

TULANE UNIVERSITY LAW SCHOOL

TULANE

# LAWYER

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GROW  
STRONG

## THIS ISSUE

RESOLVING STATE LAW IN  
FEDERAL COURTS

SUMMER ABROAD

COMMENCEMENT 2005



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“With the help of loyal alumni  
School continues to grow as a

and strong friends, Tulane Law  
prestigious national institution.”

*Photography by William Guion*



# MAKE A DIFFERENCE

BY DEAN LAWRENCE PONOROFF

As we bring to a close yet another academic year, our 158th as an institution and my fourth as dean, I find myself reflecting back on the accomplishments during the past few years and the challenges that still lie ahead. Since July 1, 2001, we have witnessed a steady increase in the academic credentials of the entering class, culminating this year with a 1L class that is collectively the most qualified class to cross our threshold in that long 158-year history. During the same period of time, we also have made 10 new faculty appointments, including four women, one African-American and one Latino male. They have not only reduced appreciably the median age of our faculty, they also have added much-needed diversity as well as substantive expertise and greater depth in key areas of the curriculum, such as intellectual property, legal history, corporate and securities law and civil law.

We continue to expand on an already rich curriculum with several new course offerings, many of which focus on professional skills or involve an international and comparative perspective. We have seen bar passage rates among Tulane law graduates in our key bar-taking states continue to rise, including the highest pass rate in Louisiana for each of the last two administrations of the exam. Finally, while far from the last—and certainly not the definitive—word on the quality

of any school, the new *U.S. News & World Report* rankings released on April 1 reflected a rise for Tulane Law School of 15 places, putting us comfortably back into the “top tier.”

While pleased with all of these developments, we have no intention of resting on our laurels. We must continue to raise the profile each year of the entering class and we must continue to attract and then retain the best teachers and scholars. It is no secret that the key in both endeavors is allocation of greater resources to financial aid for students and research support for faculty.

This is where the “Promise and Distinction: Campaign for Tulane” enters the picture. As many of you already know, this is a \$700 million university-wide campaign that will run through June 30, 2008. The law school’s goal in the campaign is \$40 million, the bulk of which will go to permanent endowment. At the same time, however, it is the nature of campaigns that we sometimes become so mesmerized by the dollar goals, we neglect to articulate why these goals were set in the first place; why they are important. For Tulane Law School, the campaign priorities are simple and direct: to continue to improve the intrinsic quality of our instructional program for our students, to maintain a suitable and technologically advanced facility for doing so, and to

build on our already strong national and international reputation—a goal that redounds directly to the benefit of all of our alumni.

Our ongoing efforts to reach out to our alumni constituencies across the country and around the world have been rewarded with a renewed and growing level of interest and involvement. Many of you have discovered not only the great satisfaction that goes along with “giving back,” but also the benefits that inure directly to you by becoming actively involved in alumni events and activities. These include professional networking opportunities, educational advantages, and more. At the same time, however, some of you tell me that because you are unable to make a large contribution to the Law Annual Fund, you feel your support goes unnoticed and will not make a difference. With respect, I could not disagree more strongly. Participation at any level matters, and collectively can make an enormous difference. I support the Law Annual Fund every year because I believe in this institution. I ask each of you to join me and an ever-increasing number of your peers in becoming part of what I am convinced will be a very exciting future.

Since bringing back the *Tulane Lawyer* several years ago, we have strived to use these pages twice a year to (1) keep you abreast of the fast-breaking

*An alumni get-together held in April at the Seattle offices of Lane Powell brought Dean Ponoroff to the Great Northwest.*



*Dean Ponoroff with Melba and Moise Steeg (L '37) at the New Orleans alumni luncheon in February.*



*Dean Ponoroff applauds the official announcement of "Promise and Distinction—The Campaign for Tulane" at the home of Tulane President Scott Cowen. Local media were on hand to cover a series of campaign-related events that took place over a three-day period in March.*



developments at the law school; (2) celebrate the accomplishments of you, our alumni; (3) feature the contributions of our faculty to the legal literature, law reform, and the profession; and (4) provide you, through the Faculty Notebook, with interesting and useful information on topics of contemporary importance.

I think you will find that we have met our objectives again in this issue. Our feature story is one that is near and dear to my heart; namely, how alumni support

for students and faculty has enhanced the quality of the educational experience for our students. We also describe two new graduate degree programs instituted this past year, a project under which our students are arbitrating small claims court disputes, and our first environmental graduate reunion. Of course, we also have some photos from the happiest day of the year: commencement day!

I would close by thanking all of you, again, for everything you do for the law

school. I suspect I will be on the road even more than ever over the next couple of years and look forward to expressing that appreciation in person. Of course, if you make it to New Orleans before I make it to your town, please stop by the school to say "hello" and see some of the things I've been crowing about firsthand. Until then, Monica and I wish you and your families health and happiness.

# SUCCESS ABROAD

A NEW SITE IN ENGLAND STRENGTHENS THE LAW SCHOOL'S VENERABLE SUMMER ABROAD PROGRAM.

As faculty began to hunker down to grade papers and 3Ls eyed their imminent graduation, the numbers were looking good for the 2005 summer abroad program. "Enrollment is already up to the final totals we had last year," said Gary Roberts, the school's deputy dean who oversees international programs. "And we don't even have any justices."

Unlike last year, when Supreme Court Chief Justice William Rehnquist taught at the summer program in Cambridge and Justice Antonin Scalia taught in Spetses, Greece, there are no judicial "superstars" scheduled to teach this summer. Part of the reason for Roberts' positive forecast for a "near-record year" was the debut of a new program in London, which was already nearing full enrollment. Roberts added, however, that the early numbers also pointed to a strong interest from students in the Amsterdam program, which already had a waiting list of 20, and a healthy interest in all programs across the board. The law school also conducts summer abroad sessions in Berlin, Cambridge, Paris, Siena, Rhodes and Spetses. Roberts estimates that enrollments are typically composed of about 30 to 50 percent Tulane students.

Dan Posin, professor of law and director of the London program, says there are a number of factors contributing to the bright outlook. At the top of the list, of course, is location. "We have an attractive locale on Charterhouse Square,



Kim Posin

*A new program in international commercial law in London has been an attractive addition to the law school's palette of summer offerings.*

near the Barbican area of London and close to sites of the London Symphony and Royal Shakespeare Company."

The program, which focuses on international business, is supported through cooperation with the Centre for Commercial Law Studies of the University of London's Queen Mary Law School. Posin looks forward to a jolly good time with receptions and presentations given by some of London's world-class law firms and even a visit to the Inns of Court and the House of Lords.

Meanwhile, the Amsterdam program, which is headed by Herb Larson, an adjunct law professor at Tulane, is going (literally) gangbusters since changing its focus last year to international criminal law and international human rights.

Larson, whose practice is federal criminal law, implemented the international angle last year with great success

because it is relevant to today's students.

"Because of the war in Iraq, because of what is happening in Guantanamo Bay, because of the renewed emphasis on international agreements and an increased awareness of the notion of world community, I think students are becoming aware that these are important issues and this is about the only opportunity anywhere in the world to study these matters exclusively."

And again, location counts. Amsterdam is about a half-hour train ride from The Hague, the seat of international justice. Students sit in on meetings with prosecutors and defense attorneys as well as attend trial proceedings, while also attending lectures delivered by judges from international tribunals.

"Students have the opportunity to explore and be immersed in these institutions," says Larson.

## LAW STUDENTS HEAR SMALL CLAIMS CASES

In an effort to grow the perspective and professional experience of our pupils, Tulane Law School has entered into a joint venture with Orleans Parish Civil District Court to allow third-year law students to arbitrate small claims cases.

The new one-of-a-kind program allows New Orleans residents who have a small claims disagreement to plead their case before a panel of Tulane 3L students. At the end of the hearing, students make a final, binding decision and write an opinion of the case.

Paul Barron, professor of law, formulated the idea for the program during a conversation with First City Court Judge Charles Imbornone last summer.

"I was talking to the judge about an opportunity for students to be mediators [persons who help negotiate civil cases but do not make final decisions] in First and Second City Court," Barron said.

"The judge said what they really needed were arbitrators for small claims court. When he said that, it struck me that it might be something very interesting for third-year law students to do."

Though intrigued with the idea, Barron and Imbornone sought the opinion of the Louisiana Supreme Court on the legalities of third-year law students working as arbitrators. The court returned an opinion approving the move as long as the parties understand the arbitrators are law students. With the Supreme Court's blessing, Barron and more than 60 students participated in an all-day training session last October to learn court rules and procedures. By January, students began hearing cases.

In Orleans Parish Civil District Court, claims of \$3,000 or below are heard as small claims cases. Unlike cases above the \$3,000 limit, small claims cases cannot be appealed.

The new program appeals to both students and residents, Barron said. With the current court backlog, it might take six months before a case can go before a judge. Parties opting for arbitration before a student panel have to wait six



Paula Burch

*Although Professor Paul Barron and Assistant Dean Julie Jackson review all decisions, Tulane law students have the authority to arbitrate small claims cases on their own.*

weeks or less. Meanwhile, students fulfill their 20-hour pro bono service requirement while learning practical law skills from a different viewpoint.

"What's unique about this program is that students are deciders instead of representatives," said Barron. "It gives them a different perspective to be better advocates on the part of their clients. It gives them a different view of the law."

Cases are arbitrated by a panel of three students. One panel member is designated as panel chair, allowing him or her to make a final decision and write a brief opinion. The other panel members help deliberate and guide the decision process.

Barron and Julie Jackson, assistant dean for public interest programs, review the opinions and a city court judge signs the final decision. "Students have absolutely loved working the cases," Jackson said. "I've heard them say it was the best experience they've had in law school. They really understood how it was to decide a case."

Since January, student panels have

ruled on cases ranging from home owner/contractor disputes, lease disagreements, public and private housing settlements and employee wage discrepancies.

"Even in small claims courts, I think students have discovered that each case is still amazingly complex," Barron said. "They have to determine what's credible and what's not. It's a very challenging and interesting decision-making process."

The response from New Orleans residents who have pleaded their cases before the panel also has been positive.

"One of the things that I was concerned about was how plaintiffs and defendants, most of whom are older than the students, would react if they came to the hearing and saw three younger people acting as the panel," Barron said. "But they have treated them just like they would treat a judge."

The program is on track through this year into 2006, Barron said, and plans are to continue it as long as resources allow. In the future, Barron hopes to use the program to attract potential students to Tulane.

## FANTASIZING REALITY

In a provocative, moving, sometimes rambling presentation, law professor and social commentator Derrick Bell drew from Cold War history, contemporary political strategies, Ray Charles, social psychology and a keen insight into the frailties of human nature to paint a complex, often troubling picture of the status of blacks in America today.

The lengthy title of this year's Dreyfous Lecture in Civil Liberties and Human Rights was "Fantasizing Reality: Why *Brown* Failed, How Bush Won and the Necessity of Distinguishing Current and Future Dangers and Opportunities" and it still somehow failed to convey the scope of Bell's talk.

Bell began by noting that many commemorations of *Brown v. Board of Education* that took place over the last year were to some extent tainted because there was "so little to celebrate, so much to regret and even mourn."

He attributed the landmark ruling as much to foreign policy concerns that the government needed to disarm international accusations of discrimination as he did to the "fantasy" entertained by civil rights leaders who trusted that the "society and its courts that had relegated black children to segregated and horribly unequal schooling would change if we convinced the Supreme Court that such schools were unconstitutional."

Flirting with "heresy," Bell suggested that both black and white children might have been better served if the Court had determined to strictly enforce the "equal" part of the "separate but equal" standard rather than strike it down.

As it happened, said Bell, 15 years of fighting to get *Brown* enacted only led school boards to "close black schools, dismiss black teachers and principals and send black children to white schools (not the best) where they were often met with far more hostility than acceptance."

Referencing the writing of Georgetown law professor Michael



*Vice Dean Wendy Scott with law professor and Dreyfous lecturer Derrick Bell. A visiting professor at New York University Law School, Bell spent the early years of his career as a civil rights lawyer directly handling or supervising hundreds of school desegregation cases and was a member of the Harvard Law School faculty for more than 20 years.*

Seidmen, Bell noted that "once white society through its highest court was willing to declare separate but equal unlawful, the demand for quality as far as much of white society was concerned had been satisfied."

Applying the notion of fantasy to modern American politics, Bell suggested that what he sees as George Bush's unlikely reelection can be explained in part by the phenomenon that "those harmed by political policies may come to identify with and support those responsible for those policies."

Bell went on to note how Republicans skillfully evoked the fear of 9-11 and threat of future terrorism, while using social issues such as abortion, same-sex marriage and gun control to further the "fear of many that their view of the world was in jeopardy."

In offering this "non-partisan critique," Bell suggested the Democratic party had maintained political control in the early 20th century by making vague promises regarding needed social reform "while emphasizing their determination to

protect whites against 'liberal'—read black—threats to desegregate the schools and public facilities."

In conclusion, Bell said that it is essential for society to make the ongoing effort to "understand when we are speaking and acting and voting out of fear rather than faith."

Acknowledging that the system cannot be remade, Bell advised the students in the audience who plan to work for social change after graduating that they will be "hard pressed to do right within institutions thriving on wrong."

Work for good, he told them, not for reward, but because "it justifies the miracle of our existence as nothing else does.

"While we live," he said, "there is always a chance to do good."

*The George Abel and Mathilde Schwab Dreyfous Lecture in Civil Liberties and Human Rights took place in Weinmann Hall on April 21.*



## THEY TOOK IT TO THE SUPREME COURT—AND WON

Student attorneys, past and present, from the Tulane University Criminal Law Clinic convinced the Louisiana Supreme Court to overturn a law that placed some mentally ill defendants on probation for crimes for which they were never tried.

Brandy Sheely, a 2004 Tulane Law School graduate, and third-year Tulane student lawyer Candis Mitchell argued that imposing indefinite probation on criminal defendants found permanently incompetent to stand trial and not dangerous to themselves or others violated the Constitution. By subjecting their client, Shantell Denson, to indefinite probation for a crime for which she was never tried, argued Sheely and Mitchell, she was deprived of due process under the Louisiana and United States Constitutions.

Denson was found permanently incompetent to stand trial, and not dangerous either to herself or others. Nevertheless, she spent three years on probation and approximately 18 months in a women's prison because there was no room for her in an appropriate psychiatric facility. In an opinion released in

December 2004, the Louisiana Supreme Court held that the state should have instead instituted civil commitment proceedings or released her.

“This case illustrates how work done by student lawyers in our criminal law clinic can produce systemic change,” says Pamela Metzger, director of the clinic. “Cases handled by the criminal law clinic often defend the constitutional rights of the accused, and the Denson case is an example of how our work can result in improvements to the Louisiana justice system.”



*Brandy Sheely (left) and Candis Mitchell convinced the Louisiana Supreme Court that imposing indefinite probation on some mentally ill defendants was a violation of those defendants' constitutional rights.*

*James Lockhart III,  
deputy commissioner,  
Social Security  
Administration*



## AN INSIDER'S GUIDE TO SOCIAL SECURITY

James B. Lockhart III, deputy commissioner of the Social Security Administration, discussed the Social Security system, focusing on the current status of the Social Security system and what steps can be taken to make the system stronger.

The presentation took place on March 8 at Weinmann Hall and was hosted by the Tulane Federalist Society.

*Michael Balluff,  
Celeste Gauthier Balluff,  
Anne Gauthier, Kenneth  
Feinberg, Cherie Gauthier,  
Trenton Gauthier Balluff, and  
Dean Lawrence Ponoroff  
pose for a photo after the  
Wendell Gauthier lecture.*



## 9-11 COMPENSATION

Kenneth Feinberg, one of the nation's leading experts on alternative dispute resolution, held his audience spellbound during the second annual Wendell Gauthier Lecture by giving a fascinating account of his experience as the court-appointed special master for the 9-11 Victims Compensation Fund.

