

SUMMER 2008

# UTLAW

THE  
MAGAZINE  
OF THE  
UNIVERSITY  
OF TEXAS  
SCHOOL OF  
LAW

Roy Mersky  
Remembered

A. Mechele Dickerson  
on the **Myth of  
Home Ownership**

Thomas McGarity  
and Wendy Wagner on  
**Suing the Scientists**

**JOE JAMAIL**  
*breaks another record*



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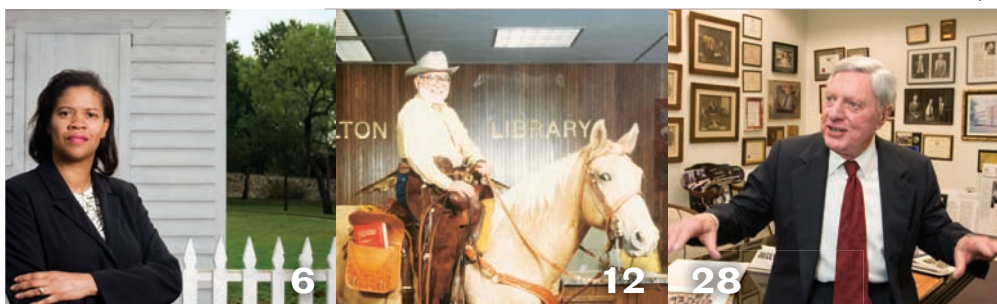
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On the cover: Joe Jamail, '52, in the library at his firm, Jamail and Kolius. The "King of Torts" is photographed here with a crown presented to him by the District Judges of Harris County, Texas.

The rhetoric associated with the American Dream and this country's near universal subsidization of housing purchases obscure the modern complexities many consumers face in the housing market. Borrowers routinely make economic decisions that simply are not consistent with the lore that subsidizing housing promotes long-term homeownership. Yet, the consumers who seemed to have benefited most from mortgage innovation were borrowers who intended to either remain in the houses for a short period of time and "flip" the home and sell it when the price appreciated, or trade up to a more expensive house and pocket the profits tax-free. Subsidizing an investor's decision to make a short-term profit on a housing investment may help build wealth, but is not consistent with the view that homeownership helps to stabilize communities, ensures a stable home in which to rear children, or encourages neighbors to be invested in local schools and community services.

only because that solution is preferable to having to foreclose on houses and potentially take huge losses in a weakened housing market.

The biggest problem with all proposed responses to the current housing crisis, however, is that they address the symptoms (increased foreclosures) instead of the underlying problem (an irrational obsession with attaining the status of homeowner). The housing crisis will not go away unless and until the U.S. makes radical changes to its current homeowner subsidies. Renters and existing homeowners will continue to accept exotic loan products and make irrational housing investment decisions as long as they remain brainwashed by the notion of homeownership.

A better long-term response to the housing crisis is to radically rethink our views as a nation toward the wisdom of encouraging and subsidizing universal homeownership and then to create targeted housing subsidies that focus on

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## **THE RHETORIC ASSOCIATED WITH THE AMERICAN DREAM AND THIS COUNTRY'S NEAR UNIVERSAL SUBSIDIZATION OF HOUSING PURCHASES OBSCURE THE MODERN COMPLEXITIES MANY CONSUMERS FACE IN THE HOUSING MARKET.**

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Rather than critique the ongoing value of the American Dream of Homeownership, however, the current response to the housing crisis focuses on encouraging homeowners to remain in their unaffordable homes. For example, a proposed revision to the Bankruptcy Code would protect borrowers who owe more than the home is worth by letting them reduce the value of the lender's claim to the market value of the home and by letting the debtor modify the terms of the loan during the bankruptcy proceeding. Other responses focus on preventing the fraudulent issuance of mortgages, providing enhanced "meaningful" disclosures of the loan terms, giving potential homeowners more consumer education, and encouraging more borrowers to participate in foreclosure assistance or loss mitigation programs. These proposals, though laudable, are misguided and will not prevent future housing crises.

Consumers are bombarded with disclosures already. Many of the existing consumer credit disclosures are incomprehensible to normal consumers. Given this, it is hard to see how additional disclosures will do much good. Likewise, voluntary loan modification proposals may be useful for borrowers who are in default because of a temporary financial setback (like a job loss), but are of significantly less value to borrowers who could never afford the homes they decided to purchase. Moreover, lenders seem to support modification proposals now

affordable housing, whether rented or owned. Despite dramatic increases in homeownership for the last decade, and persistent rental vacancy rates for the last five years, there nonetheless has been a gap between the demand and supply of affordable rental housing. This gap has been created, in part, because prices for rental housing and owner-occupied housing tend to move in the same direction. Since housing prices have appreciated dramatically for the last decade, rents (not surprisingly) have also dramatically increased.

Rather than continuing to subsidize the irrational economic decision to purchase unaffordable homes, the U.S. should continue to subsidize (or to increase subsidies for) programs that encourage developers to construct or substantially rehabilitate rental housing for moderate-income tenants. Similarly, instead of only supporting down payment assistance programs, the U.S. should also support security deposit assistance programs that help renters acquire funds to pay for security deposits since many find it difficult to save. Likewise, the U.S. should provide a standard housing tax deduction, rather than a deduction that is based on whether the taxpayer owns or rents.

To prevent future crises, the U.S. also should subsidize only economically rational mortgage products. The U.S. should neither subsidize nor provide tax benefits for consumers who buy a home they cannot afford at the time of purchase





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## **THE CURRENT HOUSING MELTDOWN DEMONSTRATES WHY THE UNITED STATES NEEDS TO REEVALUATE ITS SUBSIDIES THAT ENCOURAGE HOUSING PURCHASES.**

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simply because the house might become affordable if housing prices continue to appreciate and interest rates remain low. It is consistent with the dream of homeownership to encourage renters to purchase homes using economically sensible mortgage products (e.g., fixed rates for fifteen or thirty years, rates that adjust once, or gradually over time) that are likely to lead to long-term ownership and neighborhood stability. However, the U.S. should not encourage renters or existing homeowners to borrow money to buy a home using a loan they cannot afford—especially since this decision is likely to lead to foreclosure and is not likely to increase homeownership rates.

A final way to provide a targeted housing subsidy that would also advance worthwhile societal goals is to link housing to certain environmental concerns. Thus, the U.S. should subsidize home purchases if the owner buys or builds a “green,” eco-friendly home, or uses a home equity loan to renovate a home to make it green. While there is no set definition for “green housing,” the subsidy should be available if the home

is built consistent with guidelines that ensure that it decreases the harm to the natural features and resources surrounding the site; that uses green building materials from local sources; and that generates on-site renewable (e.g., solar, green roofs, rain gardens) energy, or that uses energy-efficient heating and cooling systems.

The metastasizing housing crisis illustrates the danger of encouraging consumers to make an economic decision (to devote limited investment funds to purchase a house) based on non-economic factors (the desire to achieve the status of homeowner). Moreover, the current housing meltdown demonstrates why the U.S. needs to reevaluate its subsidies that encourage housing purchases. Properly structured subsidies should encourage consumers to focus on the investment itself and the economic consequences of a failed investment (the inability to use those funds to make other investments, and potentially losing the home to foreclosure) not the immediate, likely short-term, end result (achieving the status of homeowner).

*“Throughout his career, Roy Mersky was fiercely determined to better serve the UT Law faculty, the UT Law students, and the UT Law community at large more than any other law library served its constituents. He was fiercely determined to staff the nation’s law schools with skilled law librarians schooled by their service at UT. And he was fiercely determined to enlarge the idea of a fine library to include lectures, conferences, and exhibitions of erudite bibliography and history. He was, in sum, fiercely determined to make the UT Law Library, his library, the most distinguished law library in the world. He succeeded.”*

*—Larry Sager, dean of the University of Texas School of Law*

# ROY MERSKY REMEMBERED

by JEANNE FRAZIER PRICE, '82

PROFESSOR ROY M. MERSKY, Harry Reasoner Chair in Law and longtime director of the Tarlton Law Library and Jamail Center for Legal Research, died May 6, 2008 in Austin. Professor Mersky’s professional career was distinguished by his initiatives and innovation in library services, his advocacy and mentoring of law librarians, his engagement in issues that affect information policy, and his very active leadership and participation in professional associations.

Under his more than forty years of leadership, the Tarlton Law Library’s

collections grew as its facilities expanded. As proud as he was of the Library’s holdings, its rich international and interdisciplinary collections and its rare books and popular culture collections, and of the environment and atmosphere distinguished by the Hyder Collection, Professor Mersky took most delight in the tradition of service that Tarlton exemplified and in the achievements of his staff.

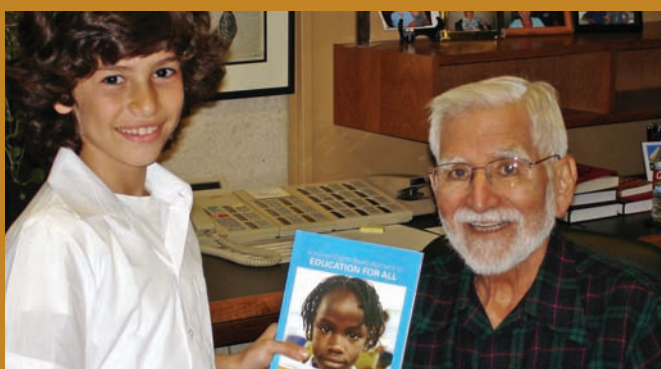
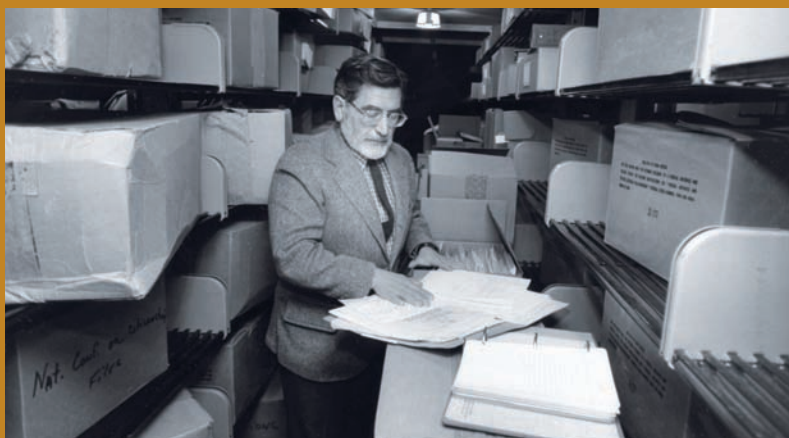
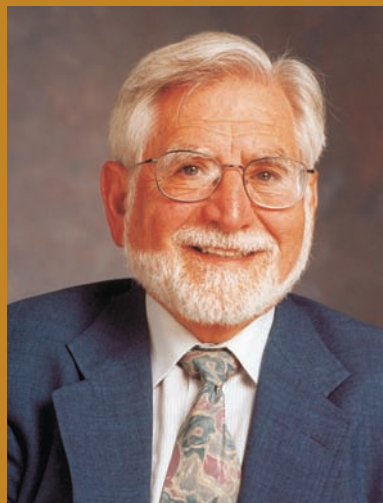
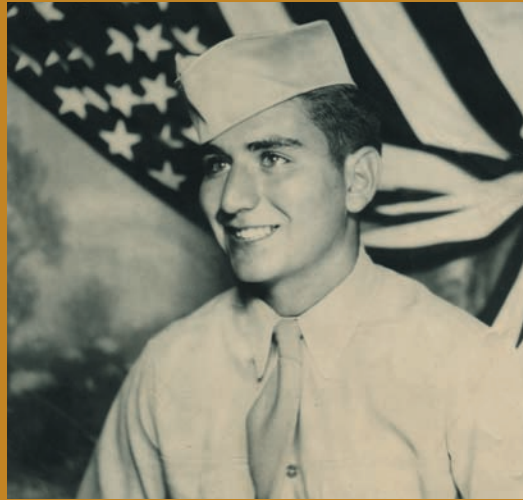
Professor Mersky first came to Texas and the University in 1965 when he was hired as professor of law and director of the Tarlton Law Library. He was well

ahead of the curve in building Tarlton’s interdisciplinary and international collections and its special collections. The law and popular culture collection, which was developed in order to support scholarship, but which had a very real and much appreciated impact on generations of students, was always a source of pride. Mersky’s example and initiatives were widely emulated. His energy and passion for the law and the academic enterprise, and his belief in the role of the library as an active leader in that enterprise, inspired his staff and set a standard for libraries around the country.

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Jeanne Frazier Price was the Associate Director for Patron Services, Instruction, & Research at the Tarlton Law Library, and a longtime colleague and former student of Professor Mersky. She is now the Director of the Law Library at the William S. Boyd School of Law at the University of Nevada, Las Vegas.





*“Roy Mersky was a giant figure at our Law School and in legal education for almost half a century. He built one of the finest law libraries in the world, and helped other law schools and institutions around the world build their own. He was a scholar and teacher. He was a tenacious defender of civil rights and religious freedom. He fought in the Battle of the Bulge. He left an enormous mark on this world, and made it a far better place. But even more than that, he was a decent man and a dear friend. I will sorely miss him. We all will.”*

*—Bill Powers,*

*president of the University of Texas  
and former dean of the School of Law*

The number of current and past law library directors who were trained by Mersky is nothing short of remarkable. Those directors consistently attribute much of their success to his tutelage and support, which continued long after they left Tarlton for other pursuits. His service to the academy and the judiciary was similarly distinguished. Faculty and judges around the country, including members of the United States Supreme Court and the Texas Supreme Court, knew that Mersky could, and always did, support their scholarship and teaching. He reveled in his role as a mentor and was always a strong advocate for law librarians.

The University of Texas benefitted from Mersky's service as a teacher, administrator, and scholar. He taught in both the School of Law and the School of Information, and served on numerous committees within the University. He was an author of, and contributor to, scores of books and articles, and was acknowledged in many more texts written by others. As a nationally recognized expert in legal research, the history of the United States Supreme Court, law and language, law in popular culture, and rare law books, Mersky was a frequent speaker both in the United States and abroad. While on sabbatical, he served as the interim director of the Jewish National and University Library of Hebrew University.

Mersky was a champion of civil rights. He participated in civil rights marches in Selma and Montgomery in the 1960s, and served as the president of the Texas Chapter of the American Civil Liberties Union. His service in World War II, as a member of the 87th Infantry Division, was recognized when he was awarded the Bronze Star, a Purple Heart, and numerous campaign medals.

A native of the Bronx, Mersky received three degrees from the University of Wisconsin, his BS in 1948, the JD in 1952, and his MALS in 1953. He was a member of numerous associations and honorary societies, including the Texas Philosophical Society, the American Law Institute, and the American Society for International Law. Among the many honors he received were the American Association of Law Libraries' 2005 Marian Gould Gallagher Distinguished Service Award, the American Association of Law Libraries' Presidential Certificate of Merit, and the University of Wisconsin-Madison School of Library and Information Studies Alumni Association's Centennial Celebration Alumnus of the Year Award. Mersky was also actively involved in the American, Texas, and Wisconsin Bar Associations.

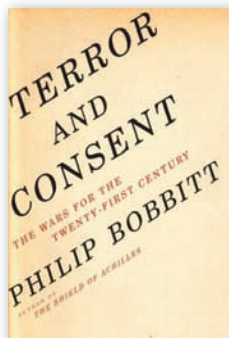
Above all else, Professor Mersky will be remembered as a great mentor, a wise counsel, and a wonderful friend. He enjoyed people—he reveled in the accomplishments of students, faculty, and staff (some of his favorite lunches were those shared with LLM students from around the world), admired their hard work, and encouraged them in educational, professional, and personal pursuits. He believed in, and fostered, change. He had a deep and abiding respect for those people who worked to make positive changes in society, and was, in every good sense of the word, liberal in intellect, outlook, and spirit. In a remembrance, Michael Esposito, assistant dean for continuing education at the Law School, spoke of Professor Mersky's generosity of spirit. It is that spirit of friendship, encouragement, and intellectual challenge that we will always remember in him.



