** has founded McClenahan Law Firm, LLC in State College, PA. Prior to going into private practice, Matt spent five years in the York County Public Defender's

Office, achieving death penalty defense qualification in July 2006. Matt concentrates his practice on criminal defense.

**Deanne M. O'Dell** has joined the Harrisburg, PA, firm Wolf, Block, Schorr & Solis-Cohen, LLP as an associate in the firm's Energy, Telecommunications and Utility Regulation Practice Group.

**Edward A. Paskey II** has been elected shareholder with Kagen, MacDonald & France, P.C. of York, PA. Ed was named a 2005 Rising Star Pennsylvania Super Lawyer Under 40 by *Law & Politics* magazine. In April 2006, he presented "Criminal Implications of Sexual and Physical Abuse of Children" at a seminar for attorneys, physicians, social workers and law enforcement agents in York County. In May 2006, he appeared on an episode of the *Court TV* documentary series "The Investigators," profiling a case he prosecuted while he was first deputy district attorney of York County.

**Andrea Myers Pollina** and her husband, Christopher, are pleased to announce the birth of their second child, Madeleine Clair, on November 1, 2005.

**Pamela Rice** recently relocated to Columbus, OH, for the position of trial attorney with the U.S. Department of Justice, Office of the U.S. Trustee.

**Eric B. Smith** of High, Swartz, Roberts & Seidel, LLP has been named a Rising Star by *Philadelphia Magazine* and *Law & Politics* magazine. Eric focuses on real estate and commercial litigation, as well as municipal and land use law.

### 1998

**Joanne E. Book** was elected partner with the Harrisburg law firm of Rhoads & Sinon, LLP, where she practices in the area of estate planning. Joanne was also named as one of Central Pennsylvania's 2006 Top Forty Under 40 by the *Central Penn Business Journal*.

**James E. Chiaruttini**, an attorney at Barley Snyder, LLC, has been named a Pennsylvania Super Lawyer Rising Star by *Law & Politics*.

**Heather Conlon-Keller** and husband, Mark, welcomed their son, Declan Mark, on April 10, 2006.

**Scott Edwards** and wife, Kimberly Larson-Edwards, welcomed

their son, Miles, on November 8, 2006, in Seattle, WA. Currently, Scott is an intellectual property strategist for Microsoft.

After spending the past five years as the associate special advisor to the CEO of the UVA Medical Center, as of August 21, 2006, **James Feist** is now general counsel for the UVA Health Services Foundation, the physician practice group for all UVA physicians. James' wife, **Jennifer Breen Feist**, continues to enjoy a career as a vice president in Wealth Management for Wachovia Bank in Charlottesville, VA. They have a son, William (3).

**Daniel Gallucci** was selected as one of Pennsylvania's Rising Legal Stars in the December 2005 issue of the *Philadelphia Magazine*.

**Alison Grace (Carpenter) Johansen** married Kenneth Peter Johansen III on June 10, 2006. Alison lives in Arlington, VA, and works as a legal editor for the Bureau of National Affairs in Washington, D.C.

**Darren Holst** and **Jessica Diamondstone** were married on September 4, 2005. Other Dickinson Law School alumni in attendance were **Stacey Acri '98**, **Lisa Miller '98**, **David Schertz '98**, **Lucy**



**Andrew R. Eisemann**, a lieutenant colonel in the Army Reserve, returned in August 2006 from a fifteen-month deployment to Iraq in support of Operation Iraqi Freedom. Andrew served as a military advisor to the Iraqi chief of staff of the 5th Iraqi Army Division in Kirkush. He also served as the advisor to the 5th Division's Legal Section. His daughter, Cassidy May, was born on August 25, 2005, while he was in Iraq.

**Johnston-Walsh '97**, and **Jennifer (Feitelberg) Turk '97**. Darren is a partner in the Harrisburg, PA, law firm of Howett, Kissinger, Conley & Holst. Jessica is a staff attorney in the Carlisle office of Mid-Penn Legal Services. They reside in Harrisburg.

**William H. Platt II** was named a 2005 Pennsylvania Super Lawyer Rising Star by *Law & Politics*. Bill is the supervising attorney of the Allentown, PA, office of Flamm Boroff & Bacine, P.C.

**Heidi (Ritter) van Steenburgh** joined Cozen O'Connor's Philadelphia, PA, office in January 2006 as an associate in the Subrogation and Recovery Department. Prior to joining the firm, Heidi was an associate with White and Williams, LLP in Philadelphia.