Feinberg began the lecture by poking gentle fun at Congress, which he said gave "one day of thought" in enacting legislation to create a no-fault compensation program for families who lost loved ones as well as individuals who were physically injured during the tragic events of September 11, 2001.

The law allowed victims of the terrorists attacks to avoid traditional means of litigation by laying out who was eligible for compensation and how to calculate compensation.

As special master, Feinberg said he was authorized to calculate economic loss and non-economic loss, subtract collateral resources such as life insurance, pension and 401-K plans and then exercise discretion to ensure that justice was done.

"That was my job," said Feinberg. "No right to appeal the awards. No right to go

to court. No right to ask Congress for help. No right to ask someone to review what the special master authorizes. There has never been any delegated power to one person quite like this statute."

According to Feinberg, 97 percent of eligible families came into the fund, totaling 2,880 families who lost loved ones and 2,500 victims of physical injury.

The average award for death claims was about \$2 million. The highest award was \$7.1 million to the family of a successful 33-year-old stockbroker. Physical injuries ranged from \$500 to a person who broke a finger at the Pentagon to \$8.6 million to a victim who sustained third-degree burns over 85 percent of her body.

Determining economic loss was among the most serious problems that Feinberg said he encountered.

"How do you separate fact from speculation?" he asked the audience and went on to tell the story of a mother of a second-year law student who was working at a World Trade Center firm. The mother was adamant that he should base her compensation not on what her daughter was making at the firm at the time of her death but on what she would be making six years hence, when she without a doubt would be a partner in the firm.

Also troublesome were the cases of the 65 foreign families who had lost loved ones on 9-11. During a meeting held in London, Feinberg explained to the families that they were eligible for a compensation package averaging around \$2 million. He was subsequently peppered with questions that included whether or not family members had to give up their citizenship, lose their passports or travel to the United States to receive the money. After being reassured that none of these conditions had to be met, the typical reply from each family was, "We'll get back to you."

"They thought it had to be a trick," said Feinberg. "They all eventually came into the fund once they realized there was no trick."

Far and away the most difficult aspect of his job, said Feinberg, was the intimate exposure to the raw emotions of family members. During the 33 months he acted as special master, Feinberg said he conducted 916 face-to-face interviews with loved ones of 9-11 victims.

"People would come in with videos, tapes, photo albums, high school diplomas, ribbons, medals.... They would say, 'Mr. Feinberg, I lost my husband of 22 years. I want you to watch a video of our wedding.' Or, 'Mr. Feinberg, I want you to see my daughter's baby pictures.'"

It wasn't about the money, said Feinberg. "It was about psychological closure—venting, disappointment, faith. You would listen and listen to their tales of woe."

*The Wendell Gauthier Lecture took place in Weinmann Hall on March 14.*



Law students Jami Vibbert, Jeffrey Brooks and Brooke Bennett, with symposium keynote speaker Francis Bok, who recounted his harrowing tale of being forced into slavery as a child.

## TRADING PEOPLE

In 1986, 7-year-old Francis Bok was captured during a militia raid in Sudan and was forced into slavery. For 10 years, he endured daily beatings and was fed rotten food. He was then thrown in jail by security forces. In 1999, the United Nations resettled Bok to the United States. The 26-year-old ex-slave recounted his experiences during the keynote address of an intensive three-day

program on global human trafficking held in April at Tulane Law School.

The symposium, "Trafficking in Persons: Global Crisis, Global Perspective," culminated months of work by several organizations at Tulane Law School and the University's World Affairs Forum. More than 30 panelists participated from law schools and agencies from as far away as India.

Panels touched upon issues involving

international, immigration, refugee and asylum law, the investigation and prosecution of slave cases, rehabilitation and prevention. Award-winning film director David Feingold held a question and answer session following a special screening of his *Trading Women*, a documentary investigating the trade in girls and women from the hill tribes of Asia into the Thai sex industry.

## EXPANDING THE INTERNATIONAL GRADUATE PROGRAM

With two new degree programs, a spate of international events and a milestone to celebrate in the near future, international graduate studies at Tulane are growing in both depth and scope.

"This year we started the LLM program in American business law that is similar to most of our other specializations in that students take a block of courses in their specialization," said Lloyd Bonfield, professor of law and associate dean for international graduate studies. "The American business law students also take a research and writing program taught by the director of graduate legal studies, Elizabeth Calderon."

The law school also inaugurated a two-year PhD program. "This year we have two students who have completed their first year's work and are beginning their dissertations," said Bonfield.

Professor Bill Lovett is supervising the dissertation of Shuntaro Inoue, who is working on Japanese banking law, and professors Martin Davies and Christopher Cotropia are supervising the dissertation of Se-II Ko, who is working on Internet commerce.

According to Bonfield, three students have been admitted into the program beginning in the 2005-06 academic year.

In order to reconnect with international alumni, the school has organized a variety of international alumni receptions, said Bonfield. "We met with alumni in Mexico City in September, in Tokyo in October and in Brussels and London in December," said Bonfield.

Alumni events are planned for Amsterdam on July 27, Berlin on July 29 and Paris on December 1.



Bonfield said the school also is planning to celebrate the Diamond Jubilee of graduate education at Tulane with a reunion of all LLM alumni on the weekend of April 21, 2006. In concert with this event is a program entitled "Transnational Legal Practice in the 21st Century."

For more information on the program, e-mail Lloyd Bonfield at [lbonfield@law.tulane.edu](mailto:lbonfield@law.tulane.edu).

*BBC investigative reporter and author Greg Pabst addresses the conference.*



ENVIRONMENTAL  
LAW CONFERENCE  
JOINS 25TH REUNION  
OF TULANE PROGRAM

Led by the Tulane Environmental Law and Policy Institute and the student-run Environmental Law Society, the law school hosted its annual Conference on Science, Policy and Law this spring. This year, the event was partnered with a special 25th reunion of the Environmental Law Program.

Eric Dannenmaier, institute director, calls the conference “a sort of Jazz Fest on current issues” with four tracks of panels to choose from over two days, plus good New Orleans food and local music at the evening socials.

The spring conference this year drew 360 participants from across the country, including students from companion schools in New Orleans, Hammond, Thibodaux and Baton Rouge.

Keynote speakers included attorney Anthony Oposa from the Philippines, whose landmark cases established the rights of future generations in the Philippines and a growing number of other nations.

Attendees also were treated to another keynoter, BBC investigative reporter and author Greg Pabst, a strong proponent of sustainable energy policies and no fan of current American policies on the same. Neither minced words.

A highlight of the sessions, however, was a concurrent reunion of environmental law alums, who came from points as distant as Portland and the Northeast, and as near as the Loyola Law School faculty across the street.

Tulane has graduated more than 1,500 students grounded in environmental law since the early 1980s. More than half of them have qualified for the Environmental Law Certificate, a curriculum-within-the-curriculum inaugurated in 1992. Another 100 have graduated with the Masters in Energy and Environmental Law, about evenly divided between U.S. and international attorneys. They are now in practice on every continent, in every state back home and in every

federal agency with environmental responsibilities.

“We experimented with an open-ended format,” said Oliver Houck, professor of law. “Just put them in a room and asked them to talk and it worked—creative ideas, differences of opinion, lots of back and forth, like a good seminar class.”

On Saturday evening, the program commandeered the swamp exhibit at the Audubon Institute with drinks in hand, alligators in the near distance and the acoustics of Tony Green and Gypsy Jazz.

“In a couple of years, we will do it again,” said Houck. “We have such a diverse body of grads out there. They carry our brand, and we have so much to learn from them.”



*Oliver Houck, professor of law, and Eric Dannenmaier, director of the Environmental Law and Policy Institute, look on as attorney Anthony Oposa signs a copy of his compendium of environmental law that he donated to the program.*

## MIXING LAW AND MEDICINE

A textbook can hardly prepare a young lawyer or doctor for a domestic violence case. A single incident can have profound repercussions for the victim, children, relatives, and colleagues, to name just a few. A new mini-course offered at Tulane Law School mixed law and medicine to shed light on the complex issues involved.

The course, a collaboration between Tulane's Law School and Medical School, allowed law and medical students to share their expertise while tackling a fictitious domestic violence scenario.

"The course ["Domestic Violence and the Law"] was designed to give the students an understanding of the dynamics of a domestic violence relationship and its impact on the victims and children, the role of a physician in a legal case, and the civil litigation of a domestic violence case under Louisiana law," said Bernadette D'Souza (L '92), a lecturer at the Tulane Domestic Violence Clinic.

In their mock case study, a victim of domestic violence ended up in the Charity Hospital emergency room, having sustained a severe bodily injury. The case went to trial with the law students playing the role of attorneys and the



*From left: law student Margi Joshi reviews case materials with medical students Jonathan Nass and Mark Viron.*

medical students standing in as treating physicians and medical experts.

Margi Joshi is a 3L pursuing a joint degree in law and social work and enrolled in the class because she was interested in how healthcare and legal professionals interact. The class allowed her to experience the process of working with doctors as expert witnesses and consultants on a domestic violence case. "I

learned the important role that medical testimony plays in securing the rights of victims of domestic violence, and how to successfully use that testimony to advance my client's case," said Joshi.

Additional sessions included a site visit to Orleans Parish Civil District Court, the Orleans Parish Coroner's Office, New Orleans Police Department precincts and a battered women's shelter.

## HEADLINERS

"This might really be a mortal blow to the development of hockey as a major professional sport. And who knows? It might open the doors for a new hockey league to spring up."

—Professor Gary Roberts on the National Hockey League's cancellation of its season due to a labor dispute, on National Public Radio's "All Things Considered," Feb. 14, 2005.

"This is a very historic decision for the board.... The important thing is maximizing the return to the shareholders, the owners of the company. It's their welfare that should be maximized, not the company's welfare."

—Professor Dan Posin in the March 30, 2005 issue of the *Wall Street Journal* on the fiduciary duty of the board of MCI Inc. as it considered offers from Verizon and Qwest Communications.

"...a jurist experienced in complex multidistrict product liability litigation... a reputation for being fair-minded and balanced. He's a Clinton appointee with Yale and Tulane law degrees, with an even demeanor, and, I think, an open mind."

—Professor Vernon Palmer describing Eldon Fallon (A&S '60, L '63), the federal judge selected to hear all pending Vioux product liability lawsuits, to the Associated Press, Feb. 16, 2005.

"This idea has been oversold. There is no way covenant marriage can do the things it promises... but if people want it as a nice little symbol, that's OK."

—Professor Jeanne Carriere on covenant marriages designed to strengthen marital bonds by making it more difficult to separate or divorce. *Chicago Tribune*, Feb. 12, 2005

# OBTAINING DEFINITIVE STATE LAW RULINGS IN FEDERAL CASES

BY JONATHAN NASH



*Jonathan R. Nash joined the Tulane Law School faculty as an associate professor in 2002 and was named the Robert C. Cudd Professor of Environmental Law in 2004. He researches and teaches in the fields of environmental law, property, law and economics, and civil procedure. He obtained his LLM from Harvard Law School and his JD magna cum laude from New York University School of Law. Prior to joining the Tulane Law faculty, he was a Research Fellow at the New York University Center on Environmental and Land Use Law and a Harry A. Bigelow Fellow and Lecturer in Law at the University of Chicago Law School.*

Federal courts are often faced with questions of state law. First, federal law may implicate state law. Second, state law claims are often brought along with federal claims pursuant to the federal courts' supplemental jurisdiction. Third, and perhaps most prominent, many state law claims are heard in federal court by virtue of the federal courts' diversity jurisdiction. And, recent legislation—such as the Class Action Fairness Act of 2005<sup>1</sup>—may further augment the frequency with which federal courts confront state law issues by expanding the reach of federal court jurisdiction to include certain cases in which the parties are only minimally diverse—i.e., cases in which some plaintiffs and some defendants hail from the same state.

How should federal courts resolve issues of state law with which they are faced? *Erie Railroad v. Tompkins*<sup>2</sup> and its progeny dictate that, to avoid the “twin evils” of forum shopping and inequitable administration of the laws, federal courts should endeavor to resolve questions of state law as would the high court of the state whose law is at issue. If the state high court has recently decid-

ed a case that resolves the issue, the federal court's chore is easy (relatively at least). To the extent, however, that the issues of state law are novel, the task is more difficult. The federal court necessarily will have to engage in “divination” or “guesswork.” Among the factors that the federal court may take into account in undertaking such an analysis are signals from state high court cases, rulings from lower state courts, state court dicta, opinions of the state attorney general, and silence of the state legislature. At bottom, the federal courts must predict, as best they can, how the state high court would rule on the issues.

Thus, even where the contours of state law are relatively clear, the federal court can at best offer an “*Erie* guess” as to proper outcome under state law. The only way to be sure that the outcome is in fact correct is to afford the state courts the opportunity to resolve the pending issue. There are two procedural devices that make that possible—abstention and certification.

Abstention involves the federal court not proceeding with the case before it in order to allow the courts of the state to



hear a case, the resolution of which will resolve the state law question pending before the federal court. There might be a state court case already pending, or the federal court might abstain in order to allow the parties to bring and argue a new suit in state court. The Supreme Court has recognized different forms of abstention that may be applicable in cases in which state law questions arise. Foremost among these is Pullman abstention doctrine,<sup>3</sup> under which a federal court may abstain in favor of a round of litigation in the state court system if resolution of the state law claims might obviate the need for the federal court to confront novel issues of federal law. Pullman abstention is not available, however, in cases in which no issue of federal law lurks;<sup>4</sup> in other words, the mere presence of a novel question of state law is insufficient to justify Pullman abstention.

The Supreme Court has recognized other forms of abstention that may apply in federal cases in which there are only questions of state law and where the state law questions at issue go the heart

of state sovereignty.<sup>5</sup> But these forms of so-called “Erie-based abstention”<sup>6</sup> are of quite limited applicability.

As a threshold matter, certification of a question of state law will be an available option to a federal court only if the state whose law is at issue offers a certification procedure for the federal court to exercise. A federal court will not ask a state high court to respond to any questions of state law if there is no procedure under state law that authorizes certification.<sup>7</sup> Most states, as well as the District of Columbia and Puerto Rico, offer federal courts the option to certify questions of state law to the state high court.<sup>8</sup> Many states also allow lower federal courts and courts of other states to submit certified questions to their highest courts.<sup>9</sup> Not every state that has a certification procedure allows every federal court to certify questions to its state high court, however.

Assuming certification is an available option, one or more of the parties to the federal case may move the federal court to invoke certification, or the federal court may choose that option *sua sponte*. Either way, the federal court has final discretion over whether or not to employ certification.

A federal court will consider numerous factors in deciding whether to exercise its discretion and certify questions of state law to a state high court. Perhaps the most important factor is the degree to which state law on the issue in question is unclear and difficult to predict: A federal court likely will not certify a question of state law if the answer to it is clear or easy to anticipate. A federal court also might choose not to certify a question of state law that it feels either is unlikely to recur, or does not raise significant issues of public policy. Further, the posture of the parties might affect a federal court’s willingness to certify questions of state law: Courts may be less likely to honor requests from parties who chose to invoke federal jurisdiction. Thus, for example, some courts have indicated that they will be less receptive to certification requests from a plaintiff who opted to bring a diversity case in federal court, from a defendant who, after receiving an adverse ruling from a state trial judge, removed the case to federal court, or from an appellant who received an adverse ruling below and for the first time seeks certification on appeal.

In determining whether to invoke certification procedure, federal courts also will balance the benefits certification would bring against the delay inherent in using the procedure. In particular, while certification in theory can be invoked at any stage of a case, a court likely will consider less favorably a tardy request for certification than a request made early in a proceeding.