# Recent Faculty Books

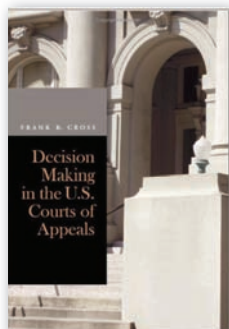
## ALEXANDRA W. ALBRIGHT

*Handbook on Texas Discovery Practice: The New Rules Governing Discovery* (Thomson/West 2007) (with Charles Herring Jr. & Robert H. Pemberton)



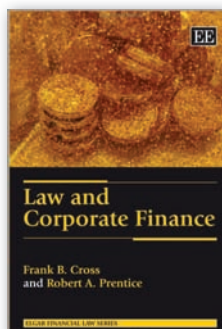
## PHILIP BOBBITT

*Terror and Consent: The Wars for the Twenty-First Century* (Knopf 2008)



## FRANK B. CROSS

*Decision Making in the U.S. Courts of Appeals* (Stanford University Press 2007)

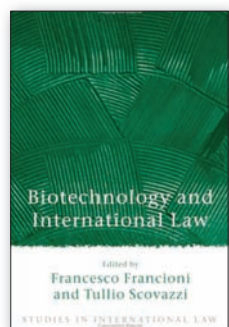


*Law and Corporate Finance*

(Edward Elgar Publishing 2007) (with Robert A. Prentice)

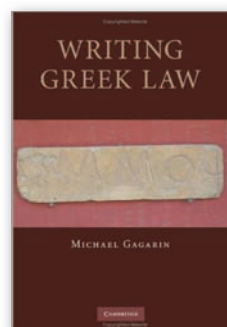
## JENS C. DAMMANN

*Materielles Recht und Beweisrecht im System der Grundfreiheiten* [The Relationship Between Substantive Rules and Evidentiary Rules in the Law of the Fundamental Freedoms of the EC Treaty] (Mohr Siebeck 2007)



## FRANCESCO FRANCONI

*Biotechnology and International Law* (Hart Publishing 2006) (editor, with Tullio Scovazzi)

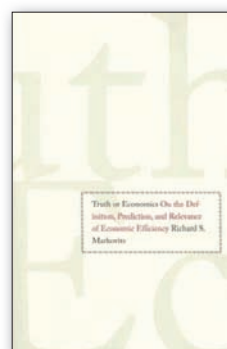


## MICHAEL GAGARIN

*Writing Greek Law* (Cambridge University Press 2008)

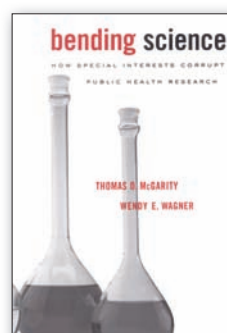
## STEVEN J. GOODE

*Courtroom Handbook on Federal Evidence* (St. Paul, MN: Thomson/West 2008) (with Olin Guy Wellborn)



## RICHARD S. MARKOVITS

*Truth or Economics: On the Definition, Prediction, and Relevance of Economic Efficiency* (Yale University Press 2008)



## THOMAS O. MCGARITY

*Bending Science: How Special Interests Corrupt Public Health Research* (Harvard University Press 2008) (with Wendy Wagner)

## WENDY WAGNER

*Bending Science: How Special Interests Corrupt Public Health Research* (Harvard University Press 2008) (with Thomas O. McGarity)

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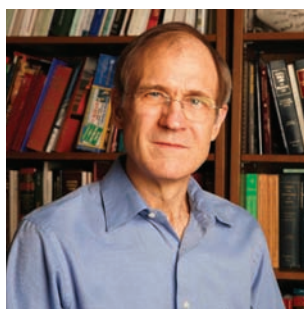
*Sampson and Tindall's Texas Family Code Annotated, With Related State and Federal Statutes* (St. Paul, MN: Thomson/West 2007) (with Harry L. Tindall)

## OLIN GUY WELLBORN

*Courtroom Handbook on Federal Evidence* (St. Paul, MN: Thomson/West 2008) (with Steven J. Goode)

# SUING *the* SCIENTISTS

by **THOMAS O. MCGARITY** and **WENDY E. WAGNER**



**Wendy E. Wagner** is the Joe A. Worsham Centennial Professor. **Thomas O. McGarity** is the Joe R. and Teresa Lozano Long Endowed Professor of Administrative Law.

## FOR QUITE A WHILE NOW JUDGES, LEGAL SCHOLARS, AND

prominent scientists have lamented the difficulties that courts and lawmakers encounter in distinguishing reliable science from cleverly manipulated, but ultimately worthless, scientific junk. Inundated by experts-for-hire who flood the legal system selling their sponsors' wares, legal decision-makers have struggled to develop more rigorous tools for assessing the reliability of the scientific information that informs health policies. The solution, most have agreed, is for decision-makers to rely more heavily on the scientific community for oversight and assistance. Indicia of scientific community approval, often taking the form of peer-reviewed publications and reports from consensus panels, now offer guidance to courts and regulatory agencies charged with screening the reliability of scientific research that relates to social problems.

Yet the simple solution of deferring to the scientists can be frustrating for legal decision-makers and even more precarious for the institutions of science. Accounts of "bending" science—where research is manipulated to advance economic or ideological ends—are now not only prevalent in the corridors of courts and legislatures, but also beginning to emerge from deep within the inner sanctum of science. Editors of a number of top scientific journals complain that they are

encountering great difficulties policing significant conflicts of interest in published articles. Well documented allegations of bias and skewed membership have strained the scientific credibility of a number of prominent expert panels assembled by private sector entities and government agencies to advise legal decision-makers and the public. Rather than providing much needed reinforcement to the efforts of the scientific community to fend off these unwelcome intrusions, the legal system has armed outside advocates with increasingly powerful tools for infiltrating the quality control procedures of science and manipulating the ultimate outputs.

In our book we argue that the institutions of science are under attack in ways that apparently neither the legal system nor the scientific community is willing to acknowledge or prepared to repel. Dozens of sophisticated strategies are available to advocates to co-opt the science that informs public health and environmental policy.

This article is an excerpt from Chapter 7. That chapter examines how unsupported allegations of scientific misconduct, harassing subpoenas or depositions, and burdensome data sharing requests (often facilitated by public records statutes) aimed at scientists whose research has adverse implications for advocates can provide sufficient distraction to prevent those scientists from conducting follow-up studies or even intimidate them into leaving the field to other scientists who have the stomach for controversy.



IN THE 1970s, strategic litigation against public participation (SLAPP) became a popular way to silence activists who were speaking out against undesirable business practices. The companies would sue the citizen groups or other “rabble-rousers” for harming their reputations and interfering with their business relationships. A variant type of lawsuit, called strategic litigation against unwelcome research (SLAUR) has been evolving since the early 1990s in the context of policy-relevant science. These suits allege that scientists have unreasonably tainted the good name of a company or product by making public statements about product hazards on the basis of their research. The comparatively low costs associated with employing litigation as a harassment tool, coupled with the compelling benefits that can flow from filing the litigation, give companies that wish to cast doubt on damaging research a powerful tool for bending science.

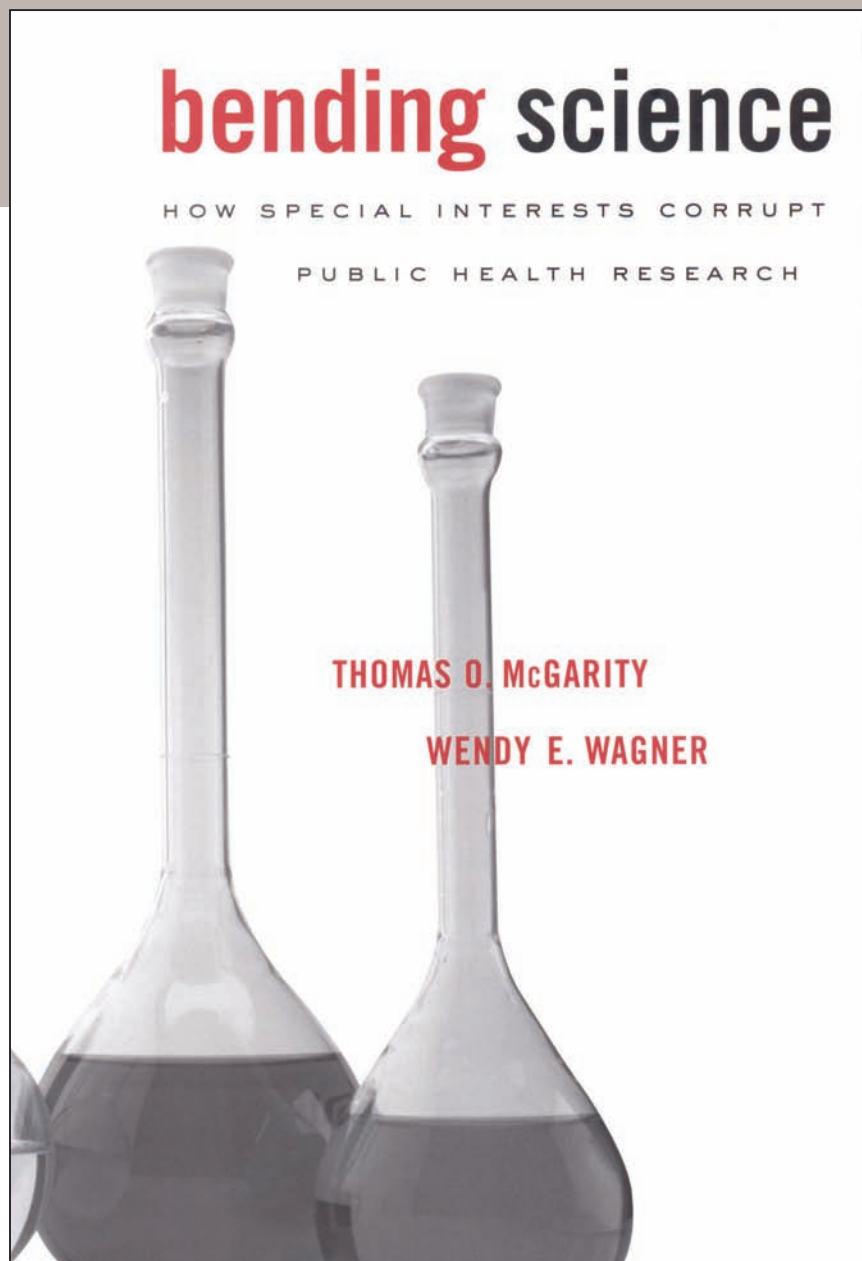
### Defaming Halcion

The sleeping pill Halcion had been on the U.S. market for five years when the FDA ordered a comprehensive review of a disturbingly large number of adverse reaction reports the agency had received from U.S. doctors. Two FDA reviews concluded that Halcion continued to generate from eight to thirty times the number of adverse event reports as its nearest competitor, but the drug remained on the market. Civil litigation against the Upjohn Corporation, the manufacturer of Halcion, mounting adverse effects reports, and a decision by the British government to ban Halcion converged to focus attention on the company. Its executives decided that it needed to do something to protect a billion-dollar product for

which doctors were still writing seven million prescriptions per year. An internal company memorandum suggested that the company might simply sue somebody. Although the executives were “not in a position to assess the legal ramifications of such action,” they could certainly “assess the business ramifications”: a lawsuit “would publicize our intent to defend Halcion against unjust action” and thereby “encourage . . . physicians to continue writing Halcion prescriptions.”

As luck would have it, a plausible defendant appeared a month later in the person of Dr. Ian Oswald, an emeritus professor of psychiatry at the University of Edinburgh who had conducted a clinical trial of Halcion in the late 1980s and found an association between Halcion and anxiety, stress, and weight loss. Oswald had recently appeared in a BBC documentary in which he accused Upjohn of covering up a clinical study of its own that had reached similar results. He repeated this accusation in a

From *Bending Science: How Special Interests Corrupt Public Health Research*, by Thomas O. McGarity and Wendy E. Wagner, published in May 2008 by Harvard University Press. This excerpt is published without footnotes.



January 20, 1992, story in the *New York Times*, where he was quoted as saying that the Halcion marketing program was “one long fraud.”

Dr. Oswald’s accusation had a considerable basis in fact. Because he had been retained as an expert witness in the earlier civil litigation, he had reviewed the sealed documents in that case, as well as the actual data underlying the original 1972 Upjohn clinical study, called Protocol 321.<sup>65</sup> That study had been particularly problematic for Upjohn, because its report to the FDA had mentioned only six percent of the observed cases of nervousness or anxiety and only twenty-nine percent of the observed cases of paranoia in the twenty-eight participants. The company later admitted these misrepresentations and reported them to the FDA as innocent “transcription errors.” A contemporaneous internal company memorandum referred less charitably to the “manipulation of data by one of our people.” The report of an FDA criminal investigation into the incident had concluded that the evidence “strongly suggests that the firm was aware that the report [on Protocol 321] was inaccurate.

executive Royston Drucker £75,000. The essence of the court’s judgment was that although the company had made “serious errors and omissions” in its report on Protocol 321, they fell short of actual fraud. On Oswald’s countersuit for libel, based on the “junk science” allegation, the judge ordered the company to pay him £50,000. Oswald came out the overall loser, however, when the judge ordered him to pay the company’s litigation costs, which were expected to amount to at least £2 million.

In the Halcion case, Upjohn invested nearly \$4 million in litigation costs to pursue a libel claim worth roughly one-twentieth of that amount. Even if Upjohn thought it could win a large judgment, it could not have expected a retired scientist to pay that sum. Assuming that the company is a rational economic actor, there must be an explanation for why it would pursue a lawsuit that would cost far more than it could realistically bring in. The power of such a lawsuit is not in the amount of the potential verdict, but in its effect on public perceptions of the credibility of the science being questioned.

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One of the strategies outlined in the Tobacco Strategic Attack Plan developed by the tobacco industry was to launch “surgical strikes,” consisting of lawsuits against people bearing bad news for the industry.

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rate and incomplete but continued to withhold notification to the FDA that the report was flawed.” Even more damning, the committee advising the agency that banned Halcion in Britain concluded that if the information in the study “had been presented completely and correctly” when the drug was originally licensed, it was “highly unlikely” that the committee would have made a favorable recommendation.

Faced with this incriminating evidence, the company decided that a lawsuit against Oswald would provide an opportunity to argue in a public forum not only that Halcion was safe but also that complaints against the manufacturer’s actions were untrue. Even more conveniently, Dr. Oswald’s British citizenship allowed the company to sue him in England, where there is no First Amendment protecting free speech. Oswald would therefore bear the legal burden of proving that his statements were accurate, and he would have no right to a jury trial. At the same time that it launched the lawsuit, the company accused Oswald in the press of purveying “junk science.”

The litigation strategy paid off when a British judge found that Oswald had libeled Upjohn and ordered him to pay the company £25,000. It also ordered him to pay the Upjohn

The prospect of defending a lawsuit is also a severe threat to the settled life of an academic. The cost of defending a defamation suit, even putting aside the possibility of an adverse verdict, can easily bankrupt a university scientist. A suggestion, however subtly conveyed, that a scientist might be sued for publishing or publicly summarizing legitimately conducted scientific research can therefore be a powerful weapon in the hands of an entity with sufficient resources to make the threat a reality. Thus, in traditional SLAPP fashion, the SLAUR can successfully intimidate scientists and discourage them from speaking out about events or problems that they know to be true, even in the United States, where there is a First Amendment right of free speech. It is a rare scientist who so highly values her right to speak out about research that she will risk financial ruin to exercise it.

While lawsuits are obviously extreme measures, they are not uncommon. The manufacturer of the AIDS drug Remune sued the scientist who was in charge of a large company-sponsored clinical trial after he submitted a paper, over the company’s objections, to the *Journal of the American Medical Association* concluding that the drug was ineffective. One of the strategies



outlined in the Tobacco Strategic Attack Plan developed by the tobacco industry was to launch “surgical strikes,” consisting of lawsuits against people bearing bad news for the industry. The memo noted that well-timed lawsuits gave the industry “tremendous media opportunities, which we are continuing to exploit,” and cited as an example a single lawsuit against the American Broadcasting Corporation that succeeded in eliminating the word “spiking” (spraying concentrated nicotine on processed tobacco leaves) from “the lexicon of the anti-tobacco crowd” because of fear of being sued. The memo concluded: “if this is all the suit ever does, it will have been worth it.”