## 1999

**Alan W. Flenner**, accepted command of Naval Mobile Construction Battalion 21 (NMCB 21) during a Change of Command ceremony conducted at Naval Air Engineering Station in Lakehurst, NJ, on September 10, 2005. Alan is a commander in the U.S. Navy and now leads 600 Navy Reserve Seabees in Pennsylvania, New York and New Jersey. Alan is also an attorney with High, Swartz, Roberts & Seidel in Norristown, PA, and has been named a Distinguished Alumnus of the University of Delaware Mechanical Engineering Department. He focuses his law practice on matters associated with the built environment and concentrates in the areas of municipal, environmental and land use law.

**Sean Fields** and his wife, Ann, celebrated the birth of twin boys, Lucas and Noah, on March 26, 2005. Sean is associate counsel for the Pennsylvania School Boards Association and an adjunct professor of business law at the Harrisburg Area Community College.

**Nicole (Francis) Hadaway** and her husband, Philip, welcomed a daughter, Phoebe Constance, on April 5, 2006.

**Jimmy Leo III** and wife, Kimberly, are pleased to announce the arrival of Ryleigh Ann on October 2, 2006.

**Amy Morrissey Turk**, who is the first woman president of the Norfolk (VA) Sports Club, chaired the club's annual 2006 Jam-boree, which featured Notre Dame football coach Charlie Weis.

**M. Quentin Emick** recently made partner at the firm of Cranwell, Moore & Emick, P.L.C. in Vinton, VA.

## 2000

**Debra Domenick** practices plaintiffs' personal injury and workers' compensation at O'Donnell Law Offices in Wilkes-Barre, PA.

**Daniel Durst** was elected to serve as a supervisor for West Mead Township of Crawford County (PA).

**Jill (Radomsky)** and **Timothy B. Fisher II** had a son, Timothy Buckley III, on April 19, 2006.

On April 29, 2006, **Monica Mathews** married Michael Reynolds in Center City Philadelphia, PA. **Karen Waldman Samuel '00** and **Lola Rodriguez Perkins '00** served as bridesmaids and **Lucia Sitar Furbee '00**, Lance

Cole (and family) and Katherine Pearson were in attendance.

**Jeffery C. Mickletz** joined the Harrisburg, PA, firm of Rawle & Henderson, LLP. Jeffery works in the Commercial Motor Vehicle Section and focuses his practice on the defense of transportation companies and their insurers.



**Rachel Robbins** was recently named 2005 Pennsylvania Rising Star by *Philadelphia Magazine* and *Pennsylvania Super Lawyer Magazine*.

**Karyn Waldman Samuel** and her husband, Rowan, are happy to announce the birth of their first child, Jacob Max, who was born on August 21, 2005.

## 2001

**Mischa M. Bastin** has returned to Armstrong Teasdale, LLP. Mischa practices in the firm's Kansas City, MO, office, where he is a member of the firm's Criminal Defense and Compliance Practice Group and also actively focuses his practice on business litigation.

In June 2006, **Christopher Conrad** joined the Harrisburg, PA, office of Marshall, Dennehey, Warner, Coleman & Goggin, P.C. as an associate in the Professional Liability Practice Group. Chris, his wife, Jennifer, and his daughter, Lindsay, recently moved to Mechanicsburg, PA.

**Brian Dougherty** and his wife, Jennifer, welcomed their son, Noah, on June 2, 2006. Brian is an associate at White and Williams, LLP and recently

moved his practice to the firm's Chester County (PA) office from the Philadelphia office where he had been practicing since 2003.

**Jonathan Fisher** married Rhonda Jean Quesenberry on July 8, 2006. Jonathan is currently a partner with The Fisher Law Firm, P.C., located in Dublin, VA.

**Christina E. Hale**, associate attorney with Michael J. O'Conner & Associates, was named as a Pennsylvania Super Lawyer Rising Star, as published in the December 2005 editions of *Law & Politics* and the *Philadelphia Magazine*.

**Kara K. Messner** married Chris Gendron on Earth Day, April 22, 2006. Kara wrote, "I heard that rain on a wedding day is good luck, and let's just say that we were exceptionally lucky!" Dickinson School of Law alumni that attended the wedding included **Dorothy L. Mott '85** (Kara's mother), **Kristin Messner '01** (Kara's sister), **Brooke Elvington '01**, **Harvey Feldman '69**, **Theresa Barrett Male '86** and **Deborah Hughes '79**. Chris and Kara honeymooned in the Galapagos this past August.