It is the federal court—and not the parties—that invokes the procedure by promulgating and sending to the state high court a certificate that sets forth the questions of state law for which answers are sought. The certifying court normally includes a statement of the background facts necessary to give the certified questions context.

A state high court has discretion to accept or reject the certifying court's questions. Assuming it chooses to accept the certification, the state high court proceeds in accordance with any governing statutes or rules. State courts dealing with certified questions engage in no fact-finding. Certification applies only to questions of law, and state courts have treated the notion that the certifying federal court will have made all necessary ancillary factual findings as a prerequisite to proper certification.

If the state court determines that it can resolve the controversy by responding to only a portion of the certified questions, thereby obviating the need to address the remaining questions, the state court may so inform the certifying court and decline to proceed further. Along similar lines, the state court has discretion to rephrase the questions if it feels that that would be appropriate.

The state high court's involvement ends when it returns to the certifying court answers to the question or questions certified. Federal courts were initially uncertain as to whether a state court's response to a certified question bound the certifying court with respect to the question certified. Thus, the Fifth Circuit, in a 1963 case, allowed for the possibility that answers given by state high courts in response to certified questions could be either "merely advisory and entitled, like dicta, to be given persuasive but not binding effect as a precedent, or . . . credited under *Erie-Tompkins* doctrine and the rule of stare decisis as though it were the ratio decidendi of a decision made in adversary litigation before the court."<sup>10</sup> Today, although statements to the contrary are not extinct, the federal courts are generally in agreement that they are bound to follow state court responses to certified questions.<sup>11</sup> The predominant view shared by federal courts is that *Erie* and its progeny mandate that they follow the answers rendered by state high courts in response to certified questions. At the same time, a few opinions reach the same result, but based on the notion that such state high court opinions are to be followed under the "law of the case" doctrine.

Editor's note: This essay draws upon two articles Jonathan Nash has written on related subjects: "Examining the Power of Federal Courts to Certify Questions of State Law," 88 *Cornell L. Rev.* 1672 (2003), and "Resuscitating Deference to Lower Federal Court Judges' Interpretations of State Law," 77 *S. Cal. L. Rev.* 975 (2004).

## NOTES

- 1 Class Action Fairness Act of 2005, Pub. L. No. 109-2 (signed by President George W. Bush on Feb. 18, 2005) (amending the federal judicial code to allow jurisdiction in federal court over certain class actions based upon minimal diversity).
- 2 304 U.S. 64 (1938).
- 3 The doctrine draws its name from the Supreme Court case that introduced it, *Railroad Commission v. Pullman Co.*, 312 U.S. 496 (1941).
- 4 See *Meredith v. Winter Haven*, 320 U.S. 228 (1943). It remains somewhat unclear whether the presence of a novel subconstitutional issue of federal law is sufficient to justify *Pullman* abstention. See *Propper v. Clark*, 337 U.S. 472 (1949).
- 5 See *La. Power & Light Co. v. City of Thibodaux*, 360 U.S. 25 (1959); *Kaiser Steel Corp. v. W. S. Ranch Co.*, 391 U.S. 593, 594 (1968) (per curiam); see also *Colorado River Water Conservation Dist. v. United States*, 424 U.S. 800 (1976).
- 6 I borrow the term from Bradford R. Clark, "Ascertaining the Laws of the Several States: Positivism and Judicial Federalism After *Erie*", 145 *U. Pa. L. Rev.* 1459, 1517 (1997); see id. at 1517-24 (discussing *Erie*-based abstention).
- 7 See *Planned Parenthood Ass'n of Kansas City v. Ashcroft*, 462 U.S. 476, 493 n.21 (1983).
- 8 A list of the various state enactments on certification is found in 17A Wright et al., supra note 7, § 4248, at 167 n.30 (2d ed. 1988 & Supp. 2002). The procedures of many states are based on the Uniform Certification of Questions of Law Act, the current version of which is found at 12 *U.L.A.* 67, 67-98 (1996). 17A Wright et al., supra note 7, § 4248, at 167.
- 9 See 17A Wright et al., supra note 7, § 4248, at 168 & nn.32-33 (2d ed. 1988 & Supp. 2002).
- 10 *Sun Ins. Office, Ltd. v. Clay*, 319 F.2d 505, 509 (5th Cir. 1963) (footnotes omitted), rev'd on other grounds, 377 U.S. 179 (1964).
- 11 17A Wright et al., supra.



**Adam Babich** published “The Apolitical Law School Clinic,” 11 *Clinical L. Rev.* 447 (2005), and “A Reply To Wizner and Solomon’s ‘Law As Politics,’” 11 *Clinical L. Rev.* 481. In March, he appeared as part of a panel on environmental justice sponsored by the Young Leadership Council’s “One Book One New Orleans” program.

**Felice Batlan** participated in the conference of the American Legal History Society in Austin where she chaired a panel titled “The Moral Judiciary in the Gilded Age.” She also took a trip to New York University last month where she successfully defended her dissertation “Gender in the Path of the Law: Public Bodies, State Power, and the Politics of Reform in Late 19th-Century New York City.”

**Lloyd Bonfield** has received a Fulbright Fellowship to teach at Humboldt University in Berlin during the summer 2006 term. In February, he and Judge Martin L. C. Feldman (L ’57) lectured to University of Zurich Master’s students on “An Introduction to American Law.”

**Alan Childress** participated in a New Orleans panel on appellate review with Judge Rhesa Barksdale of the U.S. Fifth Circuit, as part of Loyola Law School’s 20th annual Fifth Circuit Appellate Law and Practice seminar. In February, he spoke in Washington, D.C., on “The Death of Garde: Americanization of Strict Liability for Things,” at a Tulane/Georgetown conference on comparative strict liability.

**Michael Collins** published an article for a University of Richmond symposium on

Judicial Independence, entitled: “Judicial Independence and the Scope of Article III—A View From the Federalist,” 38 *U. Richmond Law Review* 675 (2004). Also last summer, Collins’ article “October Term, 1896—Embracing Due Process,” was published in vol. XLV *American Journal of Legal History* 71. Last fall, he served as a presenter at the Fourth Circuit Judicial Clerk’s Conference discussing recent developments in constitutional tort litigation and habeas corpus.

**Christopher Cotropia** published “Patent Claim Interpretation and Information Costs” in the spring 2005 issue of the *Lewis & Clark Law Review*. The article was presented at the tenth annual Lewis & Clark Law School Fall Business Law Forum in early October 2004 and was entitled “*Markman v. Westview Instruments: Lessons from a Decade of Experience*.” Cotropia’s article “‘After-Arising’ Technologies and Patent Scope” also was published in the spring 2005 intellectual property issue of the *New York University Annual Survey of American Law*. He presented the article at the Works-In-Progress Intellectual Property Colloquium held at Boston University School of Law in September 2004. An article entitled “‘Arising-Under’ Jurisdiction and Uniformity in Patent Law” was reprinted in the 2004 issue of the *Intellectual Property Law Review*. Cotropia also participated in a panel discussion entitled, “The Arts, Intellectual Property and the Internet,” in November 2004 at Tulane Law School. He published “Counterclaims, the Well-Pleaded Complaint, and Federal Jurisdiction” in the fall 2004 issue of the *Hofstra Law Review*.

**Martin Davies** published “Litigation Fights Back: Avoiding the Effects of Arbitration Clauses in Charterparty Bills of Lading” in 35 *J. Mar. L. & Com.* 617 (2004). He also appeared on a panel co-sponsored by the Section on Law and Computers and the Section on Defamation and Privacy at the Association of American Law Schools in San Francisco in January. The topic was “Privacy and Defamation Law in the Digital Age.” In addition, Davies’ book review of Maisie Ooi’s book *Shares and Other Securities in the Conflict of Laws* (Oxford, 2003) was published in 5 *Melb. J. Int’l L.* 502 (2004).

**Ray Diamond** gave two keynote speeches on the “Challenge, Resistance, and Change: the Road to and from *Brown v. Board*.” The addresses were given at a conference entitled “New Orleans Public Schools in the Shadow of *Brown v. Board of Education*” at Southern University in New Orleans and at Georgia State University’s 50th anniversary commemoration of *Brown v. Board*. Diamond also was a participant in a Liberty Fund colloquium on “The Rule of Law and Freedom” in January. In addition, Diamond presented “*Brown v. Board: Lessons from the Past, Cautions for the Future*,” at the Business Ethics Lecture Series, Loyola University-New Orleans School of Business, February 2005; and was the keynote speaker at *Brown v. Board and the American Way*, Loyola University-New Orleans School of Business Breakfast Roundtable, February 2005.

**John Eason** published “Private Motive and Perpetual Conditions in Charitable

Naming Gifts: When Good Names Go Bad” 38 *U.C. Davis L. Rev.* 375 (2005).

**Joel Wm. Friedman** spoke on “The Developing Law of Sexual Orientation, Transgender Discrimination and Related Issues” at the annual Multi-State Labor and Employment Law Seminar in Tucson, Ariz. in May. In April, Friedman gave a half-day seminar on “Handling Employment Discrimination Claims,” at the Orientation for Newly Appointed U.S. District Judges in Washington, D.C., and spoke on “Recent Developments in Employment Discrimination Law” at the annual workshop for U.S. Magistrate Judges, in Santa Fe. In March, Friedman spoke on “Recent Developments in Employment Law,” at the annual conference of the U.S. Fourth Circuit Court of Appeals, in Williamsburg, Va. In December 2004, he made two CLE presentations. He spoke on “Recent Developments in Employment Discrimination Law” at Tulane’s CLE By the Hour and at the annual CLE Conference sponsored by the Louisiana Trial Lawyers Association.

**Bob Force** presented a paper entitled “Nonpecuniary Damages After *Scarborough v. Clemco Industries*: The Legacy of *Miles v. Apex Shipping Corp.*” at the 3rd Judge Alvin B. Rubin Conference on Maritime Personal Injury Law held at Louisiana State University Law Center in March.

**David Gelfand**, in October 2004, presented a paper on “Financing Local Government in the 21st Century Within the Constraints of the 18th Century Federal Constitution,” at the Hastings College of Law annual Cities on the Cutting Edge Conference, in San Francisco. In November, Gelfand argued an appeal in the Texas Court of Appeals, attempting to defend a substantial jury verdict in favor of the widow of a pretrial detainee who died in the El Paso jail because of constitutionally inadequate medical treatment. The case is *Dorado v. City of El Paso*. In December, Gelfand also argued an ACLU

case in the U.S. Court of Appeals for the Eleventh Circuit on behalf of the publisher of a Key West newspaper who was arrested for printing truthful information about an investigation of police misconduct (*Cooper v. Dillon*). Gelfand also participated in a conference entitled “From *Plessy to Brown*,” sponsored by Tulane Law School and Amistad Research Center, where he served as a Supreme Court justice in the reenactment of the *Brown v. Board of Education* arguments. At the Association of American Law Schools annual meeting in January, Gelfand gave a presentation on “The Roles of the Parties and the Courts in Districting and Redistricting to Remedy Racial Vote Dilution.” He also served as a moderator and organizer for the panel on “Reasonable Attorney’s Fees: A Crucial Mechanism for the Enforcement of Civil Rights.” Gelfand was also elected chair of the AALS Civil Rights Section for 2005.

**Steve Griffin** chaired two panels at the Association of American Law Schools’ annual meeting workshop on democratic governance, one on “Popular Democracy” and the other on “Gay Rights and Democracy.” Also, Griffin published “Constitutional Theory As I Found It” in 13 *The Good Society* 25 (2004), a journal published by the Committee on the Political Economy of the Good Society at the University of Maryland.

**Catherine Hancock** joined other invited First Amendment scholars from the U. S., Canada, Australia and Great Britain, at a forum on defamation law that was sponsored by Vanderbilt, William & Mary, the University of Louisville, and New York Law Schools. The forum was held at the New York University Law School in December 2004. Hancock presented a paper entitled “The Origins of the Public Figure Concept in First Amendment Defamation Law.” She made a presentation based on this paper to the Tulane faculty in April 2005. Hancock also gave a presentation entitled, “Miranda in Canada,”

at the annual meeting of the Southeastern Association of Law Schools in Kiawah, S.C., in July 2004.

**Günther Handl** delivered the following presentations: “Marine Protected Areas on the High Seas and the Law of the Sea,” Eighth International Wildlife Law Conference, Tulane Law School, Nov. 19, 2004; “International Security Post-Iraq: The U.S. and the Role of the United Nations,” Chuo University Faculty of Law, Tokyo, Nov. 26, 2004; “Shifting Judicial Perceptions on International Law as Part of the U.S. Legal System,” Gakushi-Kaikan, Tokyo, Dec. 10, 2004.

**Jancy Hoeffel** was a participant in the Criminal Procedure Discussion Forum at Brandeis Law School in November 2004. It was a roundtable discussion of two topical issues with 15 criminal procedure scholars from around the country. As a result of the forum, her paper, “Prosecutorial Discretion at the Core: The Good Prosecutor Meets Brady,” was published in the 109th volume of the *Penn State Law Review*. Hoeffel also gave presentations on recent trends and cases in evidence, capital litigation and criminal procedure at the Louisiana Judicial College on evidence and capital procedure in March 2005 and at the Louisiana Judicial College on Criminal Procedure in April 2005.

**Oliver Houck** served as panel chair for a discussion on the Clean Water Act at the American Law Institute/American Bar Association Conference on Environmental Law, in Washington, D.C., in February. Houck also delivered the keynote address at the Black Law Student Association Regional Conference, held in New Orleans in February. He was a speaker at a New Orleans conference on “The ‘Ethics’ of Taming Nature” in March.

**Jane Johnson** was the recipient of Tulane University’s Excellence in Experiential Teaching Award. Johnson, who has been

on the law faculty for 25 years and served as the director of the Civil Litigation Clinic, retired at the end of this academic year.

**David Katner** co-presented “Implications of the MacArthur Juvenile Competence Study” with Robert Schwartz, executive director of the Juvenile Law Center of Philadelphia, at the 27th annual National Children’s Law Conference in September. Katner also presented “Confidentiality of Juvenile Mental Health Records in Dependency Proceedings,” based on his article in the *William & Mary Bill of Rights Journal*, which was reprinted in the 2004 edition of the *Children’s Law Manual* series, “Representing Children, Families, and Agencies in Child Welfare, Juvenile Justice, Custody, and Adoption Proceedings.”

**Marjorie Kornhauser** presented “Choosing a Tax Rate Structure in the Face of Disagreement” at a March workshop at a University of Toronto Faculty of Law as well as the UCLA Law School symposium “Rethinking Redistribution: Tax Policy in an Era of Rising Inequality.” Kornhauser’s article “Educating Ourselves Toward a Progressive (and Happier) Tax—A Commentary on Griffith’s Progressive Taxation and Happiness” (45 *B.C. L. Rev.* 1593) was reprinted in 106 *Tax Notes* 1069. Her study regarding gender disparity in legal academia has

recently been showcased on two prominent websites: (1) Jurist: Law School Buzz (<http://jurist.law.pitt.edu/lawschool-news/>), under the March 21 entry; and (2) TaxProf Blog ([http://taxprof.typepad.com/taxprof\\_blog/2005/03/kornhauser\\_on\\_e.html](http://taxprof.typepad.com/taxprof_blog/2005/03/kornhauser_on_e.html)), under the March 17 entry.

**William Lovett** gave the lead presentation at an international banking conference sponsored by Pacific McGeorge Law School, Sacramento, Calif, in November, 2004. This paper, “Grand Bargain or Grand Illusions: Strains in Trade, Finance, and Security,” will be published later this spring in their *International Lawyer*. Meanwhile, the final manuscript of Lovett’s *Banking and Financial Institutions Law*, 6th edition, was published in June 2005.