As the tobacco industry’s plan suggested, an entity with sufficient resources can strategically employ lawsuits against scientists to reframe facts and research results in ways designed to advance its interests in the public policy arena. The mere existence of the litigation implies that a company is so outraged by an inaccurate statement that it has gone to the trouble of filing a lawsuit. The company is thus able to portray itself as the victim rather than the perpetrator of bullying and harassment. Litigation also has a good chance of making the news, especially if it is relatively simple and “sexy.” A company attempting to discredit a scientist’s unflattering research may have a hard time getting its rebuttal published or even acknowledged in the mainstream media through traditional devices like press releases and phone calls to reporters. Suing the scientist, by contrast, can generate media attention by providing the added drama of formal public conflict and by offering numerous opportunities for staged media events.

Even if the affected entity is reluctant to invest in a full-fledged lawsuit, the mere threat of litigation can have a serious deterrent effect on scientists of modest means who cannot necessarily depend on their home institutions to assist in the litigation. For example, after serious concerns were raised in the mid-1990s over whether a proposed privately run low-level radioactive waste disposal facility would leak radioactive waste into groundwater, the Department of the Interior, which owned the proposed site, hired the Lawrence Livermore National Laboratory and two scientists who had been members of a National Academy of Sciences panel to study the site in detail. Soon thereafter a private company that would have profited from the disposal facility sent letters to the two scientists warning them that if they participated in the research project, the company would “seek compensation from any persons or entities whose conduct wrongfully injures its interests in this manner.” Although the Deputy Secretary of the Interior denounced the letters as “raw intimidation tactics,” the scientists decided not to risk a lawsuit, and the study was halted. Threats of litigation have also reportedly dissuaded editors from publishing controversial books exposing scientific misconduct by the tobacco industry; articles and letters containing sharp criticisms of research practices by biomedical companies; and research findings suggesting that certain pesticides may be more risky to public health than expected.

Of course, not all defamation lawsuits against scientists are wholly lacking in merit. Perhaps Oswald did go too far in asserting that Upjohn had engaged in “one long fraud,” and other scientists have also crossed the line by making

unsupported factual assertions that caused economic harm to companies. Yet generous pleading rules, even when a scientist has done nothing wrong, often allow harassing lawsuits to proceed for an extended period before they are finally dismissed or otherwise resolved. Federal rules allow courts to penalize those who file frivolous litigation, but judges concerned about preserving the right to a fair trial tend to administer the penalty sparingly, thus allowing virtually all claims to go forward except those that are almost completely lacking in legal and factual support. At most, the penalties for filing the litigation involve paying for the opposing party’s attorneys and litigation costs. State laws aimed at discouraging SLAPP suits in theory might provide added sanctions for this type of litigation abuse, but these statutes typically provide relief only to citizens who become targets of lawsuits as a result of actively engaging in public hearings, protests, or litigation and are generally inapplicable to SLAUR suits.

### Subpoenas and Public Records Requests

Advocates can also overwhelm researchers with abusive subpoenas and open records requests demanding documentation underlying every aspect of a research project, including documents containing confidential information of a highly personal nature obtained from human subjects and other information not normally shared, even among scientists. In the same way that they can file SLAUR suits, advocates can strategically employ the basic commitments to open government embodied in these legal tools to harass scientists and chill scientific activity that produces unwelcome research. Moreover, the tools are curiously asymmetrical, in that far more of them are available to advocates seeking information from government scientists and academics working on government grants than to those seeking similar information from scientists working for or funded by the private sector.

### Conclusion

At this intersection of policy-relevant science and the law, where both the costs of abuse and the incentives to commit it are high, structural legal change is imperative. In Chapter 11 of the book we suggest specific parameters for a positive restructuring of the legal rules to discourage abuse while allowing legitimate demands for information and accountability to proceed. Higher evidentiary burdens for filing challenges, greater oversight over the charges, and much more vigorous sanctions for engaging in abuse will render these tools less attractive for advocates attempting to bend science.

Without reform, the future for scientists who become the targets of these abusive tactics is bleak. Advocates will continue to misappropriate legal processes initially designed to advance good science and provide effective civil justice, making unreasonable demands on scientists and jeopardizing their reputations. Scientists will succumb to the legal attacks either because they think they must or because they find it impossible to mount successful counterattacks against adversaries with greater economic resources and legal expertise. The resulting exodus of scientific talent, however, is most certainly not a positive development for society, nor is it something the scientific community can tolerate in the long run.





## The Massey Fund in Law, Innovation, and Capital Markets

Elizabeth S. and John H. Massey have donated \$2 million to establish the Massey Fund for the Study of Law, Innovation, and Capital Markets. The overarching goal of the Massey Fund is to make UT Law School a leader in law-centered interdisciplinary research and teaching that promote the institutions and practices that encourage robust and sound links between capital markets and innovation. The Massey Fund also underwrites the Massey Prize in Law, Innovation, and Capital Markets—a \$100,000 prize to be awarded biennially to the scholarly book or article that has made the most important contribution to the understanding of this subject. Full story on page 32.

PHOTO BY MARSHA MILLER





Members of the Transnational Worker Rights Clinic secured a favorable settlement for their clients in an employment case filed against Veggie Heaven, an Austin restaurant. Left to right, Aaron Johnson, '08; Helena Coronado-Salazar, '07; Clinic director Bill Beardall; Hugo Roque, a Clinic client; Kevin Vela, '08; Abel Aguilar-Ramos, a Clinic client; and Justin Tullius, '07

# Workplace Justice, Global Workers, Practical Lawyering: The Transnational Worker Rights Clinic

by JERRY DE JAAGER





*As they help low-income workers recover unpaid wages, students in the Transnational Worker Rights Clinic acquire practical skills, examine headline-making policy issues, and address some of the law's most fundamental questions. While in pursuit of these goals, earlier this year the Clinic also passed a remarkable milestone: a recent settlement vaulted the Clinic over the \$1 million dollar mark in total wages recovered.*

ON A HUMID SPRING EVENING at the Austin office of the Equal Justice Center, Kevin Vela, '08, sits in a small conference room with four immigrant workers. The workers have come because they believe they have legitimate claims against their employers for unpaid compensation, but first Vela is getting to know them and encouraging them to get to know each other. Speaking in Spanish, Vela chats with them about their hometowns and their experiences in the United States before asking them to tell him and the others what they do and why they are there.

Vela is one of ten students in the spring semester offering of the Transnational Worker Rights Clinic. Led by Professor Bill Beardall, the Clinic hosts a weekly introductory session for potential clients. In these sessions Clinic students help potential clients understand their rights, protections, and what will happen if the Clinic agrees to handle their cases. Beardall is also the executive director of the Equal Justice Center, where the Clinic is housed.

"It can be frightening for an immigrant, documented or undocumented, to stand up against an unjust employer," Vela recounted. "So part of our job at the initial orientation is to let them know we understand them and are on their side, and also to help them see from the accounts of others that their mistreatment is not unique or somehow their fault: they are part of a community. And we are part of it too. It's Professor Beardall's adamant position, and one we all respect, that our clients are people first and lawsuits second."

### A Diversity of Cases

If the decision is made to pursue a case, the clients will return to a Wednesday evening session where they will meet with a Clinic student and sign a representation agreement. Through this process the Clinic has taken on cases ranging from relatively small amounts owed to day laborers who were not paid at all to very large actions for violations of wage, overtime, and labor statutes.

Clinic students try first to negotiate an agreed resolution to cases—Vela recently settled one, after more than six months of effort, for about two thousand dollars for three landscaping workers—but suits will be brought when negotiation fails.



The Clinic just completed a suit that alleged more than four hundred thousand dollars in compensable damages against the Target Corporation for underpaying its night-shift janitors. Clinic students worked on every aspect of this case, from intake to brief writing. They won significant procedural victories, including a decision that the Clinic's clients could not be interrogated on matters related to their immigration status during depositions. The brief regarding that issue, to which Clinic students made substantial contributions, is now being used as a model in similar cases throughout the United States. In February, Target's motion for summary judgment—claiming that the employees were not Target's but those of a Target contractor—was denied. That ruling steered the case into mediated settlement negotiations and an out-of-court settlement was finalized in June. The terms of that settlement remain confidential but the Clinic and its clients are happy with the resolution of the case.

"It's nice to win big, visible victories," Vela said, "but the smaller ones feel just as good—helping a deserving person get what he or she rightfully earned is very satisfying."

The Clinic's diverse caseload includes a suit on behalf of fourteen Austin women who say their employer paid them no wages at all for four weeks of work, another in which three electrical workers charge that they had to pay illegal kickbacks to their supervisor out of every paycheck for nearly a year, and one on behalf of restaurant kitchen workers who say their employer failed to pay them the legally required minimum wage and overtime pay for long hours of work.

"I consider myself a realist," commented Clinic student Pablo Nossa, '09. "My parents emigrated here from Mexico so I have observed my share of injustice, but I was completely shocked to see how prevalent the violations that we seek to remedy are. Just here in Austin, relying entirely on word of mouth, we have a constant stream of workers coming in with legitimate complaints. And when you consider the factors that might deter immigrant workers from complaining about their pay, you realize how much bigger this problem is than even what we are actually handling. There are not nearly enough legal resources to deal with all the injustices in this area alone."

Behind the Clinic's activities is the professor, Bill Beardall, whom students variously describe as a hero, an ideal role model, and someone who personifies the kind of lawyer they want to become. Beardall is celebrating his thirtieth year as an activist attorney, having gone directly from his 1978 Harvard Law School graduation to Deaf Smith County in West Texas, where he and some law school compatriots created an office of Texas Rural Legal Aid to serve migrant farm workers.

"The obvious and grotesque violations of law in what was then a notoriously racist and backward part of the state enabled us to do a lot of good litigation that had a lot of impact, although it surely didn't endear us to local employers and public officials," Beardall said. He and his colleagues received regular death threats and the windows were shot out of their office. The Deaf Smith County Sheriff once complained, "I think that Texas Rural Legal Aid is the problem because they're supplying these people with the information and they're telling them all about the Federal laws and everything. I think it's

just a terrible injustice when our tax money is being used against us."

In 1984 Beardall became the director of Texas Rural Legal Aid's migrant worker division. In 2000 (the same year that he received the John Minor Wisdom Award from the American Bar Association's Litigation Section, recognizing his career as a leading advocate for low-income working people), he took on the role of legal director of Texas Appleseed, heading a campaign to reform indigent defense practices for Texas criminal defendants. "In part because our work coincided with the presidential campaign of George Bush, what we accomplished surpassed our wildest expectations," Beardall said. "We got a landmark reform bill passed—the Texas Fair Defense Act—and oversaw the initial stages of its implementation."

### The Equal Justice Center

In 2001, frustrated by the severe restrictions imposed on the federally funded Legal Services programs—especially restrictions against representing most immigrants—he founded the Equal Justice Center. "EJC was an experiment to see what could be done to more fully represent low-income workers without relying on federal funding, and without regard to the worker's immigration status," he said. The experiment has flourished, with a range of projects aimed at protecting and extending workers' rights to fair wages, safe working conditions, organizing, and fair access to the legal system to enforce employment protections. A nationally recognized expert in his field, Beardall frequently participates in policy deliberations. In May, for example, he was one of five witnesses invited to testify before the Education and Labor Committee of the United States House of Representatives about employers' misuse of guest workers and undocumented workers.

In 2004, a five-year grant to the Law School from the Bernard and Audre Rapoport Foundation supported the creation of the Transnational Worker Rights Clinic, which from its beginning has been directed by Beardall through the Equal Justice Center.

But the Clinic's important work also teaches students much about practical lawyering. In today's increasingly globalizing world, other profound questions are also set before the students. Aaron Johnson, '08, who recently was awarded the prestigious Law Faculty Post-Graduate Fellowship in Public Interest Law [see related story, page 36], said, "It's such a compelling experience to see the work you are doing with clients directly connected to some of the most important policy debates of the day. Not only immigration and immigration reform, but trade policies and international human rights policies, among others—things that are right there in any day's headlines."

"The Clinic put me back in touch with a side of me that had been neglected since I became a law student," commented Clinic student J.D. Garcia, '08. "When I was an undergrad, I was consistently involved with social/political issues, but with the distractions of being a law student, essentially I became indifferent to those things which used to motivate me. The Clinic placed me in a situation that stirred inside of me that thing which I had lost. In a way, I felt useful again. And so I go on, with a renewed sense of why I came to law school to begin with."



PHOTO BY MARK RUTKOWSKI

Clinical professors Sarah Buel and Jeana Lungwitz, together with Lisa Snead, '09, at the Travis County Courthouse

# Home Safe Home: The Domestic Violence Clinic

by DIANA SMITH

*Each semester, University of Texas School of Law students take on some of the most emotionally charged and complex cases in the judicial system. The stories of domestic cruelty are often appalling—shocking violence, sexual abuse, and even fear of imminent death. The outcomes aren't always perfect. Yet, for victims of domestic violence, these students are making a difference. The Clinic recently celebrated its Tenth Anniversary with a conference, "Progress in Using Law to Battle Domestic Violence." The two-day conference highlighted Clinic alumni and students, and their ongoing efforts to assist clients affected by abusive relationships. >>>*

Summer 2008 **UTLAW 23**



JUST OVER TEN YEARS AGO, TWO REMARKABLE women joined forces to create something new. Nationally known domestic abuse advocate Sarah Buel, and Jeana Lungwitz, the former Legal Services Director for what was then called the Woman's Advocacy Project, launched the Domestic Violence Clinic at the University of Texas School of Law in 1997.

When clients come to the UT Law Domestic Violence Clinic, they often have no money, no resources, and nowhere else to turn. Beaten physically and emotionally, many victims have tried to leave abusive partners more than once. The Clinic offers not just legal help, but hope for a new life.

Students step in to try to meet legal and other needs. The Clinic has a two-fold purpose: serving victims of domestic violence and giving students hands-on, multi-faceted legal experience.

### **A Tremendous Need**

"We knew that there was a tremendous need for civil legal representation for domestic violence victims here," said Buel. "When we talked to judges and lawyers in the community as well as Legal Aid, they identified that as their number one need. At that time, the vast majority of lawyers simply did not know how to adequately represent abuse victims; they hadn't been trained or didn't understand comprehensive, ongoing safety planning."

experience," said Blake. "The Clinic obviously gives people in law school an opportunity to learn skills that will help them later, but more importantly, it increases access to justice for victims of abuse," she said. "It's training a whole fleet of attorneys to be sensitive to these issues and to help people."

Lisa Snead, '09, originally from Virginia, came to UT Law because of the Domestic Violence Clinic. She said, "I didn't have an interest in family law until I started volunteering for a battered women's shelter. That really piqued my interest, plus I started to see how completely underserved these women are."

Snead participated in the Clinic this spring and worked on three cases. "With the Clinic, I know I am helping real people and gaining real experience. It's nice to know that what I am doing is making a difference." She is also the president of the Domestic Violence Survivor Support Network at UT Law.

Sara Kim, '09, a Dallas native, also participated in the Domestic Violence Clinic this spring. "It's one thing to read about a courtroom in a book," she said, "and another entirely to see how much time goes into drafting documents, talking to clients and witnesses, getting all the evidence you need, going to court, presenting your case, and actually seeing how the legal system works."

"Originally, we thought our cases would be fairly simple, like filing protective orders," said Lungwitz. In reality, the Clinic

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*The Clinic has evolved to handle much more complex matters. Now, when students foray into the thorny issue of family law and domestic violence, they may encounter many other concerns including immigration, disability, bankruptcy, personal injury, and even criminal law.*

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Today, thanks largely to the efforts of Lungwitz, Buel, and a cadre of "very enthusiastic students"—160 have participated in the Clinic since its inception—the Clinic enjoys widespread support among community service organizations, law enforcement, and other specialty groups. They have made great strides, but Buel and Lungwitz both know that there are many who still need help. "We get a number of cases that no one else wants—clients with past mental health issues, substance abuse, and involvement with the child protection system," said Buel.