**Megan Millard** recently relocated to Seattle after accepting an in-house counsel position at Microsoft.

**Julie B. Miller** is an associate of Russell, Krafft & Gruber, LLP in Lancaster, PA.

**Heather L. Paterno** of Goldberg Katzman was honored as the Dauphin County (PA) Bar Association Pro Bono Lawyer of the Year.

**Lisabeth Patch Raudabaugh** and husband, Dameche, are pleased to announce the birth of their son,

Jacob Oliver Patch Raudabaugh, on June 7, 2006.

**Michelle Thurstic** was sworn in as an assistant district attorney by the Delaware County, PA, Court of Common Pleas.

**Laura M. Turlip** married Patrick J. Murphy, Esq. on June 10, 2006. Laura was sworn in as a magisterial district judge in Lackawanna County (PA) on January 1, 2006, and also maintains a solo law practice.



**Lisa M. Wampler**, an attorney with Cohen, Seglias, Pallas, Greenhall & Furman in its downtown Pittsburgh, PA, office, has

been elected as one of the directors on the Board for the Pittsburgh Chapter of the National Association of Women in Construction (NAWIC) for 2006-2007.

## 2002

**Rob Donaghy** was juror #1 and the foreman in an important civil lawsuit in the Delaware Superior Court. The jury awarded a near courtroom record in damages. Rob said he felt that being a Dickinson School of Law graduate made his job as a juror much easier.

**John Lucio** is currently manager of Shipbuilding Contracts, Naval Sea Systems Command for the U.S. Navy in Washington, D.C.

**Thomas McNulty** and his wife, Jody, welcomed their second child, Patrick Thomas, on August 25, 2005.

In March 2006, **Karl Myers** became a litigation associate at Stradley Ronon Stevens & Young, LLP in Philadelphia, PA. In addition, Karl was recently appointed by the chancellor of the Philadelphia Bar Association to the Investigative Division of the Bar Association's Committee on Judicial Selection and Retention.

**Debra Lee Hart**

**Munchel** and husband, Edward, welcomed their first child, Milania Gwen, on June 22, 2005. They are expecting their second child in January 2007. Debra opened The Law Offices of Debra L. Munchel in Orlando, FL, in 2000. Her main areas of practice are criminal defense and family law.



**Daniel D. Santos**, an associate in Saul Ewing's Business Department and member of its Insurance Practice Group, was selected to participate in the 21st class of Leadership Harrisburg Area's community leadership series. Daniel concentrates his legal practice in insurance regulatory and transactional matters.



**Lee Ann Shupp** is assistant counsel to the Pennsylvania Higher Education Assistance Agency.

Kimmel and Silverman named **Hilary (Wheatley) Taylor** managing attorney of the firm's Western Pennsylvania office. Hilary focuses her practice on con-

sumer litigation involving defective vehicles and automobile dealer fraud cases for clients in Ohio and Western Pennsylvania. Hilary also married Brian Taylor on October 22, 2005. Fellow DSL grads attending the wedding and pre-wedding festivities were **Claudia (Moreno) Williams '03**, **Erin Thompson '02**, **Kim (Dewitt) Bonner '02**, **Ronald Jackson '03**, **Matthew Goodrich '02**, **Alicia Zito '02**, and **Eric '02** and **Rachel (Mohler) '03 Newman**.

## 2003

**Emily Atwood** is now working for the Office of the State Appellate Defender in Chicago.

**Jarrett J. Ferentino**, and his wife, Dr. Nicole Linskey-Ferentino, are pleased to announce the arrival of their son, Dominick Jarrett, on October 4, 2005. Jarrett is an associate at Mahler, Shaffer, Pugliese & Finnegan, Kingston, PA, and a part-time assistant district attorney in Luzerne County specializing in homicide cases.

**Adam Fernandez** recently achieved an LL.M. in taxation from the Villanova University School of Law. Adam works in the Business, Tax and Estate Planning sections of the Pennsylvania firm Hamburg, Rubin, Mullin, Maxwell & Lupin.

**Ambrose W. Heinz** and **Mandy J. Lloyd** announced their engagement on February 25, 2006. Mandy is practicing with Stetler & Gribbin in York, PA, and Ambrose is practicing with Mette, Evans & Woodside in Harrisburg, PA. Ambrose and Mandy plan to marry in the spring of 2007.

**Gregg H. Hilzer** has joined the New Jersey law firm of Greenbaum, Rowe, Smith & Davis, LLP as



an associate and will work in the firm's Roseland office.

**Pete Howland** and his wife, Peg, announced the birth of their second son, Benjamin, born on October 29, 2005. Ben joins his older brother, Tim, who was born in 2003. Pete is an associate at Wix, Wenger & Weidner in Harrisburg, PA, practicing in the areas of real estate, business and municipal law.