**Glynn Lunney** gave two presentations in February: “Patents and Growth: Empirical Evidence from the States,” George Washington University School of Law; and “Direct and Indirect Stock Price Reactions to Appellate Patent Decisions,” Georgetown Law Center. He also filed an amicus brief in the *Grokster* case that went before the Supreme Court.

**Katherine Mattes** convened and ran a statewide policy forum in Louisiana on the incarceration of mentally incompetent criminal defendants.

**Pamela Metzger** lectured at the Louisiana Judicial College on Evidence and Capital Procedure in March. Her topic was hearsay and the Confrontation Clause after the United States Supreme Court’s opinion in *Crawford v. Washington*. She also taught at Louisiana State University’s Advanced Criminal Advocacy Seminar in March. Again, the topic was *Crawford v. Washington* and the future of the hearsay rules. She also taught at the April Louisiana Judicial College on Criminal Law and Criminal Procedure and at the Federal Defender conference for the Western and Middle Districts of Louisiana.

**Jonathan Nash** had two papers selected for presentation at the 2005 annual meeting of the American Law and Economics Association, held in May at New York University. The topics were “Packaging Property: The Effect of Paradigmatic Framing of Property Rights” and “The Law and Economics of New Source Review” (co-authored with Richard Revesz).

**Vernon Palmer** was one of a handful of Tulane University faculty to receive the Provost’s Award for Excellence in Research and Scholarship. Dean Lawrence Ponoroff presented him with the award in March. Palmer also delivered a paper at the Georgetown-Tulane comparative law conference in February in

*In the spring the law school held a faculty reception for five of its members who had published books during the preceding year. Pictured here, books in hand, are (from left) Professors Dan Posin, Keith Werhan, Ray Diamond, Bob Force and Vernon Palmer.*



Washington, D.C. The focus of the conference was Palmer's book, *The Boundaries of Strict Liability in European Tort Law* (Straempfli, Carolina 2004). Carolina Press also released Palmer's other new book, *The Louisiana Civilian Experience* (2005), which presents essays critiquing codes and code revision in Louisiana. In April 2005, Palmer was appointed visiting professor to Fribourg University in Switzerland to deliver lectures on comparative products liability.

**Rafael Pardo** presented "Undue Hardship in the Bankruptcy Courts: An Empirical Assessment of the Discharge of Educational Debt" in March at the Tulane-Loyola Junior Faculty Workshop.

**Dean Lawrence Ponoroff** published an article entitled "Principles of Preclusion and Estoppel in Bankruptcy Cases," co-authored with Judge Christopher Klein, in Volume 79 of the *American Bankruptcy Law Journal*.

**Dan Posin** addressed the New Orleans Bar Association on the subject of "SEC Criminal Prosecutions After Enron," in December 2004. He also was interviewed on background by CNBC's "Dateline" regarding the Disney shareholders litigation concerning the hiring and firing of Michael Ovitz and was quoted in a Nov. 17 *Christian Science Monitor* story on that litigation. In November, Posin gave a two-hour CLE presentation on the subject of professionalism and ethics in negotiation.

**Gary Roberts** published an article entitled "The Scope of the Exclusive Right To Control Dissemination of Real-Time Sports Event Information," 14 *Stan. L. & Pol. Rev.* 167 (2004), and the third edition of his casebook, coauthored with Paul Weiler of Harvard Law School, entitled *Sports and the Law* (The West Group 2004). He made a presentation on "Legal Implications of Two Recent Events in U.S.

Sports—The BALCO Steroid Scandal and the NBA Player-Fan Brawl in Detroit, Mich." at an IMG-sponsored conference on sports law in London in May. Also, in May, Roberts delivered a presentation on "Sports Law Developments Over the Past Year" in May to the Sports Lawyers Association annual conference and his sixth annual lecture at Kings College, London, in March, where he analyzed current legal issues from the comparative standpoint of United States versus European sports law. Also in March, he led a day-long workshop for the legal staff of the European Soccer Federation in Nyon, Switzerland, on "American Approaches to Modern Sports Law Issues." Roberts was appointed to a three-year term on the NCAA's Academics Eligibility and Compliance Cabinet, and was the principal drafter for Conference USA's ad hoc committee (which he chaired) to establish a new constitution and by-laws.

**Wendy B. Scott** was a panelist at the Amistad Center & Tulane Law School's commemoration of *Brown v. Board of Education*. She also co-chaired the SE/SW Scholars of Color Conference hosted by Tulane Law School in May and was keynote speaker at a prayer breakfast of the Black Law Students Association's Southern Regional Conference.

**Stacy Seicshnaydre** delivered a lecture in December 2004 on "Finance and Housing Transactions: Predatory Lending and Redlining," for a Continuing Legal Education Seminar sponsored by the Louisiana Commission on Human Rights. Also in December, Seicshnaydre delivered a lecture entitled "Fair Housing Law and Disability" at a Continuing Legal Education Seminar sponsored by AIDS LAW in New Orleans.

**Ed Sherman** published the 4th edition of Marcus, Redish, & Sherman, *Civil Procedure: A Modern Approach* (West

Thomson 2005); "Compensation Under a Trust Fund Solution to Asbestos Claims: Is It Really Fair," 34 *The Brief* (ABA Torts Trial & Insurance Practice Section) 48 (2005); "Consumer Class Actions: Who Are the Real Winners?" (Godfrey Distinguished Visiting Professor Lecture), 56 *Me. L. Rev.* 223 (2004); "Plagued by Concerns over Federalism, Jurisdiction and Fairness," Symposium on Complex Litigation, 37 *Akron L. Rev.* 589 (2004); and *Report of the ABA Task Force On Asbestos* (2004) (Edward F. Sherman, Reporter), that was submitted to the House of Delegates of the American Bar Association in February. Sherman also gave the following papers or presentations: "The Class Action Fairness Act of 2005" at the American Bar Association's Teleconference on Class Actions, April 12, 2005; "Class Actions: A View from the Experts" at the Advanced Consumer Litigation Course of the National Association of Consumer Advocates (San Antonio, Texas, Feb. 10, 2005); "Seminar on Swiss Companies Litigating in U.S. Courts" of the Europa Institute (University of Zurich, Feb. 8, 2005).

**David Snyder** gave a January presentation entitled "Metamorphoses in the Law of Contract: Mythological Lectures" at the Federalist Society Faculty Conference in San Francisco. Also, he was elected chair of the Association of American Law Schools' Section on Contracts at the annual meeting in San Francisco in January. In March he was elected to the Council of the Louisiana State Law Institute.

**Keith Werhan** published *Freedom of Speech* (Praeger Press) in December 2004. He also gave a talk titled "The Place of *Brown v. Board of Education* in American Constitutional Jurisprudence," at the From *Plessy* to *Brown* conference sponsored by the Amistad Research Center.

A LAW SCHOOL IS A COMPLEX THING. FACULTY, STUDENTS, ADMINISTRATORS AND STAFF GIVE LIFE TO CLASSROOMS, COURSES, CLINICS, CENTERS AND PROGRAMS. IT'S A PLACE WHERE FLESH AND BLOOD MEET BRICKS AND MORTAR AND THE RESULT IS SOMETHING SPECIAL: AN ENVIRONMENT OF IDEAS, A PLACE TO WORK, ROOM TO THINK. A WORLD IN WHICH YOU GROW STRONG.

In the following pages we will look at how several gifts to Tulane Law School have catalyzed this magical mix of people and place. You will read about how Thanassi Yiannopoulos, Eason-Weinmann Chair of Comparative Law and director of the Eason-Weinmann Center for Comparative Law, has helped draw international attention to Tulane Law School not only through his scholarship but also through his ability to assemble prestigious programs and conferences under the auspices of the center. You'll also read about the William Ray Forrester Professorship in Public and Constitutional Law, which both honors a legendary law dean and promotes the cutting-edge scholarship of its holder, Adeno Addis. Finally, you'll get to know law student Daniel Carr, a Louisiana native who came to Tulane with assistance from the Jack C. Benjamin Scholarship Fund, which is dedicated to students of outstanding academic accomplishment who are residents of Louisiana.

As Tulane Law School joins the university in the "Promise and Distinction" fundraising campaign, the gifts that enabled this chair, professorship and scholarship are a testament to not only the alumni support for Tulane Law School's students and faculty, but a reminder that the school's past and future are so eloquently, lovingly intertwined.



GROW  
STRONG

# COMPARATIVELY SPEAKING

BY ARTHUR NEAD

## EASON-WEINMANN CHAIR OF COMPARATIVE LAW

Tulane Law School has long been noted for its superb scholarship in the field of comparative law. Situated in Louisiana, an outpost of civil law in a country dominated by common law, and in the city of New Orleans, a gateway for international trade, Tulane has always offered instruction in both civil and common law.

In 1949, a little more than half a century ago, studies in comparative law at Tulane were encouraged through the creation of the Institute of Comparative Law.

Then, in 1981, the study of comparative law at Tulane was given a giant boost when John Giffen Weinmann (A&S '50, L '52) and his wife, Virginia Eason Weinmann, endowed the Eason-Weinmann Center for Comparative Law and the Eason-Weinmann Chair of Comparative Law. Their generous gift has been instrumental in establishing Tulane as a preeminent international center for comparative law studies.

"My life has been heavily influenced by Tulane ever since I started my educational process at Newcomb Nursery School," says Weinmann, a former chair of the Tulane Board. "I went to Tulane undergraduate school, then to Tulane Law School, which I enjoyed very much. I took a lot of civilian courses—civil law—courses."

Weinmann's career is crowned with two appointments by President George H.W. Bush. In 1989, he was named U.S. ambassador to Finland and in 1991, he

was appointed chief of protocol to the Bush White House.

His career began, however, on a local stage as a successful attorney in New Orleans. In addition to his practice with the law firm of Phelps Dunbar, he was general counsel for the Times-Picayune Publishing Co.

"I did a great deal of editing of highly libelous articles," says Weinmann. "To me, it was just like editing a law review article, which I had done for the *Tulane Law Review*.

"Most lawyers end up hopefully doing something that they enjoy," says Weinmann. "My practice was general—I did a good amount of mortgage work. Mortgage work means real estate work, and real estate gets deeply into our civilian history—our civil code. The thought occurred to Virginia and me that there needed to be encouragement of the study of civil law, and particularly to have a study of comparative law, with both the common law and the civil law in Louisiana. We thought Tulane was a natural place for that."

The Weinmanns took their concept to Paul Verkuil, then dean of the law school. In due course, the Eason-Weinmann Center for Comparative Law and the Eason-Weinmann Chair in Comparative Law were established at Tulane.

Thanassi Yiannopoulos, an internationally respected scholar of civil and admiralty law who has taught at Tulane since 1979, is the

Eason-Weinmann Chair and Professor of Comparative Law and has been director of the Eason-Weinmann Center for Comparative Law since 1993.

"The main purpose of the Eason-Weinmann Center is to promote comparative law, and it does this in two ways," says Yiannopoulos.

First, since its establishment in 1981, the center has organized numerous national and international conferences, gathering the foremost names in the world of comparative law.

"In the year 2000 we had a worldwide centennial congress of comparative law. The first congress of comparative law had taken place in Paris in 1900," says Yiannopoulos. "One hundred years later the centennial congress took place here in New Orleans under Eason-Weinmann sponsorship."

In 2002, the center sponsored the first worldwide congress on mixed jurisdictions. "This means countries that have a system that partakes of the civil and the common law. Louisiana is typical, but there are also Scotland, Puerto Rico, Quebec, Sri Lanka, and others," says Yiannopoulos. Participants at the conference voted to meet every four years, with the next conference to be held in 2006 in Edinburgh, Scotland.

Yiannopoulos has been active in organizing conferences around the United States and abroad as well as in New Orleans.

In 2004, the center co-sponsored



*John and Virginia Weinmann; at right, Thanassi Yiannopoulos*



with the University of Edinburgh a conference in Edinburgh, Scotland and also had a conference in Odessa, Ukraine, co-sponsoring it with three universities in Odessa. This year, the center co-sponsored, with the law schools of four universities in Puerto Rico, a conference in San Juan. “That was tremendous exposure for Tulane, for Louisiana and for the Eason-Weinmann Center,” says Yiannopoulos.

Currently, a conference in St. Petersburg, Russia is being planned for May 2005. This event is co-sponsored by the Eason-Weinmann Center and by three universities in St. Petersburg.

Another international aspect of the center’s activities is its summer programs in comparative law, usually held in Greece, which have featured renowned guest teachers, such as Supreme Court Justice Antonin Scalia, in addition to professors from Tulane as well as other universities.

Besides its vigorous sponsorship of conferences, the Eason-Weinmann

Center also brings distinguished visitors to Tulane every year to deliver the Eason-Weinmann Lecture in Comparative Law.

The list of Eason-Weinmann lecturers is essentially a “who’s who” of the world of comparative law, including Symeon C. Symeonides, dean of Willamette University College of Law. “He’s No. 1 in the United States in the field of conflicts of law,” says Yiannopoulos.

Each of the Eason-Weinmann Lectures in Comparative Law is published in the Tulane Law Review.

“The lectures are wonderful for the scholars who give them,” says Weinmann. “They get a chance to visit New Orleans. It’s wonderful for Tulane—we’re known all over the world for our comparative law work. And it’s great for the students—they are exposed to people they might not otherwise meet. I think every international name in the world of comparative law has been in New Orleans for the lectures.”



“THE LECTURES ARE WONDERFUL FOR THE SCHOLARS WHO GIVE THEM,” SAYS WEINMANN. THEY GET A CHANCE TO VISIT NEW ORLEANS. IT’S WONDERFUL FOR TULANE—WE’RE KNOWN ALL OVER THE WORLD FOR OUR COMPARATIVE LAW WORK.”

# THE LANGUAGE OF DEMOCRACIES

BY NICK MARINELLO

WILLIAM RAY  
FORRESTER  
PROFESSORSHIP  
IN PUBLIC AND  
CONSTITUTIONAL LAW

William Ray Forrester is something of a legend at Tulane Law School, making his mark as an administrator, a teacher and as a scholar known as an international authority on constitutional law. He's something of a legend at a few other schools, too, for in his incredible 65-year career, he served as dean at three law schools, taught at more than a dozen institutions and was an active member of a law faculty until two months before his death at age 89.

Graduating from the University of Chicago Law School in 1936, Forrester practiced law in Chicago for five years before arriving at Tulane in 1941 as a member of the faculty. He left in 1949 for a three-year stint as dean of Vanderbilt Law School. In 1952, Forrester returned to Tulane Law School, this time to be its dean. He remained at Tulane for 11 years, and left in 1963 to become dean at Cornell Law School, where he would serve in that capacity for a decade before stepping down to become the Robert Stevens Professor of Law at Cornell. In 1978, at the age when most folks are retiring, he joined the faculty at Hastings College of Law in San Francisco, where he taught for another 23 years.

"My dad thought very highly of the legal profession and thought that it was an honorable calling," says William Forrester (L '68) of his father. Forrester,

a partner in the New Orleans firm of Lemle Kelleher and an adjunct instructor at Tulane Law School for 29 years, recalls long discussions about the latest Supreme Court decisions around the family dinner table.

In 2001, Forrester, along with his mother, Celine, and siblings David, Catherine and Stephen made a gift to Tulane Law School to create the William Ray Forrester Professorship in Public and Constitutional Law. The professorship was established the next year, with the law faculty recommending law professor Adeno Addis as the first to hold the title of William Ray Forrester Professor of Public and Constitutional Law.