Bronwyn Blake, '05, is now a senior attorney with the Texas Advocacy Project and has become a vocal advocate for teens, spearheading a statewide program to prevent and protect against dating violence. She became interested in family law and youth rights after taking Buel's Domestic Violence and the Law class, and then participating in the Domestic Violence Clinic.

"I was excited about taking the Clinic and getting that

has evolved to handle much more complex matters. Now, when students foray into the thorny issue of family law and domestic violence, they may encounter many other concerns including immigration, disability, bankruptcy, personal injury, and even criminal law.

"The students do anything a private lawyer would do," explained Lungwitz. "They meet with clients, fill out paperwork, prepare initial pleadings, go to the court and get them filed. They communicate with opposing counsel or the opposing party, or any other parties, a guardian ad litem, for example, and try to negotiate a settlement. If that is unsuccessful, they go to trial."

When a case goes to trial, the lead student sits "first chair" and Lungwitz sits "second chair." Blake says that she was surprised at how much responsibility Clinic students assume. Going to court as a student was "nerve-racking, but extremely beneficial," she said. "You have the benefit of everyone's help

and experience. I cannot imagine having had my first courtroom experience until after graduating from law school. It is so much better to have it in the Clinic with so much help and so many people holding your hand.”

For many students, trial cases have a lasting impact and result in memorable personal victories. In one of Snead’s cases, her client had been abused for twenty years. “Seeing her get on that stand and completely stand up for herself was amazing. I was so glad that I could be there to help her do that.”

### A Personal Connection

Students who participate in the Domestic Violence Clinic often have some sort of personal connection to this issue, said Lungwitz. Part of Buel’s motivation stems from being a survivor herself who fled a violent ex-husband before she, as a single mother, worked her way through Harvard Law School.

Lindsey Byers, ’08, learned firsthand of the agonizing process victims can face in the legal system after she was attacked by a former boyfriend during her first year of law school. “I went through the system as a victim and started realizing the injustices victims face and how difficult it can be,” she said. “In the whole process, it was almost as if I were being re-victimized. That inspired me to get into the Clinic, and I love my work there.”

Kim also has experienced domestic violence. “My mom and dad had a violent relationship,” she said. “I wanted to know what legal representation was available and accessible for victims of domestic violence and figure out what actually works versus what is lacking in our system. I feel that it is necessary for our system to be victim-friendly and not pose another hurdle for them to overcome,” she emphasized. Kim now is helping her mother file for divorce.

Students also discover that cases don’t always conclude neatly. Snead observed, “I have one client now who I am afraid has changed her mind. She’s not answering my calls. But, you know, it’s just one more step. If she tries again, maybe next time will be the time that she really leaves.”

“It’s really amazing what Professor Lungwitz and Professor Buel have done starting this Clinic from nothing and creating alumni who are really loyal to the Clinic and this issue,” said Lauren Mutti, ’06, now a labor employment attorney. “They have done a lot of work in Austin, too, toward changing the laws. The Family Code wouldn’t exist as it does today without Sarah Buel.”

“It’s so rewarding for me to hear straight from the client’s mouth that without the Clinic, without my help, they wouldn’t be where they are today,” Kim added. “They are so grateful that there is such a program as the Domestic Violence Clinic available to them.”

While the majority of students in the Clinic do not end up pursuing domestic violence work in their full-time careers, they actively pursue pro bono opportunities as a result of their Clinic experience, said Buel. “My goal is to teach them to be champions for social justice. Whatever their job is, it should have some facet of giving back to the community.” She continued, “It is truly such a gift to have a law degree, and in particular, one from UT. It enhances the quality of your life to give back and to use your legal skills to greatly benefit others.”

# A Holistic Approach

### Clients at the Domestic Violence

Clinic have legal concerns, but many face other daunting obstacles as well. For that reason, the Clinic takes a holistic approach to representation. Law students and interns from the School of Social Work together assist with safety planning, avoiding eviction or utility cut-offs, obtaining public assistance, and finding housing, jobs, or daycare.

“One of the main reasons victims may go back to an abuser is an inability to support themselves,” said Lauren Mutti, ’06, an attorney in Dallas who worked at the Clinic during law school. “As attorneys doing domestic violence work, we could help with legal problems but it didn’t really address our clients’ full problems. When clients couldn’t get or keep a job, lacked education, couldn’t pay bills or needed welfare, food stamps, or other resources to enable them to support themselves, we found resources.”

“Those aren’t things lawyers typically do, but in these cases, we had to help in order to win the legal argument. It’s pretty hard to argue to a judge that your client should have custody of her kids if she doesn’t have a job or a roof over her head.”

In addition to the Clinic, the Domestic Violence Survivor Support Network is an organization at UT Law that helps survivors of domestic abuse become economically independent. The organization aims to help survivors become financially independent by assisting them with establishing a budget, creating a resume, or finding a job. The group also raises money each year to provide emergency funds for urgent needs such as car repair or medical expenses.



# Seize the Day:

## Securing the Future of Our Law School

by TOM HENNINGER

SOMETIME IN 2009, THE UNIVERSITY of Texas at Austin will announce the start of an historic, University-wide fundraising effort. UT Law has set an ambitious goal of raising \$200 million over the next five years as a part of this capital campaign. The money raised during the campaign will be used for support in three broad categories—faculty recruitment and retention, student recruitment and support, and support for new and expanded programs at the Law School.

UT Law School is a unique asset for Texas, and it is also at a defining moment in its history. The Law School offers a high quality legal education at a comparatively low cost, while providing extraordinary service to the legal system and to the citizens of our state. The growth and success of its clinical programs (the Capital Punishment and Supreme Court Clinics' faculty and students were involved in six cases argued and won before the U.S. Supreme Court last term—an unprecedented achievement by any law school), the tripling of the number of Federal Court of Appeals clerkships in a single year, an amazing run of recent faculty appointments, and a dazzling array of professional activities by UT Law alumni across the nation and beyond are testament to the Law School's success.

But our law school is vulnerable. The size of the faculty must increase to reduce class size and to improve the faculty/student ratio. The competition among the nation's top law schools is fiercely predatory, and UT Law must be able to counter enticements to its faculty from other law schools while working to attract nationally recognized legal scholars to Texas. Likewise, UT Law must have the necessary resources to recruit the best and the brightest students from across the state and from around the country. To do that, student scholarship

offerings must be expanded, course offerings in the core curriculum, clinical legal education, and interdisciplinary studies (such as law and business) must be broadened and strengthened. The capital campaign will also focus on creating specific centers of education and research where Texas ought to be a leader among American law schools, including in the areas of energy, international business transactions, and intellectual property.

Dean Larry Sager has appointed a committee of seventy distinguished alumni, named the Campaign Leadership Council (CLC), which will develop and implement the priorities and fundraising strategies of the capital campaign. Joe Jamail, '52, serves as honorary chair of the CLC. Jamail, the renowned trial lawyer, has long been a generous benefactor to UT Law School (see related story on page 28) and serves as a Life Member Trustee of the University of Texas Law School Foundation.

David J. Beck, '65, has accepted the position of chair of the CLC. Beck, a Life Member Trustee and past president of the Law School Foundation, will direct the efforts of the CLC. Beck is a founding partner of the Houston law firm of Beck, Redden & Secrest, LLP and is widely regarded as one of the nation's best trial lawyers. Beck is the immediate past president of the American College of Trial Lawyers, a Fellow in the International Academy of Trial Lawyers, an Advocate in the American Board of Trial Lawyers, and an Honorary Overseas Member of the Commercial Bar Association, a preeminent association of English barristers. Beck is a past president of the State Bar of Texas, and a past president of the International Association of Defense Counsel. Beck is a member of the prestigious Judicial Conference Standing Committee on Rules of Practice

*“We are in a time of great challenges and great possibilities for our law school. I am honored by the opportunity to lead our capital campaign and to work with such an impressive group of men and women on the Campaign Leadership Council. I am confident that as we articulate the need and the promise that lie before us, our alumni will respond as they have in the past—with generosity and enthusiasm.”*

*—David J. Beck, Chair of the Campaign Leadership Council*

and Procedure, having first been appointed by Chief Justice of the United States William Rehnquist and then reappointed by Chief Justice John Roberts.

The Campaign Leadership Council is divided into four divisions that will focus on different aspects of the fundraising effort, including outreach to individual alumni and friends engaged in the practice of law, those engaged in other business interests, and law firms and other businesses with affinities to particular programs or projects of the Law School. These divisions are Leadership Gifts, targeting contributions of \$1 million or more and chaired by Laura Beckworth, '83 and John Beckworth, '83; Law Partners, targeting long-term, current-use donations by law firms and businesses, chaired by Carrin Patman, '82, and Rob Walters, '83; Alumni Major Gifts, focusing on contributions between \$100,000 and \$1 million and chaired by Nina Cortell, '76, and Steve Tatum, '79; and JDs Not Practicing (JDPs), targeting UT Law alumni engaged in business, finance, and interests other than the practice of law, chaired by Lorne Bain, '68, and David Heaney, '74.

In addition, Sager has assembled an experienced and proven development staff devoted to the capital campaign. The Law School's development team is led by Carla Cooper, the assistant dean for development and alumni relations, who joined the staff in 2007 after a highly successful career as a fundraiser and development consultant based in Houston, Texas. Tim Kubatzky also joined the Law School in 2007 as executive director of development after more than twenty-five years' experience with development in both private and public higher education. Tom Henninger, '92, serves as director of development, having worked twelve years at UT Law School as both the director of career services and director of alumni relations.



David J. Beck, '65

For more information on the capital campaign and how you can be a part of this exciting effort, contact UT Law School's Office of Development and Alumni Relations at (512) 232-1939 or by email at [alumni@law.utexas.edu](mailto:alumni@law.utexas.edu).





# JOE JAMAIL

## BREAKS ANOTHER RECORD

story by **TOM GERROW** photos by **BRUCE BENNETT**



*Joe Jamail, '52, one of the most successful and prominent trial lawyers of his generation, recently honored the School of Law with a record-breaking gift: \$10 million, to be used for faculty recruitment and retention. It is the largest single gift in our history.*

EVEN WITH A REPUTATION BIGGER THAN HIS home state of Texas, enough war stories to fill several books, and a solid place on *Forbes'* list of the wealthiest Americans, Joe Jamail has more work to do. The thing is, there are still people who need his help. Those seeking justice in court, sure, but also those who must fight tomorrow's legal battles.

### Seeking Justice through Advocacy

"From the beginning of humanity, justice has been the greatest concern of all the people on earth," Jamail said. Other professions may erect buildings, bridges, or monuments that will eventually rust away, he said, but "lawyers don't build with steel or stone, they build with sturdier stuff—ideas and principles and ethics."

Jamail sees himself as an advocate for justice. He has spent his life helping people seek vindication in the courts. "We are the guardians of that. Those who decry that people seek redress in court, they have it all wrong. The people who bring their actions to court are saying they believe in our system."

Trial lawyers have come under fire from a variety of quarters over the years, but Jamail has little patience for those leveling criticism at the profession. "Attacks on the jury system have been going on since I've been a lawyer," Jamail said. "But we have a government of laws and not men, thanks to lawyers. Two choices remain to our people—the courts or the streets. If we choose the streets, we see what horror that would bring. I don't say our legal system is perfect, but it's not a failure. We need to make litigation faster, but without harming advocacy or the jury system."

He has been a powerful, and successful, advocate for his clients over the years with cases that have made him a legend of the bar, including an \$11 billion jury verdict in *Pennzoil v. Texaco*, still the largest jury award ever. He has been dubbed the "King of Torts." And while he has represented a wide range of corporate clients, from Apache Oil to the law firm Vinson & Elkins, he cherishes his reputation as "the people's lawyer."

"My first love is representing people who have been injured," Jamail said. "The media wants to make it look easy, but you have to show negligence and then the cause and extent of the injury. None of that is easy. You also have to convince people that they are entitled to compensation. Nowhere else on earth is pain cheaper than in the courtroom."

He is perhaps most proud of his victories in cases that resulted in product recalls: the Remington Mohawk rifle, the Honda three-wheeler, and the drug Parlodel.

He still fights the good fight out of his Houston office. "Obviously, we can't take all the cases offered," he said. "We might take one out of three hundred or three hundred fifty that come in. I take the cases based on the merits and needs of the clients, to at least give them a chance to find justice."

For someone at the top of the profession, it's a bit surprising that Jamail didn't originally set out to become a lawyer. He wanted to be a doctor, and even considered teaching history at one point. Fate, it seems, had other plans.

He was taking classes at the University of Texas at Austin when World War II intervened; he was just sixteen, so he forged his parent's signatures and enlisted in the Marines. Then, after serving in the Pacific, he returned to the University of Texas, first



# InCamera



as an undergrad studying history and English literature, then taking classes at the Law School where he studied under some of the great legal minds of the day: Leon Green, Gus Hodges, Charles McCormick, Clarence Morris, and George Stumberg among others.

“Law school teaches you to think,” Jamail said. “The answer doesn’t matter, what matters is the thought process used in arriving at the conclusion. It is rethinking your thinking. Nobody teaches that as well as UT Law. They also teach you to be an advocate: your client’s rights above all else.”

Jamail’s great success draws on lessons from far outside the Law School as well. In his words: “A trial lawyer uses all the experiences, good and bad, that he has had through life. Family, friends, enemies, the study of English and philosophy, we use it to understand and practice in the courtroom. You have to understand what motivates people, you have to be compassionate, and you have to be prepared. You spend more time preparing than trying a case: success is in the preparation.”

Jamail has learned all these lessons well. He has become one of the great advocates in our nation’s history, with a remarkable and sustained string of successes. “Joe is a hero to the Law School because he is an extraordinarily talented lawyer, who is deeply committed to the rule of law and to using the

you’ll make it back in a year.”

Through the years, the Jamails played a critical role in ensuring that the Law School had the resources necessary to prepare the next generation of lawyers. Their patronage has helped fund more than ten of the school’s academic chairs, including the Jamail Regents Chair, the Harry M. Reasoner Regents Chair, the Charles Alan Wright Chair, and the Morris and Rita Atlas Chair, as well as five professorships and a half dozen student scholarships.

They also generously supported the Tarlton Law Library through the Jamail Library Excellence and Research Fund, as well as other innovative programs such as the Center for Transnational Studies.

“Joe is fierce as an adversary, and even fiercer as a friend,” said Sager. “At the Law School, we have been the beneficiaries of Joe’s counsel, support, and unswerving loyalty. Whenever a serious need has arisen at the Law School, Joe has been there to help.”

Most recently, that help came in the form of a \$10 million gift to the Law School. The gift, the largest yet received by the Law School, was part of a \$15 million donation that will also benefit the University’s School of Nursing and the Undergraduate Studies advising program. The Law School will use the

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*“At the Law School, we have been the beneficiaries of Joe’s counsel, support, and unswerving loyalty. Whenever a serious need has arisen at the Law School, Joe has been there to help.”*

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law and the courts to level the playing field between people and institutions that threaten to overwhelm them,” said Larry Sager, dean of the Law School.

### Philanthropy

With Jamail’s extraordinary success has come considerable wealth: His fees to date top a billion dollars. Much of that wealth has gone to support many worthy causes and institutions, including the University of Texas at Austin and, in particular, the Law School.

Joe’s late wife, Lee, was the guiding star in this turn to philanthropy. “Lee and I were extremely close, and she had great timing,” Jamail said. “We were having drinks one night, talking about life in general, when she looked at me and said, ‘Are we rich enough yet to start giving money away?’ ‘Sure,’ I said, ‘what do you have in mind—a million dollars?’ She said, ‘No, I was thinking more like a hundred million.’ I must have blinked or something, because she went on to say ‘Don’t worry,

\$10 million to endow a faculty excellence fund aimed at recruiting and retaining a superb faculty.