**Captain Korvin Kraics** and **First Lieutenant Crista Kraics**, are Marine Corps prosecutors in North Carolina. Crista was recently selected to compete as a member of the all-marine cross country team.

Cumberland County commissioners have appointed **James I. Nelson** as an assistant public defender.

**Laura M. Tobey** and **Louis J. Mattioli III** were married on November 5, 2005, in Conyngham, PA. Laura and Louis both practice in Bethlehem, PA.

**Michael T. Traxler** joined the Harrisburg, PA, firm of Rawle & Henderson, LLP. He will work in the Commercial Motor Vehicle Section and will focus his practice on the defense of transportation companies and their insurers.

**Geoffrey Worthington** is engaged to Tiffany Smith of Center Moriches, NY. The couple resides in the Stroudsburg, PA, area.

## 2004

**Maris J. Finnegan** recently joined Faster & Greenberg Attorneys at Law in Cherry Hill, NJ, as an associate in the Bankruptcy and Litiga-

tion Practice Groups. Prior to joining Faster & Greenberg, Maris served as the judicial law clerk for The Honorable Gloria M. Burns of the United States Bankruptcy Court for the District of New Jersey.

**Christie Hayes** is currently practicing as a labor and employment attorney at Baker, Donelson, Bearman, Caldwell & Berkowitz in Johnson City, TN. Christie was married on August 18, 2006.

Luzerne County (PA) District Attorney Dave Lupas announced the appointment of **Gene Molino** as an assistant district attorney.

**Desiree Nemeč** became a member of the South Carolina bar in 2005 and took a position with Motley Rice, LLC, one of the country's largest plaintiffs' litigation firms. Desiree is a member of the Occupational Disease/Toxic Tort Practice Group, working in asbestos litigation.

**Crystal Stryker** and husband, Geoffrey, welcomed their first child, Charles Lynn, on October 14, 2005. In May 2006, Crystal joined the staff of The Dickinson School of Law as executive director of the Penn State Institute of Arbitration Law and Practice.

## 2005

**Julia Bahn** married Mark Parrish on December 30, 2005, in York, PA. Julia is a law clerk for The Honorable James M. Blaney, J.S.C., in Ocean County (NJ). She and Mark reside in Ocean Gate, NJ.

**Erin M. Cearfoss** became a staff attorney for the United

## THE BLUE & WHITE SOCIETY

This past semester, The Dickinson School of Law welcomed the Blue & White Society to its array of organizations. The Blue & White Society is the largest student organization at Penn State, and its members are student members of the Penn State Alumni Association. The society helps students find meaningful ways to connect and network to Penn State students and alumni. Currently, DSL has over 80 members involved and is growing rapidly. This past fall, The Dickinson School of Law Blue & White Society formed an executive board and co-sponsored the wine tasting event in State College, PA, as well as a networking mixer with the Penn State School of Medicine students in Harrisburg, PA.

States Court of Appeals for the Third Circuit in September 2006.

**Pina Galloro** joined McNeese Wallace & Nurick, Harrisburg, PA. Pina is an associate in the law firm's Real Estate Group.

**Aaron Jackson** joined Stock and Leader where his practice includes real estate law and general practice.

**Randall C. Lenhart Jr.** married Kelly A. Webb on June 24, 2006. **Griffin S. Lee '05** attended the wedding as a groomsman. Wedding guests included **John Secosky '05**, **Jack Dobbyn '05**, **Michael Socha '05** and **James Liskow '05**. Randy is an associate at Warren H. Britt, P.C. in Richmond, VA, specializing in insurance defense and workers' compensation.

**Benjamin A. Lorah** was married to Rebecca Wolfe (PSU '03) on May 27, 2006, in Carlisle, PA. The couple resides in Minersville, PA.

**Meredith McKnight** joined Zarwin Baum DeVito Kaplan Schaer Toddy P.C. as an associate. Meredith will work as an attorney in workers' compensation and civil litigation practice areas in the firm's Philadelphia office. She is licensed to practice in Pennsylvania, New Jersey and the Eastern U.S. District Court.

**Michele Melnick** joined Bronx district attorney Robert T. Johnson's office as an assistant district attorney.

**Sunshine J. Miller** is working as an associate attorney with Devine Law Offices, LLC in Lancaster, PA. She primarily focuses on workers' compensation and employment law.

**Ryan Patrick Newell** has joined Connolly Bove Lodge & Hutz, LLP as an associate in its Wilmington, DE, office. Ryan practices in the area of corporate and commercial litigation.