"We think that the professorship helps improve and support the faculty by attracting and holding top-notch professors," says Forrester,

Addis, who holds a BA and LLB from Macquarie University in Australia, and an LLM and a JSD from Yale University, has published extensively in the areas of American constitutional law, communications law, human rights, and jurisprudence. Like William Ray Forrester, Addis is also interested in constitutionalism on an international stage and his current work focuses on comparative constitutional law in the

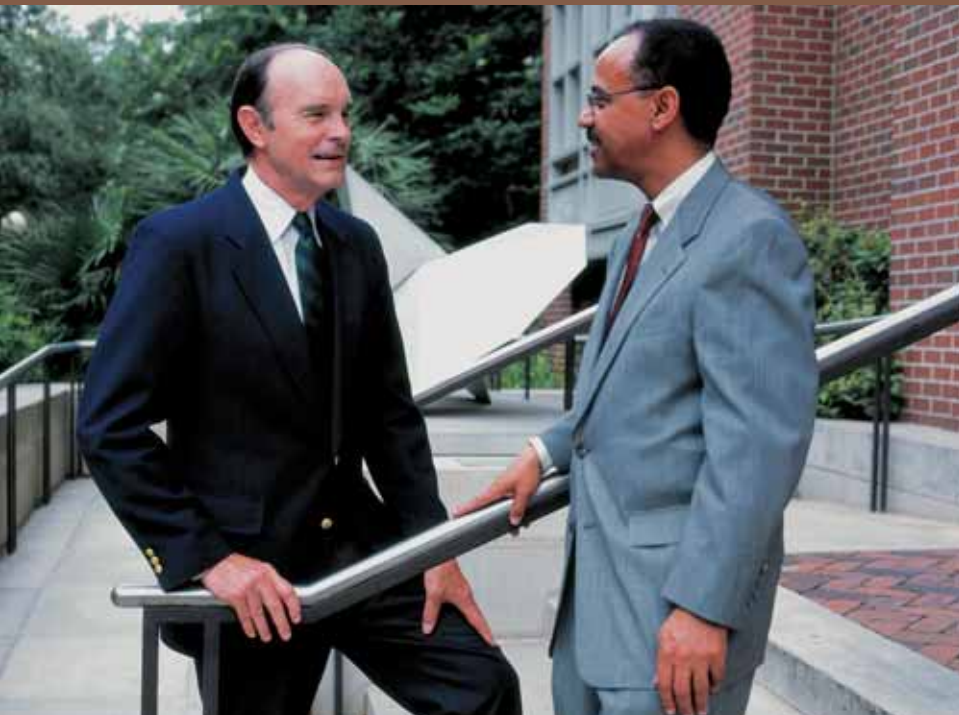
area of foreign affairs.

"I am looking at how federal systems in various countries deal with the issue of what role, if any, subnational units (such as states and provinces) should be allowed to play in areas touching on foreign affairs," says Addis. "In the age of globalization, every subnational unit attempts to play some role in areas that have traditionally been denominated as foreign affairs and hence the exclusive domain of national governments," Addis continues. "The distinction between domestic and external affairs is continually getting blurred. How should constitutions of federal systems respond to this phenomenon?"

Addis says he is also working on a project that explores how deliberative democracy can be constitutionalized in multilingual states.

Addis observes: "Deliberative democracy has been advocated by distinguished constitutional and political theorists as a superior way to conduct public affairs and to resolve issues of common concern, but those advocates never even ask the question as to what happens when the very means of deliberation—language—is the source of the conflict as is the case in many countries where the issue of which language is to





*William Forrester and Adeno Addis*



be the official language—the language of deliberation—is the most divisive issue.”

One may be able to deal with that issue if there are two or three languages in the country by making them all official languages—the languages of deliberation—but that clearly cannot be done when there are 30 or even 80 languages in a nation-state as it is the case in many developing countries. Addis says that his work is “an attempt to devise an institutional structure that reconciles the demands of deliberative democracy and commitments to linguistic pluralism.”

Funding from the Forrester professorship directly supports research projects such as those mentioned above by allowing Addis to attend conferences and make presentations in the U. S. as well as in other countries.

“It also clearly says something about one’s scholarship,” admits Addis. “It means that, from the point of view of your benefactors and the faculty that nominates you, that your scholarship is valued.”

Addis stays in touch with the Forrester family through regular updates of his activities and research. “It is important to keep them informed,” he says. “They

do have an interest in the scholarship supported by the professorship.”

“Professor Addis has great expertise in constitutional law and he is eminently qualified,” says Forrester. “And he teaches the same course my father taught for years.”

Forrester, whose own practice focuses on business and securities, litigation, professional liability and complex litigation, also serves as a reporter for the Louisiana Law Institute and has written numerous changes to the Code of Civil Procedure. He will hit the 30-year mark as a teacher next fall when he begins a new session of his Louisiana Civil Procedure course. During that time, he’s developed an excellent reputation in the classroom and, in 1992, received the Monte Lemann Teaching Award as outstanding adjunct professor.

“Over the years I’ve seen the quality of Tulane students remain strong,” says Forrester. “They have a strong desire to be good legal practitioners.”

With nearly 30 years under his belt, Forrester has already eclipsed his father’s tenure at Tulane and, like the elder man, seems eager to return to the classroom in the upcoming year, advancing an honorable calling.

“[THE PROFESSORSHIP] CLEARLY SAYS SOMETHING ABOUT ONE’S SCHOLARSHIP. IT MEANS THAT, FROM THE POINT OF VIEW OF YOUR BENEFACTORS AND THE FACULTY THAT NOMINATES YOU, THAT YOUR SCHOLARSHIP IS VALUED.”

# STAYING NEAR AND DEAR

BY HEATHER HEILMAN

## JACK C. BENJAMIN SCHOLARSHIP FUND

**D**aniel Carr was committed to staying in New Orleans long before he committed to a law school. He was born and raised in New Orleans and earned his bachelor's degree in English from the University of New Orleans. He worked in restaurants while doing some graduate work in creative writing and considering doctoral programs in literature. The idea of being an English professor appealed to him.

"But the reality of that life wasn't all I thought it would be," he said. Chances of an academic career would have meant leaving the city he loves, and he didn't want to do that.

That's when he started thinking about law school. He was 30 years old and looking for a productive career. The law offered a profession that could be practiced honorably, that would make good use of his writing skills, and most importantly, would allow him to make a good living right here in his hometown.

He only applied to law schools in Louisiana and was accepted to all of them. He was offered full scholarships to other schools. While Tulane couldn't give a full scholarship, it offered enough assistance to make his attendance practical.

"I wouldn't have gone here if I hadn't gotten a scholarship," he said. "It would have been a huge burden."

Part of Carr's award came from the Jack C. Benjamin Scholarship Fund,

which was established in 2002. In fact, Carr is just the kind of student Jack Benjamin (A&S '48, L '50) was thinking of when he stipulated that the scholarship should go to residents of Louisiana with a demonstrated need for financial assistance.

Benjamin is himself a native of New Orleans. As an undergraduate, he attended Tulane on scholarship. He was drafted and served in the army, then decided to attend law school. The G.I. Bill paid for the first year, but he relied on a scholarship from Tulane to get through the last year.

Since then, he's built a successful career as a partner in Gainsburgh, Benjamin, David, Meunier & Warshauer, LLC. He's served Tulane Law School in many capacities, including as a member of the dean's advisory board and the advisory board of the Maritime Law Center, and on the law school development committee. His two children both graduated from Tulane Law School.

"Tulane is very near and dear to my heart," he said.

His late wife, Emily Benjamin, initiated the Jack C. Benjamin Scholarship Fund as a way of commemorating her husband's 75th birthday and honoring his service to the law school, the legal community and New Orleans.

"I felt strongly that the scholarship should be for Louisiana residents.

For years I've been trying to get more students from Louisiana to attend the law school," Benjamin said.

Carr, who will be a 3L in the fall, is glad he chose Tulane. For him, it's the best of both worlds—he gets to stay in New Orleans while meeting, befriending and networking with students and faculty from all over the country and the world.

"That's something I didn't experience as an undergraduate, and I think those opportunities would have been limited at the other schools I considered," Carr said. "I'm happy with my choice. Tulane has been worth the difference in tuition to me."

He's been successful in school. In his second year he was elected senior articles editor of the *Tulane Law Review*.



*Jack C. Benjamin and Daniel Carr*

“I FELT STRONGLY  
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FOR YEARS I’VE  
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MORE STUDENTS FROM  
LOUISIANA TO ATTEND  
THE LAW SCHOOL.”

In his third year he plans on fulfilling his public service requirement and hopes to serve as a legal writing fellow.

While he describes the workload as “brutal,” he also says that law school has been really kind of fun, at least sometimes.

“It’s been invigorating. The years between college and law school, I was living life and learning but I wasn’t getting a lot done. So this has been an eye-opener for me in terms of realizing the productivity I’m capable of. Of course, there’s always something that’s not getting done and a lot of things you want to do but you can’t manage. But I think most people would agree that there’s an element of fun to it, though it might not seem like it at all times.”

Carr has served as summer associate at two commercial litigation firms in New Orleans and will likely go to work for one of them after graduation.

During his first year, he had the chance to meet Jack and Emily Benjamin and express his thanks for helping him to attend Tulane. He’s glad he had a chance to express his gratitude to Mrs. Benjamin, who died in the spring of 2004, not long after their meeting.

At the age of 77, Jack Benjamin is still active in his career and his work on behalf of Tulane. He plans to remarry this summer. His new bride is a New Orleanian and a former student of Newcomb College, whom he first dated way back in 1948.



TULANE LAW SCHOOL'S SHARE IN THE UNIVERSITY'S \$700 MILLION PROMISE AND DISTINCTION CAMPAIGN IS \$40.25 MILLION. STRATEGIC PRIORITIES INCLUDE ENDOWMENTS FOR FACULTY CHAIRS AND PROFESSORSHIPS, STUDENT SCHOLARSHIPS, AND SPECIAL CURRICULUM AND PROGRAM ENDEAVORS. SUPPORT IS ALSO NEEDED FOR A NEW BUILDING ADDITION AND CAPITAL IMPROVEMENTS, AS WELL AS INCREASED UNRESTRICTED DOLLARS TO THE LAW ANNUAL FUND.

### STRENGTH IN NUMBERS

A key emphasis of Tulane's Promise and Distinction campaign is that all gifts, regardless of amount, are recognized and appreciated. While it is vital for the Law School to secure leadership-level donations that advance our outlined campaign priorities, it is also critically important for alumni to participate each year in the Law Annual Fund. Not only do additional dollars provide the Law School with the financial resources needed to compete against peer institutions, but alumni giving statistics are also symbolic of how confident our alumni feel about their alma mater. This, in turn, sends a powerful message of credibility about the value of a Tulane Law School education to prospective employers, foundations, and even plays a role in some of the external rankings. To the right is a class year list indicating the percentage of alumni giving to the Law School since Tulane initiated the "silent phase" of its campaign in 1998.

### CLASS OF '79 APPROACHES GOAL

The members of the Tulane Law School Class of 1979, in recognition of their 25th law school reunion, have been working to create an endowed merit-based scholarship at the law school. The scholarship drive was spearheaded by law professor Paul Barron, whose first year on the faculty coincided with the 1L year of this class. Because of this, Barron has maintained a close relationship with many members of this class. When he realized the 25th reunion was approaching, he led an effort to raise a substantial gift for the law school. Wayne Greenberg (L '79) agreed to help in this effort. Between them they contacted a group of class members who would become founding contributors. They then leveraged these gifts to inspire other members of the class to contribute. According to Barron, at the time the *Lawyer* went to press, 42 members of the Class of '79 have raised \$70,350 toward its scholarship goal.

### CAMPAIGN DONOR PARTICIPATION

Year	% Rate	Year	% Rate
1933	50.0%	1969	25.2%
1934	50.0%	1970	27.7%
1935	42.9%	1971	25.0%
1936	33.3%	1972	21.5%
1937	77.8%	1973	29.6%
1938	33.3%	1974	18.8%
1939	12.5%	1975	18.0%
1940	33.3%	1976	26.3%
1941	16.7%	1977	24.0%
1942	12.5%	1978	23.0%
1943	0.0%	1979	33.0%
1944	33.3%	1980	20.9%
1945	33.3%	1981	18.6%
1946	37.5%	1982	15.0%
1947	36.7%	1983	13.9%
1948	22.2%	1984	14.9%
1949	57.1%	1985	19.0%
1950	46.0%	1986	15.5%
1951	51.0%	1987	13.7%
1952	34.2%	1988	11.7%
1953	26.7%	1989	13.2%
1954	37.5%	1990	11.0%
1955	20.8%	1991	11.2%
1956	26.4%	1992	12.7%
1957	39.0%	1993	10.8%
1958	57.9%	1994	11.8%
1959	49.3%	1995	9.2%
1960	32.3%	1996	9.0%
1961	26.9%	1997	10.1%
1962	16.7%	1998	8.2%
1963	16.0%	1999	7.8%
1964	25.0%	2000	9.1%
1965	30.4%	2001	8.6%
1966	31.5%	2002	9.0%
1967	21.8%	2003	5.8%
1968	20.5%	2004	2.4%



The Class of 1979 at its 25th Reunion



## CAMPAIGN PRIORITIES

TULANE LAW SCHOOL HAS IDENTIFIED THE FOLLOWING PRIORITIES AS TARGETS FOR STRATEGIC GROWTH WHERE YOUR FINANCIAL SUPPORT WILL BE MOST EFFECTIVE:

### STUDENTS

- Provide competitive financial aid packages to attract the highest quality student body and decrease student-debt burden
- Enhance the 1-L experience to foster greater student affinity
- Strengthen the career advancement resources offered by the Law Career Development Office

### FACULTY

- Increase the size and diversity of the faculty
- Increase the number of endowed chairs and professorships
- Enhance compensation, incentive and reward structures
- Elevate the intellectual leadership through faculty workshops, visiting speakers program, and informal discussions of works in progress

### PROGRAMS

- Develop curricular initiatives that mirror evolving trends in the legal profession
- Enrich existing strengths (environmental law, international & comparative law, admiralty & maritime law, civil law, and sports law) and encourage new interdisciplinary collaboration with faculty and students of other Tulane schools and colleges (such as in the areas of clinical education, health care, and intellectual property)
- Enhance programs that provide public service and professional education

### FACILITIES & SERVICES

- Maintain John Giffen Weinmann Hall as a first-class, state-of-the-art educational facility
- Expand alumni relations initiatives through enhanced communication, services and benefits

## CAMPAIGN FUNDING GOALS

### ENDOWMENT

- Student scholarships \$15.5 million
- Faculty chairs & professorships \$10 million
- Centers, Institutes & Clinics (Sports Law; Domestic Violence; Applied Trial Advocacy) \$8 million
- Technology and Library \$750,000

LAW ANNUAL FUND \$5 million

### CAPITAL

- anchor gift for Law School building addition \$1 million

## EXPECTED OUTCOMES

- Continual improvement of the quality of the entering 1L class
- Enhanced external reputation and rank
- Greater ability to recruit and retain expert faculty
- Lower student / faculty ratio
- Stronger endowment to reduce dependency on tuition dollars
- Additional space designated to support operational growth
- Engaged alumni who are involved and invested in the success of Tulane Law School

## MAKE A GIFT

To make your gift to Tulane Law School, please visit our website at <http://www.tulane.edu/~giving/makegift.shtml>, call the Office of Alumni & Development (504.862.8886), or use the enclosed return envelope found in the center of this publication. Thank you.



## AN EVENING OF DISTINCTION

Tulane Law alumni turn out for the opening gala of the "Promise and Distinction" campaign.