“The heart of any great law school is a great faculty, and we’re in a period in which the market for faculty is super-heated,” said Sager. “There is a great deal of predatory behavior on all sides, and the competition for marvelous faculty is genuinely intense. Money is not sufficient to attract or hold a wonderful member of the faculty, but it is absolutely necessary.”

Jamail says that giving back to the institution that helped launch his legal career is just the right thing to do. “I talked with Dean Sager and he thought that’s where the need was,” Jamail said. “He knows what is best for the school.”

There is no question that Jamail’s continuing support of the Law School has helped it attract great students, recruit and retain top-notch faculty, and create outstanding academic programs. Jamail demurs. “All I did was give money,” he said. “The honor belongs to those faculty members and administrators who could make a lot more money somewhere else.”







“In the end, students are what this is all about,” said Sager. “Everything Joe has done accrues to the students. He has provided important scholarship money, he has helped make the law library a remarkable institution, and he has enabled the Law School to recruit the best faculty and shape important programs. That is a lot. That touches students’ lives at every moment during their education.”

### **Becoming a Trial Lawyer**

It’s just a bit ironic that one of its most famous alumni was never actually admitted to the Law School. Jamail had already passed the bar exam and was practically out the door after finishing a final required course in taxation when he received a frantic summons to the office of Page Keeton, then dean of the Law School.

“He said, ‘What are you doing here?’ Jamail recalled. I said, ‘you told me to come.’ He said, ‘No, I mean in this Law School? You didn’t take the entrance exam.’ I said, ‘What entrance

exam? I didn’t know you had to take a goddamned entrance exam to get into this place.’”

Despite the irregularity Keeton signed his diploma and, just to show there were no hard feelings, he even helped Jamail get his first job, at the law firm now known as Fulbright & Jaworski—where he stayed for about twenty minutes (literally) before striking out on his own.

But, as many will tell you, that’s just Joe Jamail. He’s always done things his own way, which, as it turns out, is better than just about anybody else’s—especially in the courtroom.

And thanks to Jamail’s continuing support and friendship, the Law School is better equipped to prepare tomorrow’s lawyers and citizens. “The way we can most honor Joe will be to graduate a generation of students who understand that law doesn’t define justice, but rather that justice must shape the law...a generation who understand that the rule of law is essential to justice and that they are the guardians of the rule of law.”









# The Massey Fund in Law, Innovation, and Capital Markets

by TOM HENNINGER

ELIZABETH S. AND JOHN H. MASSEY DONATED \$2 million to establish the Massey Fund for the Study of Law, Innovation, and Capital Markets at the University of Texas School of Law. The overarching goal of the Massey Fund is to make UT Law School a leader in law-centered interdisciplinary research and teaching that promote the institutions and practices that encourage robust and sound links between capital markets and innovation. The Massey Fund will also underwrite the Massey Prize in Law, Innovation, and Capital Markets—a \$100,000 prize to be awarded biennially to the scholarly book or article that has made the most important contribution to the understanding of law, innovation, and capital markets. The Massey Prize, which will call for the submission of relevant books and articles written or translated into the English language from around the world, will be presented every two years at a major conference to be held at UT Law School.

“I am extremely pleased that UT Law School will be home to the Massey Prize and I’m excited about the work that will surround it—all because of the Masseys’ vision and generosity,” said Dean Larry Sager. “I speak for the entire UT Law School community when I say that we are profoundly thankful for all that Libba and John Massey do for the Law School. We will work hard every day to deserve the faith and trust that Libba and John have demonstrated toward us.”

John Massey’s interest in endowing this fund at his law school stems from his strong belief in the importance of the rule of law for economic stabilization and growth. Noting the challenges of structuring governmental institutions and of creating frameworks for economic development facing countries around the world, most notably those that gained independence after the collapse of the Soviet Union, he said, “Libba and I want to create an international prize for scholarship which recognizes the importance of public policy and the rule of law in its impact on the capital markets, and therefore on the sustainability of a nation’s long-term potentials for growth, economic development, and the accompanying high standards of living. And by innovation we are not simply referencing new scientific or technological breakthroughs. We also seek to include important social and economic innovations which improve the lives of people, such as advancing organizational structures, managerial processes, global distribution avenues, business models, teaching methodologies, financing techniques, and improved equitable enforcements of the surrounding legal frameworks. We believe the University of Texas School of Law is the best possible place for us to permanently establish this research award and its supporting endowment.”

The interconnection between the rule of law and economic development and opportunity has gained nearly universal acceptance during the last two decades. After the collapse of Asian currencies in the 1990s and the coincidental disruption

of the economies of those states once under Soviet control, the rule of law has taken center stage as the critical component of wealth creation (see “Order in the jungle” *The Economist* March 15, 2008: 83-85).

The Masseys’ goals for establishing the Massey Fund do not stop with the creation of the Massey prize and its associated conference. Future plans for the Fund include the possible endowment of a “super chair” to attract an internationally renowned scholar in the field of law, innovation, and capital markets, and the funding of distinguished visitor appointments to the School of Law. Plans also include the establishment of a center housed at UT Law which would host roundtable discussions that bring together students, faculty, and experts working in the field; initiate, sponsor, and publish research; and promote the development of interdisciplinary courses and cooperation between the Law School and other relevant entities within the University of Texas.

Mr. and Mrs. Massey are natives of Columbus, Texas. They have made their home in Dallas for the past forty-two years. John H. Massey, a member of the UT Law School Class of 1966, has spent his professional life as a successful investor and executive in radio, television, banking, and the insurance business. Elizabeth Shatto Massey, BS 1961, has long been active as a community volunteer. She recently completed nine years of service as a trustee of Highland Park Independent School District, is the current chair of the UT College of Education’s Advisory Council, chair-elect of UT’s Development Board, a member of the Executive Committee of the Chancellor’s Council for the UT System, and an at-large member of the Board of Directors of the Texas Exes.

The Massey Fund for the Study of Law, Innovation, and Capital Markets is the latest, but by no means the first, example of the Masseys’ remarkable generosity to UT Law School and to the University of Texas generally. In the fall of 2004, the University of Texas School of Law announced the endowment of the Massey Teaching Excellence Award. The Law School presents the award, which includes a \$50,000 stipend during each year of the two-year honor, to a faculty member who “epitomizes the School’s priority of providing the highest quality of teaching to its students.”

At the UT System, the Masseys have permanently endowed two discretionary “excellence in education” funds for the benefit of the Chancellor’s Office and the College of Education, two full academic scholarships for future teachers, and two additional awards for teaching excellence. One honors “those who teach people to be teachers,” reflecting Elizabeth Massey’s devotion to teachers, teaching, the University’s UTeach program, and the College of Education, where she studied from 1957 to 1961. The second recognizes teaching excellence at UT’s medical school in Galveston, from which John Massey’s grandfather, Dr. A.H. Potthast, graduated with an MD in 1915.

## Mark Wawro Honors Dean John Sutton on His 90th Birthday

by **TOM HENNINGER**

DEAN LARRY SAGER announced that Mark Wawro, '79, and his wife, Melanie Gray, have donated \$1 million to endow the Dean John F. Sutton, Jr. Chair in Lawyering and the Legal Process. Wawro, a former student of Sutton's, is a partner in the Houston-based law firm of Susman Godfrey, and Gray is a partner in the Houston office of Weil, Gotshal & Manges.

"John Sutton was a very important dean of this law school, and it is wonderful that we can honor him in this way," said Dean Larry Sager. "The UT Law School is very much in the debt of Mark Wawro and Melanie Gray for their great generosity."

Wawro's achievements as a trial lawyer have been widely recognized. He is featured in *The Best Lawyers in America*, and listed as a "Super Lawyer" by *Texas Monthly* and *Inside Houston*. He has been called one of the "Best Lawyers: Business Litigation" and "Best Lawyers: Commercial Litigation" by *The American Lawyer* and one of the "World's Leading Litigation Lawyers" by *International Commercial Litigation*. He is ranked one of the best lawyers in the United States

by both *Chambers Global* and *Chambers USA*.

Wawro also serves on the boards of several non-profit organizations, including Texas Appleseed, Inprint, Inc., and the Gulf Region Advocacy Center. He is on the Advisory Board of the Texas Innocence Network and a member of the Museum of Fine Arts Film Committee.

Gray, a graduate of Syracuse University College of Law, concentrates her practice in complex commercial litigation, with particular emphasis in bankruptcy, energy, and employment litigation. She co-chairs her firm's bankruptcy litigation practice. Gray is a trustee of Syracuse University and an Executive Committee member of Syracuse University College of Law. She is a board member of Planned Parenthood of Southeast Texas, board chair of the Post Oak School, and Executive Board member of the Society for the Performing Arts. Gray is a former board member and former president of Girls Incorporated of Greater Houston. She is also a former board member of the Texas American Civil Liberties Union, the Plaza Club, Bo's Place, the Texas Accountants & Lawyers for the

Arts, and the Children's Fund.

Sutton, a 1941 graduate of the Law School, taught at UT Law for forty-six years, retiring from the classroom in 2003. He served as dean of the Law School from 1979 to 1984. His areas of research and teaching included professional responsibility, evidence, and torts. He was the principal drafter of the Model Code of Professional Conduct. In addition, Sutton served as a Member and the Reporter for the Texas Committee which drafted the Texas Disciplinary Rules of Professional Conduct adopted by the State Bar of Texas in 1990. Sutton is an author of the widely used evidence book with Dean Charles McCormick and Professor Guy Wellborn, and he wrote a professional responsibility book with Professor John Dzienkowski, '83. This year, Sutton was appointed by the president of the State Bar of Texas to a three-year term on the Standing Committee on the Disciplinary Rules of Professional Conduct. When not working from his office at the Law School, Sutton and his wife, Nancy Ewing Sutton, also a 1941 graduate of the Law School, live in San Angelo, Texas.

Mark Wawro, Melanie Gray, Larry Sager, Nancy Sutton, and John Sutton



PHOTO BY MATTHEW MONTENATOR

PHOTO BY MARSHA MILLER





PHOTO BY MATTHEW MONTENAYOR

Rex G. Baker IV, left, and Rex G. Baker III, right, flank a family portrait with all four generations of Rex G. Bakers

## Our Fabulous Baker Boys

by TOM HENNINGER

AT A LAW SCHOOL dinner earlier this year, Rex G. Baker, III, Class of 1977 and partner in the law firm of Baker & Associates in Dripping Springs, Texas, was talking to Dean Larry Sager about the School and its needs. One of those needs—financial support for law students—got Baker to thinking, and what came from that initial and subsequent conversations with the dean and others at the Law School is a new and unique student scholarship and mentoring program. Beginning in the fall of 2008, Baker will pay the costs of tuition and fees for an entering law student and will continue that support for the full three years of this Baker Scholar's legal education. The student will be selected by the dean and the award will be based on need. In addition, Baker will make himself available as a mentor to the selected student, offering advice and counsel based on his own experiences as a student and as a practicing attorney "on the other side" of law school. This scholarship marks a departure from traditional student scholarships, which are typically created by endowment. Baker, and other alumni who follow his example, will contribute current-use dollars annually to cover the student's tuition and fees.

"One of the great benefits of being dean is having the opportunity to get to know so many of our alumni," said Sager.

"Their respect for and devotion to this institution—their law school—is unlike that of any other school with which I've been associated. Rex Baker's imaginative idea and generous gift that inaugurates our new student sponsorship program is a magnificent example of the sense of community and responsibility shared by all who are a part of the UT Law family. I am deeply grateful to Rex for what he's doing, and all of us here are honored that this first sponsored scholarship will bear the Baker family name—a family that has been associated with UT Law School for nearly 100 years."

To date, four generations of Bakers—to be more specific, Rex G. Bakers—have studied law at the University of Texas. Baker's grandfather and father were UT Law graduates, and his son, Rex, IV, will begin his third year of law school this fall, and is slated for graduation in 2009. The Baker family generosity to the Law School crosses the generations, too. Rex, Sr. was a 1917 graduate of UT Law and practiced in Houston as vice president and general counsel of Humble Oil. He and his wife, Edna, established more than forty-five years ago one of the first endowed professorships at UT Law School, the Rex G. Baker and Edna Heflin Baker Professorship in Constitutional Law. Rex, Jr., who graduated from UT Law in 1947, and who also

practiced law in Houston, endowed the Rex G. Baker Centennial Chair in Natural Resources Law together with Rex, Sr. and Rex, III. Baker's great-uncle, Hines Baker, also graduated from Texas in 1917 and endowed the Hines H. Baker and Thelma Kelley Baker Research Chair in Law.

In explaining his interest in these sponsored scholarships, Baker noted his family's understanding of the central importance of UT Law School to their family's accomplishments. "My grandfather and father taught me early on that the education they received from UT Law School was directly responsible for their successes in business and law. I know that this is true for me also," said Baker. "People before us made a first-class legal education at Texas a bargain, and we would like to make it a bargain for those who come after us."

The University of Texas School of Law is proud to claim the Baker family as part of its larger family and is grateful to them for their long legacy of service to the legal profession and society, and support of their law school.

If you are interested in assisting current UT Law students through a student sponsorship, please contact the University of Texas Law School Foundation at (512) 232-1939 or by email at [alumni@law.utexas.edu](mailto:alumni@law.utexas.edu).



Eden Harrington, clinical professor and director of the William Wayne Justice Center for Public Interest Law; Jordan Steiker, the Cooper K. Ragan Regents Professor; 2005 Fellowship recipient Bronwyn Blake, '05; Gerald Torres, the Bryant Smith Chair in Law; William Forbath, the Lloyd M. Bentsen Chair in Law; Lynn Blais, the Leroy G. Denman, Jr. Regents Professor in Real Property Law; and 2008 Fellowship recipient Aaron Johnson, '08

## Justice. For All.

# UT Law Faculty Post-Graduate Fellowship by JERRY DE JAAGER

*UT Law Faculty Post-Graduate Fellowship in Public Interest Law, financed by long-term commitments from the Law School's faculty, enables new graduates to practice public interest law and helps bridge the gulf between the need for legal services and their availability.*

### The Challenge

"OUR COUNTRY WAS FOUNDED on the principle of the rule of law. Every citizen has a fundamental right to equal access to the justice system. Yet here in Texas, our legal resources are stretched so thin that we are failing to serve more than seventy-five percent of low-income and poor people who require that access. That's tens and tens of thousands of people in need, for whom the rule of law, in the absence of access to the justice system, is really nothing more than a meaningless abstraction."

The voice of James Sales, '60, rises as he expresses his frustration at the unavailability of counsel for the poor. As head of the Texas Access to Justice Commission, which was created by the Texas Supreme Court in 2001 to expand, improve, and implement civil legal service programs throughout the state, Sales grapples daily with the challenges of providing justice for all Texans. "These are people who have been cheated out of wages honestly earned," he asserts. "Veterans and elderly citizens denied crucial medical and disability benefits. People in need of protection from dangerous or abusive domestic circumstances. Real human beings with real needs for justice that the Texas legal system simply is not accommodating."

"And for all we do to stretch the current resources, there's only one real solution," Sales continues. "We cannot rectify this shameful situation without more lawyers engaged in the practice of public interest law. It's become my mantra here at

the Commission and everywhere I go throughout the state: We must have more boots on the ground."

### The Law Faculty Responds

Thanks to more than fifty Law School faculty members who reached into their own pockets to make substantial long-term financial commitments, there are more boots on the ground in Texas today. In 2004 those faculty members created the Law Faculty Post-Graduate Fellowship in Public Interest Law, which each year provides \$37,000—roughly the average starting salary for a public interest attorney in Texas—for a newly graduated alumnus to practice public interest law. The first fellowship was awarded in 2005 to Bronwyn Blake, '05; four additional fellows have been selected since then (two fellowships were awarded in 2007).

Professor Eden Harrington, who administers the program as director of the William Wayne Justice Center for Public Interest Law, lauds it for three principal reasons: "First, because the fellows arrive at their organizations with their salaries paid, the program actually adds to the number of available public interest attorneys. Second, the fellows are exceptionally skilled, and can start making significant contributions right away. In fact, many of them continue important and innovative work they began while in Law School. And third, the financial support from the faculty



and the Law School demonstrate a remarkable commitment to encouraging our graduates to engage in public interest practice.”