In September 2006, **Keri A. Schantz** began working as an associate for High, Swartz, Roberts & Seidel LLP in Norristown, PA.

**Michelle Thurstlic** was the guest speaker at the 24th Annual Academic Excellence Ceremony for Garnet Valley High School.

**Brandon Williams**, an associate in the Civil Litigation Practice area of Nauman, Smith, Shissler & Hall, LLP a Central Pennsylvania law firm, has been appointed to the Broad Street Market Board of Directors.

**Gregory M. Wirt** recently joined Fox Rothschild, LLP as an associate in the Chester County (PA) office.

## 2006

**Nathaniel Kuratomi** joined the Huntington, WV, law firm Jenkins Fenstermaker, PLLC as an associate.

**Linda LeFever** has joined Stradley Ronon Stevens & Young, LLP as an associate. As a member of the firm's Business Department, she focuses her practice on commercial finance, mergers and acquisitions, public and private securities work and other general business matters.

## MULTIPLE YEARS

**Kurt A. Gardner '87** recently announced the promotion to shareholder of **John C. Stevens '96** and the formation of Gardner & Stevens, P.C. Serving all of northern Lancaster County (PA), Gardner and Stevens practice in the areas of family law, estate planning/administration, business law, civil litigation and personal injury.

**Stuart L. Hall '94** has formed a partnership with **Craig P. Miller '83**. Stuart resides in Lock Haven, PA, with his wife, Stephanie, and their sons, Wyatt and Merritt. Craig resides in Lock Haven with his wife, Diane, and their son, Matthew.

**John C. Porter '02** and his wife, **Heather Pratt '04**, are proud to announce the birth of their daughter, Lily Charlotte Sammons Porter, on May 17, 2006. John has also joined Gallagher, Rowan & Egbert, P.C. as a litigation associate.

**G. Philip Rutledge '78** and **Nicholas Bybel Jr. '84** have opened a new law firm in Lemoyne, PA. Bybel Rutledge, LLP will focus on serving the financial services industry, including mergers and acquisitions, capital formation, regulatory advice and representation, corporate structuring and more.

**Wendy '95** and **Andrew Slear '94** welcomed their daughter, Kathryn Elizabeth, on April 19, 2005. Kathryn follows older brothers Ethan and Travis.

**Claudia (Moreno) '03** and **Steve '91 Williams** welcomed their second daughter, Carissa, on September 7, 2006. Carissa follows older sister Marena.

## IN MEMORIAM

The Honorable Robert L. Jacobs '35

Robert D. Hanson '42

J. Edward Kern '42

Irvin K. Jenkins '43

Robert J. Wharton '44

Doris Spangenburg Wing '46

Harvey H. Heilman '48

William T. Hare '53

Stanley M. Evans '54

Joseph L. Reynolds '55

John S. MacDermid '58

Vernon N. Fritchman '64

Dr. Philip K. Hensel '69

William B. LeCates '71

Julianne E. Hammond '75

Bernard A. Pfeiffer '75

## FRIEND

Professor Arthur Frankston

*The following alumni were inadvertently missed in the listing of 2005 Super Lawyers that appeared in our last edition of The Dickinson Lawyer*

Richard M. Goldberg '63

Howard M. Goldsmith '68

Jeffrey S. Gross '91

Candy Barr Heimback '85

Ronald L. Hicks Jr. '84

James L. Hollinger '60

Lori A. Kachmar '85

Edward B. McDaid '69

Peter M. O'Mara '92

Robert G. Sable '64

John W. Schmehl '78

Willis A. Seigfried '69

Eric B. Smith '97

Karen L. Steele '80

James A. Young '70

# CONSTRUCTION

*in progress at*

# UNIVERSITY PARK



**Silbane**  
KINSON SCHOOL OF LAW  
BIGLER ROAD  
DELIVERIES MUST CHECK  
SILBANE TRAILER



*View additional photos at  
[www.dsl.psu.edu](http://www.dsl.psu.edu)*



Lewis Katz '66



Pedro A. Cortés '99  
Secretary of the Commonwealth of Pennsylvania



The Law School celebrated the start of construction of our University Park building with a groundbreaking ceremony on Thursday, January 18.

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THE FACILITY WILL BE NAMED THE LEWIS KATZ BUILDING

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We are looking forward to hosting a groundbreaking ceremony in Carlisle in the near future!

The Dickinson School of Law  
The Pennsylvania State University  
150 South College Street  
Carlisle, Pennsylvania 17013

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