From left: John Koerner (L'69), Darryl Berger (L'72) and Louellen Berger, James Nicset (L'67) and David Edwards (L'72), Pam and Wayne Lee (L'74), Tulane President Scott Cowen and Bruce Feingerts (L'75), Mac Hancock (L'72) and Craig Mitchell (L'96)

## CHRIS TOBIN LEADS OUTREACH TO ALUMNI

Only five weeks into his new job at Tulane Law School and Chris Tobin already knew the lay of the land—literally. “I’m just glad I didn’t buy a new car,” he joked, referring to the city’s notorious strut-busting potholes.

Tobin joined the law school in February, filling the newly created position of associate dean for alumni and development. “Dean Ponoroff wanted to have an office that married fundraising with alumni relations,” said Tobin, who previously was the director for major gifts at Emory University’s Goizueta Business School. “I firmly agree that these two functions should be mutually interdependent for this department to succeed.”

At press time, Tobin was still in the middle of staffing the office. Ellen Brierre, the law school’s longtime director of alumni affairs and Angela Latino-Geier, recently appointed director of development services, will continue working to strengthen alumni communications and help advance the school’s campaign efforts. Additionally, the team will be joined by Brad Smith, senior development officer, who signed on with the law school in May to lead the major gift fundraising activities. Tobin says he is still looking to fill the position of alumni and development officer who will help grow the Law Annual Fund through the “Fellows Program” and the National Firm Initiative, as well as create new reunion and class giving opportunities.

“From an alumni and development standpoint, our challenge is that we have many alumni who may not have felt as meaningfully connected to the school as they should have or could have been,” said Tobin. “We need to proactively build a compelling case and explain why the current ‘Promise and Distinction’ campaign is an opportune time to re-engage



*The alumni and development team:  
From left,  
Annetta Ewell,  
Angela Latino-Geier,  
Brad Smith, Ellen  
Brierre, Chris Tobin.*

and support both the law school and the university.”

According to Tobin, developing interpersonal relationships is essential in achieving the office’s goals. “We will be setting up events and visiting alumni around the nation to update them on the status of the school, detail our strategies and priorities for the future and ask for their feedback and assistance. In addition to this office, other university officials such as President Scott Cowen and Dean Ponoroff are consistently traveling to meet our alums. However, in order to build upon these efforts we also need volunteer leadership from the alumni to contact their fellow graduates and help get them involved.”

Tobin said he wants to encourage the alumni to continue utilizing their law school after graduation. “The law school can contribute to the lives and careers of its graduates through such valuable assets

as our continuing education courses, career development benefits, various networking opportunities and the vast array of intellectual and educational resources that exist here.”

Finally, Tobin added that he hopes to “alert them to why this is a place worthy of their investment. And I don’t simply mean the investment via a checkbook. While philanthropy is certainly critical to the school’s success, we will also be encouraging folks to take the time to participate in other areas such as attending reunions, helping to recruit our students and coming back to school to speak to classes and witness firsthand the energy here.”

In between visiting alumni around the country and dodging potholes in New Orleans, Tobin said he looks forward to enjoying the cultural amenities of the city with his wife and son. In some ways, he said, he’s like an incoming student setting his sights on the adventure ahead.

## CLASS NOTES

## 1950

**JACK C. BENJAMIN SR.** (A&S '48) received the 2004 Weiss Award for "exceptional civic and humanitarian contributions" to the people of the New Orleans area. Benjamin, a partner in his law firm since 1958, serves as president of the Judicial Excellence Foundation, a nonprofit agency that seeks ways to improve Louisiana's judiciary. He is a board member of the Louisiana Center for Law and Civil Education, the Louisiana Organization for Judicial Excellence, the New Orleans Bar Foundation and the Tulane Law School Dean's Advisory Board. In addition to his judicial interests, Benjamin has long been active on the executive committee of the Archbishop's Community Appeal, of which he is past chairman. He is board vice president of Court Appointed Special Advocacy, an agency that advocates in court for abused or neglected children. He also is board vice chairman of Covenant House and a board member of the Metropolitan Crime Commission, the Jewish Endowment Foundation, the Lowenberg Family Foundation and the Tulane Emeritus Club.

## 1952

On Jan. 9, U.S. District Judge **PETER BEER** (B '49) received the Justice William Brennan Jr. Award from the University of Virginia School of Law. The award, which honors vigorous participation and leadership in the national trial advocacy seminars at the school, was the 24th since its founding in 1980. Beer recently completed his 25th year as judge for the Eastern District of Louisiana, having been appointed by President Jimmy Carter in 1979. He is presently on assignment to sit on the U.S. 6th Circuit Court of Appeals in Cincinnati, Ohio.

**DAVID J. CONROY**, an attorney with the firm of Milling Benson Woodward, was selected to be listed in the 2005-06 edition of The Best Lawyers in America.

## 1959

**CHARLES W. LANE III**, a senior partner in the firm of Jones, Walker, Waechter, Poitevent, Carrere & Denegre, received the 2004 Arceneaux Professionalism Award at the 80th annual dinner meeting of the New Orleans Bar Association last November. This award, bestowed in memory of former New Orleans Bar Association president James C. Arceneaux III, (L '70) is awarded to one whose practice has exemplified the highest levels of integrity, honor and civility. Lane served as chair of the Louisiana State Bar Association's antitrust section from 1982-84. He is a life member of the Louisiana Bar Foundation and has served as an advisor to the Tulane Law School Trial Advocacy program. He has been a member of the American Law Institute for more than 25 years and is a Fellow of the American College of Trial Lawyers. Lane also has served the community, as director for the Council for a Better Louisiana, Blue Cross Blue Shield of Louisiana, the International House, and Metrovision.

## 1961

**PHILLIP WITTMANN** was awarded the The American Inns of Court's 2005 Professionalism Award for the Fifth Circuit. Presented annually in participating federal circuits, the award honors a senior practicing judge or lawyer whose life and practice display sterling character and unquestioned integrity, along with dedication to the highest standards of the legal profession. Wittmann is the chair of the management committee of

the New Orleans firm of Stone Pigman Benjamin Walther Wittmann, LLC.

## 1962

**WILLIAM A. PORTEOUS III**, a partner at the firm of Porteous, Hainkel and Johnson, is the 2004 recipient of the Distinguished Maritime Lawyer Award, given annually by the New Orleans Bar Association's Maritime and International Law Committee to a member who is a highly respected by his peers and who contributes significantly to the local admiralty bar. During his more than 40 years as a trial lawyer, Porteous has concentrated in the areas of maritime and environmental law, particularly in connection with the offshore oil and gas industry. His practice includes a broad range of civil, admiralty, environmental, torts, products liability, aviation, insurance coverage, reinsurance and commercial matters. Additionally, he has litigation experience in bankruptcy, administrative, real estate, oil and gas, successions, taxation and corporate matters. Porteous has been an adjunct professor of law at Tulane for more than 20 years, teaching courses on flagging, vessel finance and documentation. He was on the faculty of the ABA National Appellate Practice Institute and is a member of the Louisiana State Law Institute. He is active in the American Bar Association, the Louisiana State Bar Association, the New Orleans Bar Association, the Maritime Law Association of the United States, and numerous other professional and civic organizations. He is married to Sylvia Todd Porteous, and they have two children.

## 1963

**JAMES A. CHURCHILL** has joined the New Orleans office of Jones Walker as special counsel, where he will focus

on general business and corporate matters with an emphasis on clients in the food industry. Prior to joining Jones Walker, Churchill was senior vice president, general counsel and secretary of Ventura Foods.

### 1965

**RALPH C. McCULLOUGH** has been named provost of Charleston School of Law. He has retained his position as managing partner of Finkel & Altman of Columbia, Charleston and Georgetown, where he has been charged by the U.S. Bankruptcy Court with handling the disposition of failed Carolina Investors and

its parent, HomeGold Financial. He also has a history in academia, including service as a faculty member from 1968 to 2002 at the University of South Carolina School of Law, where he was assistant dean from 1970 to 1975. The Charleston School of Law is a new venture, opening as the state's second law school in August 2004.

**ELLIS PAILET** (B '61), an entertainment lawyer in New Orleans, is one of the organizers of the newly created Motion Picture Association of Louisiana, a coalition of producers, technicians, financiers and attorneys

formed to represent Louisiana's burgeoning movie and television production industry. Also in the coalition is **WILLIAM D. FRENCH '98** of Louisiana Production Capital.

Michigan Supreme Court Justice **ELIZABETH WEAVER** will resign her post in October 2005. She has served on the court since 1994, previously serving on the Michigan Court of Appeals and as a probate judge in Leelanau County. In 1999, she became chief justice of the court after Republicans achieved their first majority in a generation.

## ZEALOUS ADVOCATES

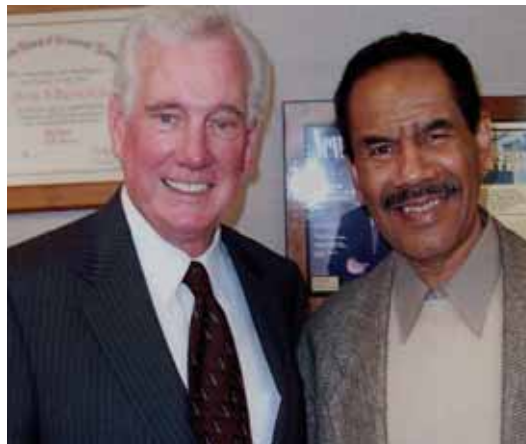
Lesser lawyers might have tired of the fight, but for two Tulane Law School alums, long battles on behalf of their clients proved to be energizing.

Julian Murray (L '64) spent 21 years pursuing freedom for a high-profile client whose own celebrity seemed to derail the pardon process. Juliet Yackel (L '92) spent 12 years pursuing a death row appeal that exposed serious flaws in the system.

In January 2005, Wilbert Rideau was freed from Angola State Penitentiary after serving 44 years for the 1961 murder of a bank teller in Louisiana. While in jail, Rideau became a nationally acclaimed editor of the prison magazine, *The Angolite*. Over the years, Louisiana governors had refused to grant clemency even though the pardon board recommended his release three times. More than 700 inmates convicted of comparable crimes had been freed during the same time.

"The more notoriety he got, the more pressure there was to keep him in [jail]," Murray told National Public Radio.

Murray, who also is director of the law school's trial advocacy program and teaches Advanced Criminal Practice, had taken the case pro bono. In 2000, he successfully argued that African-Americans were excluded from the grand jury process and the Fifth Circuit Court of Appeals ordered Rideau reindicted. During a fourth



*After advocating for his client for more than two decades, Julian Murray (left) was able to gain freedom for Wilbert Rideau, the nationally acclaimed editor of the Louisiana State Penitentiary magazine.*

trial, Murray sought and won a manslaughter verdict, which allowed Rideau to be released for time already served.

"It was a long fight but it was worth it," says Murray. "He is a good man who tried long and hard to make up for what he had done and he deserved his freedom."

The death row appeal of Darnell Williams was Juliet Yackel's first case. Williams was sentenced to death for his part in the murders of an elderly couple in their Gary, Ind., home. She and a team of lawyers uncovered exonerating evidence that would save Williams' life. Yackel's quest to halt the wrongful execution of her client was recently chronicled on A&E Network's "American Justice: Countdown to an Execution."

Yackel says she put her life on hold to

prove that justice had not been served. Finally, with just five days before he was to be executed, Indiana Gov. Joseph Kernan commuted Williams' sentence to life without parole. It was the first commutation of a death sentence in Indiana since 1956.

"I never dreamed anything I ever did would create such change," Yackel says. "It was a life-altering experience and changed the direction of my career from simply being involved in death-penalty work to being committed to improving what we now know is a flawed system."

Yackel became interested in death-penalty work while at Tulane Law School, completing her 20 hour community-service requirement at the New Orleans Indigent Defender program. "I fell in love with the work. It just felt right from the beginning."



1967

**HILTON S. BELL**, an attorney in the firm of Milling Benson Woodward, was selected to be listed in the 2004-05 edition of *The Best Lawyers in America*. He also serves as assistant secretary on the board of the New Orleans Chamber of Commerce.

1975

**GEORGE FOWLER III** received the prestigious “Sanchez to Sanchez to Smith Award” recognizing his active role in the Hispanic business community both in New Orleans and internationally. The award was presented by the Hemispheric Congress of Latin Chambers of Commerce and Industry.

**SANFORD V. TEPLITZKY** has been invited by the American Health Lawyers Association to join the inaugural class of Health Law Fellows. Of the 1,400 AHLA members, only 20 were nominated for the fellows program’s first class. A member of AHLA since 1977, Teplitzky also served as president of the organization’s predecessor, the National Health Lawyers Association and chaired the group’s Healthcare Fraud and Abuse Program. He currently oversees the AHLA Fellows’ public-interest activities. He is chair of Ober/Kaler’s health law department, representing the Baltimore, MD-based firm’s large healthcare companies and delivery networks with respect to Medicare and Medicaid fraud investigations and related matters. Teplitzky also serves on the regional investment committee of Associated: The Jewish Community Federation of Baltimore, and is a member of the board of the Baltimore Jewish Council and the Chimes Foundation. He sits on the advisory board for Kids Helping Hopkins and for the University of Maryland Center for Health Workforce Development. He is also an adjunct professor at the University of Maryland School of Law.

1976

**WALTER J. STARCK** has joined the Chicago firm of Arnstein & Lehr as a partner. He focuses his practice on real estate and construction law, as well as general business law. He represents developers, contractors and property owners with a concentration on the representation of landlords in leasing transactions.

1978

**BRIAN ZERINGER** has been elected partner in the Seattle, WA, offices of Lane Powell Spears Lubersky. He focuses his practice on commercial litigation, product liability and real estate, with special emphasis on defending clients in asbestos litigation.

1980

**STEFANIE ALLWEISS** has taken a position at Tulane as executive director of employee relations and equity. She will be responsible for investigating discrimination and harassment allegations by students, staff and faculty under the university’s harassment policy, and resolving employee relations issues throughout the university. Allweiss has spent the previous 25 years practicing labor and employment law in the private sector.

**KENNETH MCCLINTOCK** was recently confirmed as president of the Puerto Rico state senate.

1981

**DAVID GREENBERG** has joined the firm of Greenberg & LaPeyronnie as a partner. The firm is based in Gretna, LA.

1982

**NIA CHIRIGOS CRESHAM** and **JOHN CRESHAM** (both class of 1982) write that John is vice president and general tax counsel at FreddieMac Corp. in Virginia, and Nia is teaching law and government at her old high school. They have four children—Alia, John, Michael

and Marisa—and are hoping that at least one of them attends Tulane when the time comes.

**RUCK PAUL DeMINICO** (A&S ’78) and his wife, Leslie, announce the birth of their daughter, Scout Francis, on April 8, 2005, in Miami, FL.

1983

**VIRGINIA BOULET** has been appointed to the board of W&T Offshore, an independent oil and natural gas company focused primarily in the Gulf of Mexico, including exploration in the deep water. She serves as special counsel to the law firm of Adams & Reese and is an adjunct professor of law at Loyola University School of Law. She has more than 20 years of experience in mergers and acquisitions, equity securities offerings, general business matters and counseling clients regarding compliance with federal securities laws and regulations. Prior to joining Adams & Reese in 2002, Boulet served as the senior securities law partner of a regional firm based in the New Orleans area. She also currently serves as the presiding independent director of Centurtytel Inc.

1984

**JON SCHUYLER BROOKS** and Deborah Abramson Brooks welcomed their daughter, Hannah Paulina, on August 2, 2004. Brooks is a partner at Phillips Nizer, where he is a commercial litigator and co-chair of the environmental law department.

1985

**E. HOWELL CROSBY** (B ’84) has been inducted as the president of the American College of Mortgage Attorneys for the year 2004-05. He is a partner and head of the business and real estate transaction section of Chaffe McCall in New Orleans.