### Two Exemplary Awardees

This year’s awardee, Aaron Johnson, will work at the Equal Justice Center in Austin, helping low-income workers recover unpaid wages as he also initiates activities to discourage unscrupulous employers from future misconduct. Johnson’s commitment to this area of law arose from his experience at the Law School’s Transnational Worker Rights Clinic, where he has worked on cases ranging from claims on behalf of unpaid day laborers to a lawsuit against Target for hundreds of thousands of dollars in unpaid overtime. [See related story, page 20.]

A sergeant in the Army reserve who served in Iraq before starting law school, Johnson expresses gratitude for the fellowship. “This work is fulfilling and aligned with my commitment to help America live up to all its promises,” he said. “It would have been hard for me to continue doing it were it not for the faculty’s generosity.”

Selina Llaguno’s 2007 Fellowship enables her to work at Texas RioGrande Legal Aid in El Paso, expanding its program to provide legal services to immigrant victims of domestic violence. She is similarly appreciative. “To be able to return to the place where I grew up and do the work that is in my heart, and to have the impact I have dreamed of having—it has made all the difference in the world for me and I am almost inexpressibly grateful,” she said.

### Bridging the Gap

Professor Jordan Steiker, who was among the core group of faculty initiating this fellowship (along with Harrington and professors Lynn Blais, Willy Forbath, and Gerald Torres), expresses satisfaction with its outcomes so far. “On a practical level we’ve made some opportunities available for a number of extraordinary graduates to do public interest legal work,” said Steiker. “That’s good for them and good for society. Some of them will continue along the path their fellowships permitted. Ultimately, though, more people have to become involved in helping create positions like these. The faculty’s great generosity doesn’t begin to bridge the huge gap between needs and services.”

Steiker observes that the five-year period funded by the faculty’s commitments now is entering its final year. He expects that the faculty will be responsive to a new request, and he, along with others, hopes that the new funding might be generous enough to permit the fellowships to underwrite two years of work instead of one. “Even these exceptionally able attorneys are not likely to fully find the rhythm of their work in the first year,” he noted. “A two-year commitment will more than double their impact.”

Elizabeth Wagoner, who began her fellowship after graduating in 2007, agrees with Steiker’s assessment. She returned to Make the Road New York, where she had worked as an intern the previous two summers, to establish a workplace justice project focused on women. Her participation in Make the Road’s outreach and community organizing activities led to a suit filed this past April against a dance club for exploitation of its female workers. The suit has earned coverage in the *New York Times* and other major New York newspapers, and it reached front-page

status in New York’s Spanish-language press.

“It just takes a long time to win the trust of potential plaintiffs in a suit like this, and to build a solid case,” said Wagoner. “Now that we have taken such visible action, we are hearing from many, many more people who want our help. I’m hoping I’ll be able to stay on at Make the Road. A two-year fellowship is a great idea, I think, if it’s feasible, because it would allow the recipients to really hit their stride and then follow through.”

In awarding the fellowships, Harrington and a committee review project proposals submitted by student applicants. “The selection committee has a difficult time making a decision because there are so many outstanding applicants with strong credentials who are ready to work on innovative projects with legal service providers across the country,” Harrington said. Blake used her fellowship to build an innovative program for teenagers at the Texas Advocacy Project (then called the Women’s Advocacy Project), where she still works. The program serves young victims of dating violence by making them aware of their rights, providing advice, and representing them in legal actions. According to a 2006 study, seventy-five percent of Texas youth between the ages of sixteen and twenty-four have personally experienced dating violence or know someone who has.

Blake has also created distinctive outreach programs. “Young people are a different audience,” she said. “We’re still experimenting to find the best ways of reaching all the young women and men who need our assistance.” She speaks several times a week at high schools around the state and also conducts training for school officials, counselors, attorneys, and law enforcement personnel. Her program’s page at the Texas Advocacy Project web site is designed to appeal to the youth she serves and increase their awareness and access to appropriate services.

During his fellowship year at the Equal Justice Center, Allen Cooper, ’06, conducted a thorough analysis of the consequences for workers of employers’ decisions to opt out of Texas’s workers’ compensation system. From the four policy papers he wrote, he created model legislation to improve the system and advocated for the adoption of that legislation. Eight bills and riders were introduced in the legislature as a result of his efforts.

“In working on behalf of those bills, I learned a great deal about the political forces that have to be addressed to effect systemic change,” he recounted. “The experience gave me a great perspective about the complicated intersection where justice issues meet law-making realities. That will serve me well in my future advocacy activities.”

### Justice for All

Through the Law Faculty Post-Graduate Fellowship in Public Interest Law, UT Law graduates are developing their own fundamental lawyering skills, embarking on possible public interest careers, and implementing innovative programs to help those in need. Assessing the significance of the program, Dean Larry Sager observed, “When I was growing up, we pledged allegiance in school every day to a republic that vouchsafed justice for all. There is much to be done to fully honor that pledge, but our extraordinary law faculty and the exemplary students they have supported are helping in important ways to make it more of a reality. This fellowship is yet another reason to be proud to be associated with UT Law.”



Regina Rogoff, '73, at the People's Community Clinic in Austin

## Expanding Access to Health Care

WHETHER ADVOCATING FOR health care for the uninsured or rowing as the sun rises on Lady Bird Lake, Regina Rogoff is not afraid of a new challenge. "I always knew I wanted to be involved with social change in some way," said Regina Rogoff, '73, chief executive officer of People's Community Clinic in Austin. Growing up in the volatile 1960s, Rogoff was influenced by the social environment of the period.

"I didn't know what I wanted to do, but I knew I would not be a revolutionary," she said. "It seemed to me that the legal process was the most effective way to create change in our country."

Rogoff, originally from Long Island, N.Y., earned a bachelor's degree from the University of Michigan-Ann Arbor, and then headed to Austin for law school. Upon graduation from UT Law, she began her career as a VISTA lawyer, then went to Legal Aid of Central Texas where she was executive director for twenty years and a staff attorney for ten years.

Today, at People's Community Clinic, Rogoff oversees the nonprofit primary care clinic that provides a veritable medical safety net for uninsured central Texans. The clinic provides care for 10,000 uninsured patients per year, with 30,000 medical visits, and 47,000 total services. Patients pay on a sliding scale for their services.

Rogoff admits that running a nonprofit health care clinic was not her original career choice. She has, however, always had a special interest in health care and while a lawyer at Legal Aid, she sued a local hospital to provide care to Medicaid recipients. This action spurred significant, widespread change in admitting practices at that time. In addition, she served on the board of People's Free Clinic, a health clinic located in the basement of a church right off the UT campus on the "Drag." When the executive position at People's became available five years ago, she managed to persuade the board "that if I could manage lawyers, I could manage doctors."

She now serves as CEO of that same basement clinic, now evolved as the People's Community Clinic and located in a medical facility off of IH-35. In this role, Rogoff has taken on one of the thorniest issues in the Lone Star State—health care for the underserved. "It is



a fascinating time to be in health care because we are riding the crest of a huge crisis. Being in Texas, of all states, with the highest rate of uninsured in the nation, and now with the third highest increase in health care premiums in the nation, it's the perfect storm," she said.

"Even as an employer in the medical field, my ability to provide health care to my own employees is limited. Our mission is to improve health by providing affordable, quality health care to the uninsured, but many of my own employees can't afford to cover their dependents because premiums are so high," Rogoff added. "Our current health care system is so fragmented and fractured. When you are in this industry, it is hard not to recognize that there has to be some major change."

Rogoff herself has a chronic condition, osteoporosis, that she keeps at bay with a most Austin-like endeavor. "I was encouraged to get physical activity, and a friend introduced me to rowing," she explained. Bit by the "rowing bug," Rogoff is now a member of several different crews that row out of the Austin Rowing Club.

"As a middle-aged woman, I never thought I would consider myself a jock, but here I am," she laughed. As a crew member, she particularly enjoys the camaraderie of working with a group and being on a team. "To do it well takes a lot of concentration; you really can't be daydreaming about work, you have to be attentive to what you're doing and focused. It's a very good way to get away from work and clear your mind."

Rogoff is married to Sam Jones, a CPA, and they have two daughters, Alissa Jones Zachary, an attorney, and Sarah Jones, a recent graduate of Austin Community College. In the past thirty-five years, Rogoff has served in leadership positions for a number of civic, community, and legal organizations. The Austin Bar Association created the Regina Rogoff Award in her honor to be given annually to an attorney in Travis County who demonstrates outstanding service in the public/nonprofit sector.

Though Rogoff may never have wanted to be a revolutionary, she has spent the better part of four decades helping people gain access to our justice system and is now contributing to a grassroots evolution in how health care is delivered in Travis County. —Diana Smith



PHOTO BY KERRY DAHLEN

Parker C. Folse, III, '80, at Susman Godfrey's Seattle office

## Alumnus Seeks Island Paradise, Finds Busy Law Practice

ON WEEKDAYS, THE FERRY from Seattle to Bainbridge Island runs about every forty-five minutes or so, setting out toward the island's Eagle Harbor across Puget Sound. It's a relatively short trip, but it transports Parker Folse to an island refuge a world away from his legal practice managing Susman Godfrey LLP's Seattle office.

The charms of Bainbridge Island are, at least in part, the reason that Susman Godfrey, one of the nation's premier

litigation firms, even has a Seattle office. Back in 1994, to celebrate his fortieth birthday, Folse and his wife, Carol, were looking for a place to escape the heat of Houston, where Folse was a partner at Susman Godfrey's home office. They chose Seattle on a whim.

"I knew a couple that had moved there from Houston," Folse said. "They lived on Bainbridge Island. So we came up, and on the second day we took the ferry to visit them. It was a gorgeous day.





## UT Law Faculty Post-Graduate Fellowship in Public Interest Law

Thanks to long-term financial commitments from the Law School's faculty, recent UT Law graduates have another path to public service. The UT Law Faculty Post-Graduate Fellowship in Public Interest Law allows recipients to implement innovative programs that help bridge the gulf between the need for legal services in underserved communities and their availability. Pictured here, left to right: Eden Harrington, clinical professor and director of the William Wayne Justice Center for Public Interest Law; Jordan Steiker, the Cooper K. Ragan Regents Professor; 2005 Fellowship recipient Bronwyn Blake, '05; Gerald Torres, the Bryant Smith Chair in Law; William Forbath, the Lloyd M. Bentsen Chair in Law; Lynn Blais, the Leroy G. Denman, Jr. Regents Professor in Real Property Law; and 2008 Fellowship recipient Aaron Johnson, '08. Full story on page 19.

PHOTO BY JOHN LANGFORD



## Alumni Focus

They are both lawyers and commuted by ferry boat. It seemed an idyllic life—the combination of a decent-sized city with a good law practice, but living on this island. It was like a throwback to another time.”

Once back in Houston, their vacation over, they found their thoughts returning to Bainbridge Island. “It didn’t take more than about a month and we said, ‘Let’s do this, let’s move there,’” Folse said. “I had no idea what law practice I would have. I thought I would have to leave Susman Godfrey and look for work in Seattle.”

After spending nearly his entire life in Texas, Folse was ready for a change. Born and raised in Austin, he left to attend Harvard as an undergraduate but then returned to enroll in the Law School.

“I had heard for a long time that if you want to practice law in Texas, the best place to go is UT because of the network of alumni,” he said. “I didn’t have my mind set on anything but coming back to Texas to be a lawyer.”

Folse was the editor-in-chief of the *Texas Law Review* while earning his law degree in 1980. He then served as a law clerk to the Honorable Joseph T. Sneed, United States Court of Appeals for the Ninth Circuit, and then Justice William H. Rehnquist, United States Supreme Court, before joining Susman Godfrey in 1984 after a short stint with a firm in Arizona. He became a partner a year later.

When Folse broke the news about moving, the firm wasn’t enthusiastic about the departure of a talented litigator. Instead, they suggested Folse open a satellite office in Seattle.

“There was a big question in my mind whether I could come out here and support myself and the firm’s investment,” Folse said. “I didn’t know anybody and had no clients in the Northwest. But the more I thought about it, the more it made sense. I loved the firm and had a lot of friends there.”

Thus began a stretch of regular visits to Seattle to learn as much about the litigation market as he could—the firms, the lawyers, and the nature of the bar. Finally, after a year of preparation, Folse and his family made the move. He set up shop by

himself in sub-leased office space, hired a secretary, and got to work.

It was slow at first, but then the firm was hired for a case in Alaska that would prove pivotal. Folse spent four months trying the case in Anchorage—and lost. But the connections he made during those months would lead to work that would help ensure the Seattle office’s future.

One particularly significant case was an antitrust suit against Microsoft. Susman Godfrey represented plaintiff Caldera, which offered a competing operating system. That case was settled successfully a few weeks before it was to go to trial. “That gave us visibility as a firm that would take on Microsoft in a big antitrust case,” Folse said. “That led to others and it became useful for the firm to be here from that point.”

More successes followed, including a negotiated \$536 million settlement with Microsoft on behalf of Novell that resulted in the largest contingency fee ever earned by the firm. While it might not have seemed so at the outset, supporting Folse’s move to Seattle turned out to be a shrewd investment for Susman Godfrey. The firm’s Seattle office has now grown to fourteen lawyers.

Even half a continent away, Folse retains ties to Texas and the University. He recently returned to receive the 2008 Leon Green Award from the Law School in recognition of his continuing support and many contributions to the legal profession.

But his home is now on Bainbridge Island and his practice in Seattle, where he has been recognized as one of six “Top Lawyers” in business litigation by *Seattle* magazine and a “Top 100 Super Lawyer” among business litigators in the state by *Washington Law & Politics* magazine. And while leaving Texas certainly brought about changes, they weren’t necessarily those he was expecting.

“I will say that it has not worked out as I originally saw in my mind’s eye,” Folse said. “Part of the idea was not to work as hard as in Texas. I figured I’d probably have a less interesting law practice, but enjoy living in the Northwest more. I’m not complaining, but I haven’t slowed down at all.” —Tom Gerrow

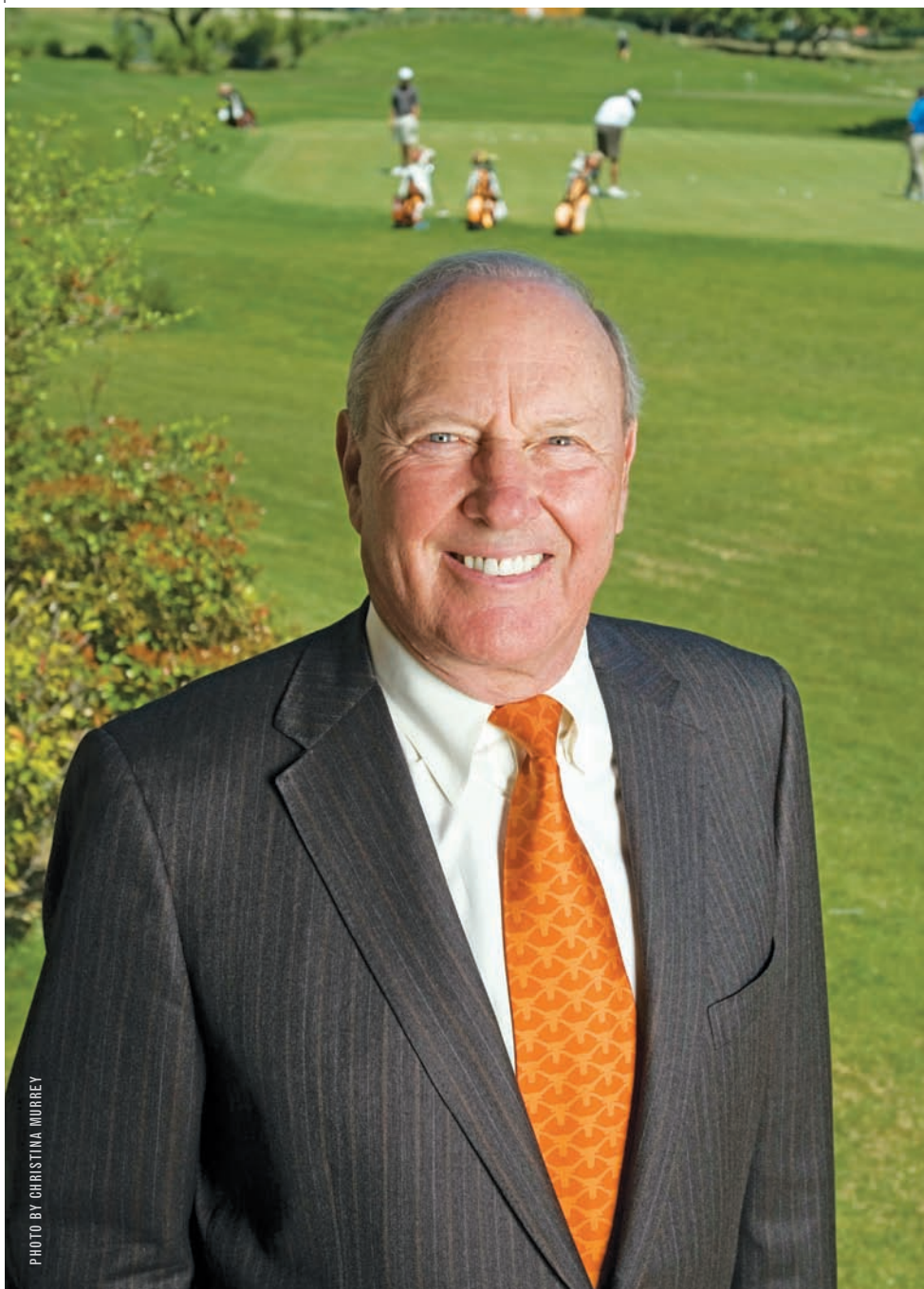
# Making Things Happen

WHEN MIKE MYERS FIRST came to the University of Texas he was virtually penniless. But possessing boundless energy and being of an entrepreneurial nature, he started a catering service, opened a hamburger restaurant, and became the #1 Bible salesman in the country—all in addition to his undergraduate and law school studies. These three very successful businesses paid for the cost of his education, allowed him to graduate without debt (with, in fact, a healthy bank account balance), and with the financial means to begin a career in real estate and banking.