**MATTHEW LeCORGNE** has been named director of investment banking at Howard Weil Inc., a New Orleans energy investment house that recently expanded its services to include investment banking.

**GEORGE PARNELL** has joined the New York office of Holland & Knight as a senior counsel. He has extensive experience in global mergers and acquisitions, antitrust matters, securities, public offerings, private placements, Sarbanes–Oxley compliance and contracts. He has represented clients in mergers, acquisitions, joint ventures and divestiture transactions of public, private and family businesses, both in the United States and internationally, with transactions in excess of \$100 billion. His clients include medical device and pharmaceutical product manufacturers, real estate developers, investment advisors and consumer product and services companies.

#### 1986

**MOHAMED Y. MATTAR** is the director of The Protection Project at Johns Hopkins University School of Advanced International Studies in Washington, D.C. He is also an adjunct professor of law at Georgetown University Law Center, and American University's Washington College of Law, where he teaches International Trafficking of Women and Children, Investment and Trade Laws of the Middle East, The Islamic Legal System, International Commercial Contracts and Comparative Law. In December 2004, Mattar traveled to Iraq, where he conducted a training program entitled "Preparing Iraqi Women as Leaders, Advocates and Participants in the Political Process." He also testified before the State Duma of the Russian Federation in November, calling for the passage of the Russian Draft Law on Encountering Trafficking in Persons, and before the U.S. Senate Committee on the Judiciary, Subcommittee on the Constitution, Civil Rights and Property Rights. Mattar's recent publications include *96 Law*

*Library Journal* 669 ("Trafficking in Persons, An Annotated Bibliography"), *Fordham International Law Journal* 721 ("Trafficking in Persons, Especially Women and Children, in the Countries of the Middle East: The Scope of the Problem and the Appropriate Legislative Responses"); and *Loyola International & Comparative Law Review*, Vol. 27, No. 2 ("State Responsibilities in Combating Trafficking in Persons in Central Asia.")

#### 1989

**SEAN A. COTTLE** has joined the real estate group of the firm Hoge, Fenton, Jones & Appel in San Jose, Calif. Formerly of Anderson, Bonnifield & Cottle of Concord, Calif., Cottle has spent the past 14 years advising and representing landowners, developers, builders, subcontractors and homeowners in all phases of real estate, from entitlement to post-sale issues. He also serves as outside general counsel to several commercial and industrial contractors and suppliers.

**CHERYL R. TEAMER** has joined Harrah's Entertainment Inc. as regional vice president of government relations in the company's New Orleans offices. She will lead Harrah's governmental relations efforts in Louisiana and Mississippi, and also will focus on working with federal officials and national organizations.

#### 1990

**FRED GOLDSMITH** has moved his admiralty, maritime and commercial litigation practice to the 23-attorney Pittsburgh, Pa., law firm Blumling & Gusky, which he has joined as a partner. He practices in Pennsylvania and the contiguous states of Ohio and West Virginia, and continues to serve as outside general counsel to Cleveland-based The Great Lakes Towing Co. and affiliates, operators of 50 harbor and oceangoing tugs around the country.

**ITZCHAK E. KORNFELD** in late December 2004 was invited to deliver lectures on the impact of sprawl on groundwater resources and on international water law, by the Radzyner School of Law. His talk took place before the Interdisciplinary Center Herzlyia and the Bar-Ilan Faculty of Law, both in Israel. He was accompanied on the trip by his wife, Maria, and sons, Evan and Jared.

#### 1991

**MICHAEL PEGUES**, a litigation shareholder in the Dallas office of Munsch Hardt Kopf & Harr, has been appointed general counsel of Alpha Phi Alpha Fraternity Inc., the first intercollegiate Greek-letter fraternity established by African-Americans. The fraternity has more than 100,000 members worldwide. Pegues will serve in this leadership capacity through the fraternity's centennial in 2008. As head of the litigation group at Munsch Hardt, Pegues concentrates his practice on complex commercial litigation matters. He is a licensed patent attorney who has developed extensive experience in complex business litigation, with an emphasis on intellectual property and technology litigation. He also is active in the fine arts community and represents several groups including the African-American Museum of Dallas.

**BAILEY H. SMITH** has joined the firm of McGlinchey Stafford in New Orleans as an associate.

**STEVE STASTNY** and his wife, Lauren, announce the birth of a son, Ross Gilmer, on April 6. The family lives in Birmingham, Ala., where Stastny is with the firm of Lehr Middlebrooks Price & Proctor.

#### 1992

**LANE M. LUSKEY**, former deputy national finance director for the Democratic Congressional Campaign Committee, has joined the Loeffler Group as a partner. The Loeffler Group

is the government affairs practice of the law firm of Loeffler Tuggey Pauerstein Rosenthal. The firm combines practices in traditional law, international trade and government affairs through offices in Washington, D.C., and Austin and San Antonio, Texas.

### 1993

**CHRISTIAN S. ALLEN** has joined the Detroit, MI, firm of Miller, Canfield, Paddock and Stone in the firm's immigration practice. A resident of Berkeley, MI, Allen also is an adjunct professor of immigration law at Oakland University.

**RAFAEL M. ANCHIA** in January was sworn in as Texas State Representative from District 103, covering areas of North Oak Cliff, Western Dallas and Carrollton/Farmer's Branch. In addition to his public service, Anchia will continue to practice law with Patton Boggs in Dallas.

**S. SCOTT BLUESTEIN** has been elected vice-chair of the admiralty section of the Association of Trial Lawyers of America. He practices admiralty and maritime law with the Bluestein Law Firm in Charleston, SC.

**JONATHAN M. GOTTSEGEN** was named chief securities counsel for the Home Depot Inc. in Atlanta. His responsibilities include oversight of all corporate, securities, governance and board matters. He previously was a senior securities lawyer with Time Warner Inc. in New York.

**STEPHEN MUSSELMAN** works for the Maryland Public Defender's office in Washington County, MD. He is married and has two children plus "one on the way."

**RUSSELL SHEARER** has been named principal deputy assistant secretary for the U.S. Office of Environment, Safety and Health. He is the principal

advisor to the assistant secretary of energy for worker and public health and safety at Department of Energy sites, including the former nuclear weapons production complex, the national laboratories and research and testing facilities. He advises the assistant secretary on national environmental goals and oversees the department's compliance with environmental laws and regulations as well as the Price-Anderson nuclear safety enforcement program. Shearer joined the DoE after serving as an appointee at the Department of the Army, where he was the special assistant to the assistant secretary of the Army (installations and environment). He is an environmental attorney who previously practiced with Cadwalader, Wickersham & Taft and with Squire, Sanders & Dempsey, in both firms' Washington, D.C., offices. Shearer and his family live in Alexandria, VA.

### 1994

**SHAUNA J. CLARK**, a partner in the Houston firm of Fulbright & Jaworski practicing labor and employment law, was one of 24 attorneys selected by peer and reader nominations as *H Texas* magazine's up-and-coming lawyers in the Houston legal community.

In its December 2004 issue, *Washingtonian* magazine named **ALAN FISCH** to its list of the Top 30 attorneys in Washington, D.C. Fisch was the only attorney listed whose practice focuses on intellectual property law and the only attorney on the list under 40 years of age. He is a partner with Howrey Simon Arnold & White.

**ANN A. HAWKINS** (B '91) has been elected partner in the Houston firm of Skadden Arps Slates Meagher & Flom.

**STEVEN S. HEINRICHS** has been named vice president, general counsel and secretary for Neenah Paper Inc., a leading fine paper, specialty paper and pulp producer that was spun off from

Kimberly-Clark Corp. in 2004. Heinrichs and his wife, Linda (G '93), live in Atlanta with their three children, Tyler, Ryan and Olivia.

**RICK L. RAMBO** is a partner in the Houston offices of Fulbright & Jaworski, where he has worked since 1994, focusing his practice on intellectual property and complex commercial litigation. He represents U.S., Asian and European clients as both plaintiffs and defendants and has represented clients involving a variety of high-technology-related situations, including patent infringement, electronic discovery, trade secrets, internet law and computer hardware- and software-related matters.

**LISA K. RUSHTON** has been elected partner in the Washington, D.C., offices of Paul, Hastings, Janofsky & Walker, where she is a member of the real estate department. She represents a variety of large and small businesses within the commercial, real estate and industrial communities on matters relating to compliance with federal, state and local environmental and health and safety laws and regulations. She has substantial experience in matters relating to air and water pollution control, solid and hazardous waste management and cleanup, and toxic substance control laws.

### 1995

**MAGGIE AUSTIN** and her family have relocated to Miami from Champaign, IL, where they have lived for the past seven years. Austin is the assistant dean for career planning and placement at the Florida International University College of Law. She most recently served as the assistant dean for admissions and financial aid at the University of Illinois College of Law.

**SCOTT ARCENEAX** is managing the campaign of a Democratic candidate running for governor of Maryland. Arceneaux has been working on Democratic campaigns in Louisiana

since graduating and has been credited for the success by Democrats in statewide and national elections.

Rep. **KAREN CARTER** (D-New Orleans) has been named one of two recipients in the nation of the first John F. Kennedy New Frontier Award, established by Harvard University's Institute of Politics and the Kennedy Library Foundation to honor an elected and non-elected public servant younger than 40 whose contributions in office, community service or advocacy serves as a model for modern public service. Individuals were nominated by peers, colleagues, friends or members of the general public. Carter, first elected to the Louisiana House of Representatives in 1999, oversees the House Insurance Committee and authored a bill last session to give the Orleans Parish school superintendent more authority over New Orleans public schools.

**MICHAEL DU QUESNAY** joined the international law firm Dewey Ballantine as a partner in the firm's Los Angeles office. He practices corporate law with an emphasis on debt securities and structured finance.

**BEVERLYNN GRISSOM** co-founded Camden Shipping, the nation's first minority- and woman-owned transportation company. She was featured in Winter 2005 issue of *Enterprising Women*, in an article entitled "Trailblazers of Transportation." After graduating from law school, Grissom worked with the New Jersey Senate Education Committee and was one of the principal architects of a provision that linked local municipal community development projects with new school construction. Grissom formed a consulting company—AbbottLinks, Inc. to provide guidance to school districts, universities, private pre-school providers and construction companies to help them implement *Abbott v. Burke*, a landmark decision set forth by the New Jersey Supreme Court to overhaul urban education. She also went on to co-found Horizon Pediatric Systems Inc. to provide a safety net for medically fragile children with a particular need for comprehensive healthcare and early childhood education.

**SHANNON HICKS** has become associated with the firm of Jeansonne & Remondet, practicing in the firm's Shreveport, LA, offices. Hicks practices

in the areas of probate and estate planning, commercial litigation and real estate/title law.

**ERICA S. PERL** has published her first book, *Chicken Bedtime is Really Early* (Abrams, 2005). *Publisher's Weekly* says, "Perl's versifying is perfectly pitched for young ears" and calls the book "a double debut that's double the fun."

**HEIDI SZATMARY**, after practicing more than five years at Bosshard & Associates, has become an owner-member of Lawyers at Work. She and her two partners focus on consumer and business transactional work, with some civil litigation. She lives and works in La Crosse, WI.

**JIM THELEN** has been elected a principal of his firm, Miller, Canfield, Paddock and Stone, where he practices labor and employment law in Lansing, MI. Thelen joined Miller Canfield in its Kalamazoo, MI, office in 1995, leaving in late 1997 to serve as assistant vice president for legislative affairs and assistant general counsel at Western Michigan University. He returned to the firm in 1999. Thelen practices labor and employment law with a concentration in employment counseling, discrimination and harassment issues, labor arbitration, state and federal unfair labor practices, and union activities. Since 2003, he has served as the editor of the Michigan Chamber of Commerce's Employment Law Handbook: Guide for Michigan Employers. He lives in DeWitt, MI.

**ARMANDO J. TIRADO** has been appointed general counsel for the Latin America and Caribbean operations of Tyco International. He oversees legal and regulatory affairs for the company throughout Latin America. Tirado began his career in 1988 as an attorney with Petroleos de Venezuela and held various positions of increasing importance in its legal department. In 1990, he was

## ONLINE ALUMNI DIRECTORY

As a Tulane alumnus you are entitled to free access to the new secure Tulane University online directory.

Search the directory by name, nickname, class year, major, city, state, country or profession. Choose what information about you is shared and what is kept private.

To register go to [www.tulanecommunity.com](http://www.tulanecommunity.com).

You will be asked for your ID number, which is a unique identification number that was mailed to you by Tulane University. If you have lost this identification number or you never received the mailing, please contact [alumni@tulane.edu](mailto:alumni@tulane.edu) or call 1-877-272-0009.

All law alums are encouraged to join the online community.

SAVE THE DATE!

## HOMECOMING 2005

Will take place Sept. 30–Oct. 1 and

will feature reunions for the years

1960, 1965, 1970, 1975, 1980 and 1985

assigned to New York, followed by an appointment as special projects counsel for the operations division, where he was responsible for the company's negotiations and legal matters in the western part of Venezuela. Following a year in London, Tirado practiced in the United Kingdom and in New Orleans, and as a senior associate with the Gunster Yoakley firm in Miami, where he specialized in international and corporate transactional matters and litigation management.

### 1996

**TIMOTHY R. WALMSLEY** has joined the Savannah, Ga., offices of Hunter Maclean in the firm's real estate practice group. He works primarily in commercial real estate development and litigation. Previously, Walmsley acted as a sole practitioner in the Walmsley Law Firm in Savannah and served as a managing partner at Lowther & Walmsley and a senior associate with Middleton, Mathis, Adams & Tate. Until January 2005, he held a two-year term as chief counsel to the Chatham County Board of Tax Assessors and is currently a part-time judge in the Magistrate Court of Chatham County. The Savannah Business Report and Journal named Walmsley one of the "40 Under 40" notable Savannahians for 2004.

### 1997

**MONTRELL FINN-SCAIFE** has moved from Southern California to northern Virginia, where she can now add the Washington, D.C., bar to her list of memberships (along with Florida and California). She also has changed her last name to reflect her marriage to Rodney Scaife. She writes that it is nice to once again live in the same area as Tulane alums such as **AYANNA HAWKINS**, **SHARONDA POMA-WALLACE**, and **PATRICIA ST. CLAIR**.

**SCOTT HENSGENS** is partner in the Baton Rouge, LA, firm of Breazeale,

Sachse & Wilson, specializing in high technology and intellectual property law. In 2003, he received the President's Award for service from the Baton Rouge Bar Association. He also is active in community activities, including serving as a board member of Forum 35 and a volunteer with Junior Achievement.

### 1998

**WILLIAM D. FRENCH** of Louisiana Production Capital is one of the organizers of the newly created Motion Picture Association of Louisiana, a coalition of producers, technicians, financiers and attorneys formed to represent Louisiana's burgeoning movie and television production industry. Also in the coalition is **ELLIS PAILET '65** (B '61), an entertainment lawyer in New Orleans.

**DAVID C. HESSER** is training attorneys, mental health professionals and financial professionals on how to do collaborative divorce. He lives in Alexandria, LA, and more information on his training sessions can be found at [www.collaborativetrainingteam.com](http://www.collaborativetrainingteam.com).

**STEPHANIE REED TRABAND** and her husband, Rhett, announce the birth of a son, Logan Paul Traband, on Dec. 3, 2004.

### 1999

**ADA SOFIA ESTEVES** married her high school friend Jaime Mosquera Sterenberg in San Juan, Puerto Rico, on Jan. 15, 2005. Tulane lawyers in attendance included **MANUEL SOSA** and **BARBARA GEVEA** (both '00). Workwise, Sofia returned to the cham-

bers of Judge Pieras in the federal district court in San Juan, Puerto Rico, for a one-year clerkship. In September, she will return to litigate in private practice for the firm of Indiao & Williams in San Juan.