But before he ventured out on his own, he experienced the world of politics. As an administrative assistant to then Governor John Connally, Myers had a front row seat to the life of a high profile political figure. This five-year period became a stepping stone for Myers and the basis of a lifelong friendship with the Connally family.

Throughout his life, Myers has owned and operated numerous businesses, everything from restaurants to country clubs, from banks to residential community developments. He chartered his first bank at the age of thirty-six and is currently serving as chairman, CEO, and majority shareholder of Myers Bancshares Inc., the holding company of the oldest and largest continually owned independent bank in Tarrant County, which now operates six branches. Myers is also chairman and owner of Myers Development Corp., a Dallas-based developer of residential real estate projects, which has developed over 5,000 acres into communities that are home to more than 35,000 people in Texas and Missouri.

His business achievements have not gone unnoticed. He has been recognized as DFW “Entrepreneur of the Year,” honored as a recipient of the prestigious Charles Sprague Community Service Award given by UT Southwestern Medical School, and most recently



Mike A. Myers, '63, at the University of Texas Golf Club

named as a 2008 inductee into the Texas Business Hall of Fame. It is interesting to note that Myers has served as a director for three publicly traded companies, each representing a different stock exchange—NYSE, ASE, and NASDAQ.

He has also achieved Hall of Fame-level success through his involvement in numerous civic and philanthropic activities. Among the many leadership roles he has played in a large number of organizations, he has been president of the Dallas Assembly, treasurer of Young Presidents' Organization, and both treasurer and chairman of the investments committee for the Parkland Foundation, which supports the Dallas County Health and Hospital System. He is currently

serving as an active board member of the Texas Interscholastic League Foundation; is President of the Beaver Creek Club; and is a trustee of the University of Texas Law School Foundation. In honor of his friend, Myers helped create the Kay Bailey Hutchison Chair in Latin American Law at the UT Law School.

Myers earned a BBA from the University of Texas in 1959 and an LLB from the School of Law in 1963. Although Myers is a non-practicing attorney, he believes that having a law degree has been very useful in the business world. He is co-founder of the Foundation for Texas Excellence Scholars, and has served as president of the Texas Longhorn Education Foundation and chairman

of the UT Chancellor's Council. He received the University's Distinguished Alumnus Award in 1996, and was inducted into the business school's Hall of Fame two years later. Most recently, he was presented with the Presidential Citation Award.

For more than twenty years, Myers has been a significant supporter of both athletic and academic programs at UT. If you have passed by the University's track and soccer stadium, you may have noticed that it bears his name, as he was instrumental in this 20,000-seat facility becoming a reality.

One of Myers' abiding passions is the game of golf. Until the mid-1980s, Myers logged at least sixty hours a week on the job. Once he hit the big 5-0, he realized he wanted to ratchet down the pace of life. These days, Myers relishes the peacefulness and camaraderie of an eighteen-hole round. "Learning to play golf is one of the best decisions I've ever made," he said. "Before that time, I felt like I couldn't afford to waste five hours on the golf course because I could be out doing something to hopefully make some money or make something happen."

Myers is still making things happen. He's just doing it at a slower clip. He and his wife, Sammye, live in Dallas, but for several months out of the year Myers can be found on a golf course in Palm Springs, California, or on a ski slope or golf course in Colorado. He calls this his "goof-off time." When he's not "goofing off," Myers focuses on his business, civic, and philanthropic interests.

Over the past thirty years, he has been involved in developing six country clubs in Texas, but his pride and joy is the University of Texas Golf Club. This 7,008-yard, par-71 course is located at Steiner Ranch in northwest Austin. The course overlooks Lake Austin and affords majestic views of the Hill Country, as well as hundreds of acres of the Balcones Natural Wildlife Preserve. It is a favorite project, in part, because it provides a permanent home for the University's men's and women's golf teams, allowing Myers to share something he loves with his alma mater.

True to his nature, Myers figured out that golf can provide both a way to enjoy life and still make things happen—it's all about how you slice it and "Hook 'em"!

—John Egan



# Class Notes

## Distinguished Alumnus Award for Community Service

P. MIKE MCCULLOUGH



MIKE MCCULLOUGH, '63, is a member of Thompson & Knight in the firm's Dallas office. He focuses his practice on estate planning and probate law, fiduciary administration, federal income tax matters, charitable planned giving, and the representation of tax-exempt organizations including private foundations. He is Board Certified in Estate Planning and Probate Law by the Texas Board of Legal Specialization, a fellow of the American College of Trust and Estate Counsel, and a member of the International

Academy of Estate and Trust Law. He has been listed in *The Best Lawyers in America* (Trusts and Estates) from 1987–2007, and as a Texas Super Lawyer in *Texas Monthly* from 2003–2007.

McCullough has been involved in numerous charitable and civic organizations. He has served as chairman of the Board of Directors of the Baptist Foundation; director of the Dallas Symphony Foundation, the Children's Health Services of Texas, and Children's Medical Center of Dallas; chairman of the Board of Trustees of Children's Medical Center Foundation; trustee of the United Way of Dallas; president of the Board of Trustees of Callier Foundation; chairman of the Board of Trustees of Dallas Historical Society; member of the Board of Directors of the Salvation Army of Dallas-Fort Worth; member of the Advisory Council of the Dallas Center for Performing Arts Foundation; and member of the Board of Regents of Texas Woman's University. Additionally, McCullough has served as a trustee of various foundations, including the Marilyn Augur Family Foundation and Meadows Foundation. The Meadows Foundation established the J. Waddy Bullion Professorship at the University of Texas School of Law.

In 1994 McCullough received the Justinian Award from the Dallas Lawyers Auxiliary, an award that is given to a member of the Dallas Bar Association who has dedicated his or her career to volunteer service in the Dallas community. In 1998 he received the Joe M. Dealey Award for Volunteer Leadership from Children's Medical Center of Dallas. In 2007 he and his wife, Sharon McCullough, received the Dallas Historical Society Award for Excellence in Volunteer Leadership.

He received his law degree with honors and was a member of Chancellors, Order of the Coif, and Phi Delta Phi. While in law school, McCullough was an Associate Editor of *Texas Law Review*. He and his wife live in Dallas and are the parents of four children, in-laws to four, and have thirteen grandchildren.

### 1962

**Harry Reasoner**, a partner at Vinson & Elkins in Houston, was awarded the prestigious Global Alumni Service to Humanity Award for 2008 from Rotary International and the Rotary Foundation.

### 1963



**Tom Henson**, a partner in the Tyler law firm of Ramey & Flock, PC, has been named the 2007–2008 president-elect of the Texas Association of Defense Counsel. Henson is a life member of the Texas Bar Foundation and is active with the University of Texas Law School Alumni Association. He practices primarily in the areas of complex toxic tort and commercial litigation. Henson is admitted to practice in the Southern, Eastern, and Northern Federal Districts of Texas, as well as the Fifth Circuit Court of Appeals and the Texas and United States Supreme Courts.

### 1965

**Stephen D. Susman**, a co-managing Susman Godfrey LLP partner, was recently inducted into the Warren E. Burger Society at the National Center for State Courts (NCSC) Annual Recognition Luncheon. Susman is an advocate for civil justice reform, jury improvements, and efficient trials. His career spans almost five decades representing a virtual who's who of international companies in landmark victories, and it is his ability to inspire confidence from both clients and peers which has earned him numerous awards, including being named one of the best lawyers in America for the past twenty-five years.

1967



**Charles C. Foster** was awarded the 2007 American Jewish Committee Institute of Human Relations Award on November 12, 2007 as well as Commander (Second Class) of the Most Exalted Order of the White Elephant by his Majesty King Bhumibol Adulyadej, Maharaj of Thailand. Foster was also recognized as the "Go To Lawyer in Immigration" by the *Texas Lawyer* as well as a "Super Lawyer" by *Texas Monthly* again in 2007.

**R. Kinnan Golemon** recently established the firm of KG Strategies, LLC, in Austin.



**Don W. Griffiths** is a partner in the litigation section of the San Angelo office of Jackson Walker LLP. He was recognized as a "Super Lawyer" in 2007 by *Texas Monthly*. Griffiths has practiced for more than twenty-six years in West Texas and, prior to that, served as a law clerk to Honorable Joe E. Estes, United States District Judge, in Dallas. He was selected by his peers for inclusion in *The Best Lawyers in America 2008* for Alternative Dispute Resolution and Commercial Litigation.

**Thomas M. Susman** was appointed Director of the American Bar Association's Government Affairs Office. Previously, Susman worked at Ropes & Gray for twenty-seven years, where his practice included a wide range of issues such as freedom of information and privacy, health care, energy efficiency, antitrust, maritime safety, and the regulation of organ procurement.

1968



**Byron F. Egan** is one of Texas' 2007 "Super Lawyers." He is principally engaged in a corporate, partnership, securities, mergers and acquisitions, and financing practice. He was selected by his peers for inclusion in *The Best Lawyers in America 2008* for Corporate Law.



**Larry W. Langley**, an attorney at Jackson Walker LLP in the Austin office, was selected by his peers for inclusion in *The Best Lawyers in America 2008* for Health Care Law.

1969



**Seagal V. Wheatley** is a partner in the litigation section of the San Antonio office of Jackson Walker LLP. He is one of the 2007 Texas "Super Lawyers." He is experienced in corporate litigation and has represented major national, regional, and local corporate clients in public and private corporations.

## Lifetime Achievement Award

**JONATHAN S. DAY**

**JONATHAN DAY**, '65, is a partner at Andrews Kurth in the firm's Houston office. He has been instrumental in building the public law practice during his almost four decades with the firm. His primary expertise is in litigation involving governmental entities, and administrative practice before state and local agencies. His clients include cities and counties, as well as special-purpose governmental entities such as river authorities and transit authorities.



Day represents an association of large industries that participates in electric utility regulatory proceedings before the Public Utility Commission of Texas. This regulatory experience has led to involvement in counseling clients regarding the development of cogeneration projects and electricity supply arrangements in a deregulated market.

He has served as lead counsel for local units of government in a number of lawsuits that have had important effects on the Houston area, including annexation disputes, voting rights claims, and major environmental and flooding claims against local agencies. Day has also represented both governmental officials and agencies in ethical matters. He served as city attorney for the city of Houston from 1974–1976 and was named Outstanding Young Lawyer in the State of Texas as a result of this service. Day is also recognized in *The Best Lawyers of America* and as a "Texas Super Lawyer" by *Texas Monthly*. In recognition of his forty years of service to the Houston community, he recently became the twentieth recipient of the Leon Jaworski Award from the Houston Bar Association Auxiliary.

Day is currently chairman of the Board of Neighborhood Centers, Inc., a United Way agency that each year serves more than 180,000 individuals and families. His commitment to the Houston arts community includes serving as a board member of the Alley Theater, the Contemporary Arts Museum, the Wortham Theater Foundation, DiverseWorks, and Lawndale Art Center. In his professional role, Day has been instrumental in creating and structuring a wide range of public institutions, including the Metropolitan Transit Authority; the Cultural Arts Council; the Wortham Center; the Houston Parks Board; the new downtown park, Discovery Green; and the Houston Zoo, where he currently serves as Chair of the Board. He lives in Houston with his wife, Barbara.



## Class Notes

### 1970



**Kelly Frels**, a senior partner of Bracewell & Giuliani, has been elected to chair the board of the Texas Environmental Research Consortium. The consortium board, composed of scientists, business leaders, and elected office-holders, is responsible for overseeing independent scientific research on clean air issues in Texas.



**Claiborne B. Gregory, Jr.**, an attorney at Jackson Walker LLP in the San Antonio office, was selected by his peers for inclusion in *The Best Lawyers in America 2008* for Bankruptcy and Creditor-Debtor Rights Law.

**Larry Hammond** was honored by the American Judicature Society with its highest award, the Justice Award.

**M. Lawrence Hicks, Jr.** has been named Administrative Partner for Thompson & Knight LLP in the Dallas office. Hicks continues to serve as the Dallas Office Managing Partner. He was recently included in the 2008 *Chambers USA* "Leaders in their Field" legal directory for Real Estate.

**Ronald E. Tigner** has joined Cozen O'Connor's Houston office as a member in the insurance department. Tigner has experience in many aspects of the law, including appellate advocacy, construction defects, insurance coverage, premises liability, products liability, professional liability, property damage, and toxic torts. He has been certified in Civil Trial Law by the Texas Board of Legal Specialization since 1980.

### 1971

**Stephen M. Block**, a partner for Thompson & Knight LLP at its Houston office, has been elected to serve on the Firm's Managing Committee for 2008. Block is a member of the firm's real estate and banking practice group in Houston.



**G. Thomas Boswell** of Winstead, PC in Fort Worth was named one of Tarrant County's Top Attorneys 2007 in the *Fort Worth Texas* magazine.



**Tommy Jacks** has joined the law firm of Fish & Richardson, PC in the Austin office. Jacks has practiced law for more than thirty-five years in courtrooms across the nation, and has recently earned the Lifetime Achievement Award from the Texas Trial Lawyers Association. He is a member of the prestigious American College of Trial Lawyers, International Academy of Trial Lawyers, and the American Board of Trial Advocates. He is one of the rare attorneys to earn dual certification from the Texas Board of Legal Specialization.

### 1972

**Jack O'Neill** is one of three lawyers establishing DLA Piper's Houston office. O'Neill will join the firm's litigation and regulatory practice. He focuses his practice on large complex cases in a wide range of industries, with significant experience in the oil and gas industry.

**Dallas Parker** of Thompson & Knight, Technology, has been included in the 2008 *Chambers USA* "Leaders in their Field" legal directory.

### 1973



**Robert Cohan** is one of the 2007 Texas "Super Lawyers." Chair of the Antitrust group of Jack Walker's Dallas office, Cohan has handled commercial litigation and appellate matters for local and national companies for more than twenty-five years. He was selected by his peers for inclusion in *The Best Lawyers in America 2008* for Antitrust Law and Commercial Litigation.



**Edward C. Small**, an attorney at Jackson Walker LLP in the Austin office, was selected by his peers for inclusion in *The Best Lawyers in America 2008* for Environmental Law and Government Relations Law.