**JASON LAMB** and his wife, Vanessa, announce the birth of Jackson Harris on Nov. 27, 2004. The family lives in Mexico, MO, where Lamb is the elected prosecuting attorney of Audrain County.

**ALAN MARKS** has joined the firm of Thompson & Knight in Austin, TX. He specializes in healthcare, administrative and employment law. Marks and his wife, **MEREDITH MILLER MARKS '00**, are the proud parents of 2-year-old Miller Alan Marks.

**JOSHUA ROSEN** and **KATIE LOPPNOW '99** are planning a fall 2005 wedding in Seattle, WA, and will live in the Los Angeles area.

**KIMBERLY GERSHON SWARTZ** and her husband announce the birth of a daughter, Madeline Brown Swartz, on Dec. 31, 2004. The family lives in the Atlanta area.

### 2001

**DANIEL ALEJANDRO CASELLA** has joined the Buenos Aires-based law firm of Estudio Barcia as an associate, where he will concentrate in the areas of corporate and business transactions. Since its founding in 1968, Estudio Barcia has served as business advisors and advocates for a wide range of clients, both domestic and international. Its attorneys have extensive experience in government affairs, major corporate

transactions, commercial and general business litigation, real estate development and transactions, strategic alliances, foreign investment and agribusiness.

**ELIF HÄRKÖNEN** is pursuing her SJD at University of Gothenburg in Sweden and teaching securities law and comparative company law. She and her husband had a son, Davod, in July 2003.

**SHANE STROUD** had joined the employee benefits and compensation group of Skadden, Arps, Slate, Meagher and Flom as an associate in the firm's New York office.

**CHALON CARROLL YOUNG** and **MATTHEW ANTHONY DEPRIM '96** were married on June 27, 2003, by Judge Jose Rodriguez and William R. Young on the 23rd floor of the Orange County courthouse. Both practice criminal defense in central Florida.

#### 2002

**HAROEN CALEHR** was named "People's Lawyer" for personal injury in the March 2005 issue of *H Texas* magazine.

**THOMAS P. OWEN JR.** has become an associate in the New Orleans firm of Stanley, Glangan and Reuter.

**ALLEN K. TRIAL** has joined the New Orleans offices of McGlinchey Stafford as an associate in the commercial litigation section. Trial concentrates his practice in the areas of admiralty and maritime law, business litigation, corporate law, regulatory law, intellectual property, international law and securities.

#### 2003

**JOSH FERSHEE** has joined the firm of Hogan & Hartson, working in the regulatory area in the firm's energy group.

**REBECCA E. MAY-RICKS** has joined the Baton Rouge, LA firm of J. Arthur Smith III as an associate.

**CARNEY ANNE SMALL** works for DeHay and Elliston in Dallas. Her fiancé, **MATT CHESTER '04**, is an associate at Haynes & Boone, also in Dallas.

#### 2004

**KEVIN AFGHANI** is nearing completion of his LLM at the University of Amsterdam in international and European law. He is currently interning at the International Criminal Tribunal for the former Yugoslavia and the Asser Institute, both of which are in the Hague. Afghani is also admitted to the Texas bar.

**CAMALA E. CAPODICE** has joined the firm of Irwin Fritchie Urquhart & Moore as an associate. She is engaged in general civil litigation concentrating on products liability and pharmaceutical and medical device litigation.

**MATT CHESTER** is an associate at Haynes & Boone in Dallas. His fiancée, **CARNEY ANNE SMALL** works for DeHay and Elliston in Dallas as well.

**BENJAMIN A. GUIDER III** has joined the firm of Milling Benson Woodward as an associate in its New Orleans office.

**JENNIFER SCHWARTZ** is working toward her LLM in law and government at American University, Washington College of Law, Washington, D.C. She also works as an assistant editor at Class Action Reports. Schwartz also reports that she has passed the California bar.

**HELEN STEPHENS** will wed Nekosi Nelson of Dallas on August 13, 2005 in Houston. The couple currently lives in New Haven, CT, where Nelson is

pursuing an MBA at Yale University and Stephens is a staff attorney for the Middlesex Superior Court. The couple will ultimately reside in Washington, D.C.

**MARIA J. WING** has joined the law firm of Klehr, Harrison, Harvey, Branzburg & Ellers as an associate in the real estate and finance department.

**SONNY YEMM** has joined the Chattanooga, TN, firm of McKoon, Williams & Gold. He is licensed to practice law in Tennessee and is a member of the Tennessee Bar Association (litigation and business law sections), the Chattanooga Bar Association and the National Guard Association.

#### IN MEMORIAM

Kenneth D. Higgins, L '42

Marjorie L. Jackson, L '44

William M. Ellis, L '49

Clarence A. Frost, L '54

Theodore "Ted" John Mace, L '55

Andrew Tredway "Ted"

Martinez, L '56

Hon. Wallace A. Edwards, L '61,  
A&S '59

Jack R. Victor, L '61

Jennie M. Grodsky, L '82

Robin Shulman, L '79

# CLASS REUNIONS

1955 1990 1995 2000

*Class of '55*



*Class of '90*



*Class of '95*



*Class of '00*





*Inductees to the Order of the Barristers are honored at the Awards Reception held the night before commencement.*



*Dean Lawrence Ponoroff presides over his fourth commencement ceremony.*

*The law class of 1955 celebrates its 50th reunion during Tulane Law School's 158th commencement exercises.*



*Jennifer St. John LaCorte, president of the Student Bar Association, addresses her fellow candidates for graduation.*



*New members of the Order of the Coif are called forth by Serjeant-at-Law Cynthia Samuels.*



*Law faculty applaud the Class of 2005's successful journey to graduation.*





*Candidates for graduation enjoy a moment for which they've waited three years.*

*It's a tie!  
Jancy Hoeffel and  
Catherine Hancock  
share the  
Felix Frankfurter  
Distinguished  
Teaching Award.*



*Dean Ponoroff  
congratulates  
Matthew Charles Guy,  
winner of the Edward  
A. Dodd Jr. Award for  
the top LLM graduate  
in admiralty.*

*Law professor  
Jane Johnson  
receives the  
university award  
for Excellence in  
Experiential  
Teaching.*



*Four students tie for the  
Dean's Medal for the highest  
average in the third year.  
Pictured with Dean Ponoroff,  
they are, from left, Adam  
Garson, Melinda Nicholson,  
Melissa Thorton and  
Frederic Sourgens.*

*Dean Ponoroff with  
Melissa Marie Thornton,  
winner of the Faculty  
Medal, the Dean's Medal  
and the Civil Law  
Studies Award.*



*3L class president  
Sacha Aaron Boegem  
presents Dean Ponoroff  
with a cash gift to the law  
school's annual fund that  
establishes the Class of  
2005 as a "law fellow."*

# TAX TOPICS FOR THE PHILANTHROPIC: AN ATTORNEY'S GUIDE

SOME PLANNED GIFTS HELP CHARITIES SOONER RATHER THAN LATER

BY LIZBETH TURNER  
(L'85)

Many think of planned gifts as providing benefits to a charity far into the future. Although that may be true for bequests, other planned gifts can provide more immediate charitable support. These planned gifts are especially appealing during fundraising campaigns such as Tulane University's \$700 million "Promise and Distinction" campaign.

When advising clients who want to experience the satisfaction of their philanthropy during their lifetimes, consider the following ways of giving.

## Outright Gifts of Appreciated Property

Gifts of appreciated property held long-term (more than one year) to public charities like Tulane generally result in double income-tax benefits for taxpayers who itemize. First, the donor is eligible for a charitable deduction equal to the value of the property. Second, the donor avoids capital gains tax on the appreciation.

**Example:** Mike makes a gift to the Law School Annual Fund using stock with a value of \$3,000 and a cost basis of \$500. He claims an income tax deduction of \$3,000 and pays no capital gains tax on the appreciation.

Although gifts of publicly-traded securities are the most common funding asset for charitable gifts of appreciated property, gifts of real estate and tangible personal property may also result in the dual tax benefits described above. However, special rules may limit the deduction to cost basis in certain instances.

## Short-Term Charitable Remainder Trusts

Charitable remainder trusts (CRTs) are structured to make fixed or variable payments to one or more individual

**TIP:** FOR MORE INFORMATION ON THESE AND OTHER PLANNED GIFTS, VISIT TULANE'S UPDATED PLANNED GIVING WEBSITE AT [WWW.PLANNEDGIVING.TULANE.EDU](http://WWW.PLANNEDGIVING.TULANE.EDU). USE THE PLANNED GIVING CALCULATOR TO CREATE CUSTOMIZED ILLUSTRATIONS OF CHARITABLE REMAINDER TRUSTS AND OTHER PLANNED GIVING VEHICLES FOR YOUR CLIENTS.

beneficiaries before benefiting one or more charities. A CRT usually provides income for life. But a CRT also can be established for a term of years—up to 20 years is permissible. Donors who want to help family members with immediate cash flow needs can accomplish this goal and benefit charity through a short-term CRT.

**Example:** Jane is helping her grandson with expenses of college and law school. She contributes \$200,000 to a charitable remainder annuity trust that will pay her grandson \$20,000 each year for five years. When the trust ends, its remaining assets will go the Law School to establish an endowed scholarship fund in her name. Jane's gift entitles her to a charitable income-tax deduction of \$111,800 and her grandson will receive \$100,000 over the term of the trust.

A short-term CRT can provide family members with cash to start a business, build a house, or use for other purposes.

## Charitable Lead Trusts

A non-grantor charitable lead trust makes fixed or variable payments to a charity and at the end of the trust's term distributes the remaining trust assets to the donor's family members (usually children or grandchildren). Although this method of giving does not result in an income tax deduction to the donor, it does allow a donor to pass assets to heirs at a lower gift and estate tax cost — the charitable gift-tax deduction reduces the taxable value of the interest

transferred to family members. A donor can use a lead trust to temporarily "lend" assets to a charity until children are old enough to handle significant wealth.

**Example:** Martha and James want to fund an endowed professorship in taxation at the Law School. With a \$1,000,000 contribution, they fund a charitable lead annuity trust that will pay Tulane \$60,000 each year for 15 years and then go to their children, who will be ages 32 and 35 at that time. The value of Tulane's annuity is \$634,360, so the only part of the gift that is "taxable" is the remaining value, \$365,640. No gift tax has to be paid if the lifetime gift-tax exemption has not been used up. The trust assets are removed from the donors' estates and no additional gift or estate taxes will be due when the trust ends even if the assets upon termination are worth far more than \$365,640.

All of these ways of giving can support Tulane sooner rather than later. Because of their near-term benefits, these planned giving options are especially suitable for participating in the "Promise and Distinction" campaign.

*For more information, contact Tulane's Office of Planned Gifts at 800-999-0181 or at [plangift@tulane.edu](mailto:plangift@tulane.edu) if you have questions about planned gifts. The deduction estimates in the examples assume the April 2005 IRS discount rate of 5%. Actual figures may vary depending on the timing of the gift.*

# 2005-06 CALENDAR OF EVENTS

DATE	EVENT TITLE	LOCATION
<b>2005</b>		
July 12 6-7:30 p.m.	<b>WASHINGTON DC STUDENT SEND-OFF PARTY</b>	Fadó Irish Pub 808 7 <sup>th</sup> Street, NW
July 13 6:30-8:00 p.m.	<b>NYC STUDENT SEND-OFF PARTY</b>	Thacher Proffitt & Wood LLP Two World Financial Center
July 20 6-7:30 p.m.	<b>HOUSTON STUDENT SEND-OFF PARTY</b>	Vinson & Elkins 1001 Fannin Street
August 4 6-7:30 p.m.	<b>WELCOME TO NEW ORLEANS PARTY</b>	Mother's Next Door 401 Poydras St.
September 30 5-6:30 p.m.	<b>LAW SCHOOL HOMECOMING COCKTAIL PARTY</b>	Weinmann Hall
September 30- October 1	<b>LAW SCHOOL CLASS REUNIONS</b> for 1960 1965, 1970, 1975, 1980 and 1985	Locations TBA
October 1	<b>LAW SCHOOL TENT IN HOMECOMING VILLAGE</b>	Outside Tad Gormley Stadium, City Park
October 10 5 p.m.	<b>EASON-WEINMANN LECTURE AND RECEPTION</b> by Prof. Gunther Frankenberg, University of Frankfurt	Weinmann Hall
October 14 (tentative)	<b>INTELLECTUAL PROPERTY PROTECTION, ENFORCEMENT &amp; LITIGATION</b>	New Orleans Centre Campus
October 26-28	<b>TULANE TAX INSTITUTE</b>	J. W. Marriott Hotel
October 27-28	<b>22ND NEW ORLEANS FALL MARITIME LAW SEMINAR</b>	Embassy Suites
November 17	<b>DEUTSCH LECTURE AND RECEPTION</b>	Weinmann Hall
November 18	<b>15TH ESTATE PLANNING INSTITUTE</b>	Windsor Court Hotel
December 2	<b>TAKING DEPOSITIONS: Mastering Technique and Strategy Through Control</b>	Wyndham Canal Place
December 16	<b>CLE BY THE HOUR: Recent Developments &amp; Updates</b>	New Orleans Centre Campus
December 28 & 29	<b>CLE BY THE HOUR: Recent Developments &amp; Updates</b>	Weinmann Hall
<b>2006</b>		
January 5 7-9 p.m.	<b>AALS ALUMNI PARTY</b> in conjunction with AALS Annual Meeting in New Orleans	Napoleon House
February 3 & 4	<b>CLASS ACTIONS</b> in the Gulf South II	Tulane Law School/Dixon Hall
March 23 & 24	<b>18TH CORPORATE LAW INSTITUTE</b>	Wyndham Canal Place Hotel
April TBA	<b>ENVIRONMENT 2006: Law, Science and the Public Interest</b>	Weinmann Hall
April 7 6:30 p.m.	<b>LAW REVIEW BANQUET</b>	Plimsoll Club
April 21-23	<b>SPRING REUNIONS</b> for Law Classes of 1991, 1996 and 2001	Locations TBA
May 19 & 20	<b>LAW CLASS OF 1956 50TH REUNION</b>	Location TBA
May 20 9:30 a.m.	<b>UNIFIED COMMENCEMENT</b>	Louisiana Superdome
May 20 1:00 p.m.	<b>LAW SCHOOL DIPLOMA CEREMONY</b>	Morris F. X. Jeff Municipal Auditorium
June 1-3	<b>32ND SPORTS LAWYERS CONFERENCE</b>	Toronto, Canada

Questions? Contact Ellen Brierre, Director of Law Alumni Affairs at (504) 865-5920 or ebrierre@law.tulane.edu.



**TULANE UNIVERSITY LAW SCHOOL**  
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 NEW ORLEANS, LA 70118

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“Our ongoing efforts to reach out to our alumni constituencies across the country and around the world have been rewarded with a renewed and growing level of interest and involvement. Many of you also have discovered not only the great satisfaction that goes along with “giving back,” but also the benefits that inure directly to you by becoming actively involved in alumni events and activities.”

—Dean Lawrence Ponoroff



## ADDRESS UPDATE / CLASS NOTE

Send to Ellen Brierre, Director of Alumni Relations  
 Tulane University Law School  
 6329 Freret St.  
 New Orleans, LA 70118  
 Fax 504-862-8578

Or fill out the online form at <http://www.law.tulane.edu/alumni/alumni/noteschangeform.cfm>.

Name \_\_\_\_\_ Class Year \_\_\_\_\_

Home Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Phone \_\_\_\_\_ Is it new? \_\_\_\_\_

Employer \_\_\_\_\_

Employer address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Phone \_\_\_\_\_ Is it new? \_\_\_\_\_

Email \_\_\_\_\_

Comments \_\_\_\_\_

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