### 1974

**John W. Cones** has recently published the third edition of *43 Ways to Finance Your Feature Film: A Comprehensive Analysis of Film Finance*.



**David Dunlap** is one of the 2007 "Super Lawyers" in Texas. He has been involved in the representation of individuals and business entities and Texas-based, out-of-state, and international financial institutions since 1974. He was selected by his peers for inclusion in *The Best Lawyers in America 2008* for Natural Resources Law and Oil & Gas Law.



**Greg Erwin** with Winstead PC has been named managing shareholder of the Houston office. He has more than thirty years of experience as a real estate attorney, assisting a wide spectrum of clients including New York Stock Exchange REITs, privately held development firms, and wealthy individuals.

**Stephen Fink** of Thompson & Knight LLP Labor and Employment Law helped author the chapter on employment law in *SMU Law Review's 2007 Annual Survey of Texas Law*. The publication provides an overview of recent Texas case law and legislation and features articles on thirty-one specialized areas of law written by practitioners and experts in each field. Fink has also been included in the 2008 *Chambers USA* "Leaders in their Field" legal directory.

**Judge Aaron S. Kaufman**, with the Municipal Court in Dallas, has been elected to membership in the Fellows of the Texas Bar Foundation. Fellows of the Foundation are chosen for their outstanding professional achievements and their continuing commitment to improve the Texas justice system.



**John H. Martin**, a Senior Partner with Thompson & Knight LLP in Dallas, has been elected President for DRI—The Voice of the Defense Bar. He has represented the organization on both the state and national level. Martin was also named as one of *Lawdragon's* 500 Leading Lawyers in America.



**Molly Steele** of Thompson & Knight LLP was selected to serve on the International Centre for Dispute Resolution's Panel of Arbitrators. Steele joins an elite group of specialists in international dispute resolution from around the world.

## 1975



**Scott J. Atlas**, a partner in the litigation/regulatory department of Weil, Gotshal & Manges LLP, was awarded the "Orden de Mayo al Merito" (Order of Merit) from the Consul General of Argentina in Houston for his work on a high-profile death penalty case involving Victor Saldano, an Argentine national on Texas's death row. The Houston Bar Association Auxiliary named Atlas the 21st Leon Jaworski Award Recipient.



**Bryan C. Birkeland**, an attorney at Jackson Walker LLP in the Dallas office, was selected by his peers for inclusion in *The Best Lawyers in America 2008* for Real Estate Law.



**James C. Gordon** of Winstead, PC in Fort Worth was named one of Tarrant County's Top Attorneys 2007 in the *Fort Worth Texas* magazine.

**Richard Orsinger**, an attorney with the Family Law firm of McCurley Orsinger McCurley Nelson & Downing LLP, was named as one of Lawdragon's 500 Leading Lawyers in America.

## 1976



**T. Ray Guy**, of Weil, Gotshal & Manges LLP, was recently named head of the firm's litigation/regulatory practice in Dallas. Guy has thirty years of experience in trial and supervision of civil litigation in federal and state courts and before arbitral tribunals. He is certified in Civil Trial Law by the Texas Board of Legal Specialization. Guy also has substantial appellate expertise, having argued numerous cases before the U.S. Courts of Appeals, the Supreme Courts of Texas and

Delaware, and Texas Courts of Appeals. He is also the author of *The Jury Charge in Texas Civil Litigation*. In 2007, the *Dallas Business Journal* named him to the list of "Defenders"—the top fifteen business defense attorneys in Dallas-Fort Worth. Guy also appears on the list of *The Best Lawyers in America* and has been recognized as a Texas "Super Lawyer" each year since 2003.



**Jeff Love**, Chairman of the Houston office of Locke Bissell & Liddell LLP, received the prestigious Jewish Institute for National Security Affairs 2008 Leadership Award.

# Outstanding Alumnus Award

LINDA L. ADDISON

LINDA ADDISON, '76, is a senior partner in the litigation department of Fulbright & Jaworski LLP, where she serves as a member of the firm's Executive Committee, as the firm's technology partner, and heads one of the firm's litigation teams. She currently devotes her practice to commercial litigation and intellectual property litigation. An exceptional legal strategist and negotiator, Addison is skilled at advising clients on how to avoid the courtroom; but when a dispute must be resolved at the courthouse, her peers acknowledge her as the lawyer to handle a "bet-the-company" case.



The *National Law Journal* named Addison one of the "50 Most Influential Women Lawyers in America" in 2007, one of only seventeen women among the "100 Most Influential Lawyers in America" in 2006, and one of "America's Top 50 Women Litigators" in 2001. In 2007, *Chambers USA* reported that "[c]lients heap praise on the 'fierce and fabulous' Linda Addison, respected for her 'incredible strategic analysis, thoroughness and practicality' . . . her lateral thinking poses a great threat to the opposition." In 2006, Lawdragon described her "as equally skilled at keeping CEOs out of the courtroom as representing them once there." After a poll of Texas lawyers in 2002, *Texas Lawyer* named Addison in its first "Go To Guide" as one of the top five lawyers to defend civil litigation. Since 2003, *Texas Monthly* has recognized her as a Texas "Super Lawyer." She is listed in the *Best Lawyers in America*, *Who's Who in America*, *Who's Who in American Law*, *Who's Who of American Women*, and *Chambers USA: America's Leading Lawyers for Business*.

Addison has been involved in numerous civic organizations, including the United Way, the Holocaust Museum Houston, and M.D. Anderson Cancer Center. In 2006, President Bush appointed her to the United States Commission for the Preservation of America's Heritage Abroad. She has served on the Executive Committee of the University of Texas System Chancellor's Council, the Commission of 125, and the University of Texas Law School Foundation Board of Trustees. Recently, she became a founder for the Law School's Center for Women in Law, which will launch this fall. She was instrumental in not only starting the Center, but also in recruiting other women to become founders. She and her husband, Max, also a UT Law alumnus, live in Houston.



## Class Notes



**Frank McEachern**, an attorney at Jackson Walker LLP in the Dallas office, was selected by his peers for inclusion in *The Best Lawyers in America 2008* for Energy Law.

**James C. Morriss, III** of Thompson & Knight, Environment, has been included in the 2008 *Chambers USA* "Leaders in their Field" legal directory.

### 1978

**James B. Harris** was named chairman of the board of Dallas Heritage Village on September 27, 2007. Harris is a partner in the Dallas office of Thompson & Knight, focusing on regulatory litigation and counseling. He also serves on the Board of Trustees for the Jesuit College Preparatory School of Dallas. Harris has also been included in the 2008 *Chambers USA* "Leaders in their Field" legal directory for Environment.



**Michael P. Pearson** is a partner in the business transactions section and co-chairman of the energy practice group in the Houston office for Jackson Walker LLP. He is one of the 2007 Texas "Super Lawyers." He has practiced in the area of energy law since 1978, representing numerous Texas-based, national, and international energy companies and financial institutions. He was selected by his peers for inclusion in *The Best Lawyers in America 2008* for Natural Resources Law.

**John W. Rain** of Thompson & Knight, Banking & Finance, has been included in the 2008 *Chambers USA* "Leaders in their Field" legal directory.



**Ellen A. Yarrell** has been elected president for the Texas Academy of Family Law Specialists. Yarrell is a solo practitioner in Houston specializing in family law, including divorce, adoption, assisted reproduction issues, and other related matters. She is currently a member of the State Bar Family Law Council and Legislative Committee.

### 1979

The State Bar of Texas recently honored **Debra Bruce**, an attorney-turned-executive coach for attorneys, with its "Standing Ovation Award" for her exceptional contributions in 2007 to the Bar's continuing legal education efforts.



**Arcie Izquierdo Jordan** has been named a new partner in the business transactions section of Jackson Walker LLP in Austin. Jordan's practice encompasses international, transactional, transportation, trade, and immigration matters.



**Janiece M. Longoria**, a member of the University of Texas System Board of Regents and CenterPoint Energy Board of Directors, has been named a recipient of the 2008 Sandra Day O'Connor Board Excellence Award honoring women lawyers who have served with distinction as independent directors of public companies. The award was presented by *DirectWomen*, an initiative of the American Bar Association (ABA) and the ABA Section of Business Law.



**Vernon E. Rew, Jr.** of Winstead, PC in Fort Worth was named one of Tarrant County's Top Attorneys 2007 in the *Fort Worth Texas* magazine.

### 1980



**William W. Bell** of Winstead, PC in Fort Worth was named one of Tarrant County's Top Attorneys 2007 in the *Fort Worth Texas* magazine.

**Richard L. Ellison** authored an article "Law West (and East) of the Pecos," discussing the recent U.S. Supreme Court opinion *Panetti v. Quarterman*, published in the December issue of *Voice for the Defense*, the journal of the Texas Criminal Defense Lawyers Association.

**Melinda Jayson**, General Counsel of Hall Financial Group, Ltd. and owner of alternative dispute resolution service provider Melinda G. Jayson, PC, has been appointed

to the board of directors of Hall Structured Finance, Inc.



**Michael L. Kaufman** is a partner in the tax section of the Dallas office of Jackson Walker LLP. He is one of the 2007 "Super Lawyers" of Texas. He practices in the areas of estate planning and administration, and charitable organizations.

**Justice Terrie Livingston** is completing her year as chair of the Tarrant County Bar Foundation. The Board oversaw the complete renovation of the Tarrant County Law Center in 2006–2007. Justice Livingston sits on the Second Court of Appeals located in Fort Worth; she was elected in 1994.

**Thomas G. Mason** has been appointed as general manager of the Lower Colorado River Authority, where he formerly served as general counsel.

**Gerald "Jerry" Sanders**, founder of San Francisco Science, has been appointed fellow of Oxford University, where he teaches at the Said Graduate Business School. He is also Advisor to the Paris Chamber of Commerce and Industry, where he established the annual Louvre Conference of Entrepreneurs.



**Jonathan G. Vinson** has been named a partner at Jackson Walker LLP. Vinson is a member of the Real Estate and Land Use practice groups of Jackson Walker's Dallas office. He focuses his practice on all areas of land use, including representation of a wide variety of developers, property owners, and corporate, non-profit, and individual clients in zoning, planning, municipal law, and economic development incentives matters.

### 1981



**C. Wade Cooper**, an attorney at Jackson Walker LLP in the Austin office, was selected by his peers for inclusion in *The Best Lawyers in America 2008* for Bankruptcy and Creditor-Debtor Rights Law.



**Terry Guy Crawford** was selected as Operations Specialist for the FBI's Office of the Legal Attaché in Moscow, Russia. She has worked for the FBI's Legal Attaché Office in Cairo, Egypt for the last five years, and upon completion of her tour of duty there in July 2008, will report for duty in Moscow.



**Jeffrey M. Sone** is a partner in the business transactions section of the Dallas office for Jackson Walker LLP. He is one of the 2007 Texas "Super Lawyers." Sone has been an attorney for twenty years, and focuses his practice on business finance transactions and counseling corporate officers, directors, and other fiduciaries.



**Paul C. Watler** is one of the 2007 Texas "Super Lawyers." He is a board-certified civil trial lawyer focusing on complex commercial litigation. He was selected by his peers for inclusion in *The Best Lawyers in America 2008* for Commercial Litigation and First Amendment Law.

## 1983

**Phillip A. Pillar** has joined the law firm Greenberg Traurig LLP at its Philadelphia office as a shareholder in the tax department. Pillar focuses his practice on representing and advising clients in federal, state, and international tax issues before tax authorities and courts.

## 1984

**Alan D. Albright**, managing principal for the Fish & Richardson law firm in Austin, has earned selection to the 2008 "Best Lawyers in America" list based on his exemplary work in intellectual property law.

**Don C. Lewis**, an of counsel attorney in the environmental law section of the law firm Clark, Thomas & Winters in Austin, has been elected to shareholder in the firm.



**Steve R. Martens**, an attorney at Jackson Walker LLP at the Austin office, was selected by his peers for inclusion in *The Best Lawyers in America 2008* for Real Estate Law.



**David T. Moran** is a partner in the litigation section of the Dallas office of Jackson Walker LLP. He is one of the 2007 Texas "Super Lawyers." Moran has more than twenty-two

years of experience representing clients in commercial, business, and tort litigation.



**Alfred M. Meyerson** has been named as chairman of the Southwest Region of the Anti-Defamation League. Meyerson will lead other members of ADL's Southwest Regional Leadership Team in implementing ADL initiatives.

# Honorary Order of the Coif

**ROBERT A. ESTRADA**

**ROBERT ESTRADA**, '83, is chairman of the board of Estrada Hinojosa & Company, Inc., an investment banking firm he co-founded in 1992. Since its inception, the firm has been involved in municipal bond underwritings totaling more than \$75 billion and has provided financial advisory services on financings totaling more than \$27 billion. In addition to its Dallas, Texas headquarters, Estrada Hinojosa has offices in Houston, San Antonio, Miami, and San Diego.



Estrada is a municipal securities principal and holds other securities licenses. From 1997–2000, he served on the Municipal Securities Rulemaking Board and was chairman in 2000. He is a past chairman of the Municipal Advisory Council of Texas. He has also served on the National Association of Securities Dealers Fixed Income Committee. He currently serves on the Board of Directors of the Federal Reserve Bank of Dallas.

In November 2001, Estrada was appointed by Governor Rick Perry to the Board of Regents of the University of Texas System. He received his Bachelor of Science degree and his Doctor of Jurisprudence degree from the University of Texas at Austin. As a regent he served as chairman of the Audit, Compliance and Management Review Committee. He also served on the Facilities Planning and Construction Committee; the Academic Affairs Committee; and the Student, Faculty, and Staff Campus Life Committee. From 1990–1994, Estrada served on the Board of Directors for the Student Loan Marketing Association in Washington, D.C., and was a member of the Board's Executive Committee. He also serves on the boards of numerous other business, cultural, arts, and civic organizations.

In addition to his business and legal credentials, Estrada has extensive experience in government service. He has served in the White House as a special assistant to former president George Bush and is a former state director for the late United States senator John Tower. He also served in the United States Air Force. A native of Mexico City, Mexico, he is a United States citizen who considers Brownsville, Texas his hometown and now resides in Fort Worth. He is married to Catherine Bernell Estrada and together they have six children.



## Class Notes

**Donna Rosenwasser** has been appointed as executive director for Davis Polk & Wardwell.

### 1985



**Betty Balli Torres** was awarded the prestigious Harold F. Kleinman award for her outstanding contributions to legal aid for the poor by the Texas Access to Justice Foundation. Torres was presented with the Star of Justice Award for her work on behalf of low-income Texans.

**Mark Lenz** has joined the Chicago office of Thompson Coburn Fagel Haber (branch of Thompson Coburn LLP) as a partner in the firm's Public Finance and Real Estate practice groups. Lenz has focused his practice on real estate, municipal, and public finance law. He is a member of the Chicago Bar Association.

**Robert Schnack** has joined the Sacramento office of Jackson Lewis LLP.



**Timothy C. Taylor** is a partner in the business transactions section of the Austin office for Jackson Walker LLP. He is one of the 2007 Texas "Super Lawyers." Taylor focuses his practice primarily on real estate and lending transactions.

**Mark C. Walker**, a partner in the general civil litigation section of the Brown McCarroll LLP, El Paso office, has been recognized by Law & Politics Media, Inc., publishers of *Law & Politics Magazine*, as a "Super Lawyer" in Texas in the field of personal injury defense litigation. Walker recently spoke at the Texas Association of Defense Counsel's Summer Session in Vail, Colorado. The title of his presentation was "Judges Gone Wild: Dealing with Difficult Judges." The focus of the presentation was the proper application of refusal and disqualification law, and ethical issues.

**Jeffrey A. Zlotky** was named one of the Lawdragon's 500 Leading Lawyers in America.

### 1986

**David M. Bennett** of Thompson & Knight, Bankruptcy, was included in the 2008 *Chambers USA* "Leaders in their Field" legal directory.



**William Dahlstrom** is one of the 2007 "Super Lawyers" for Texas. He was selected by his peers for inclusion in *The Best Lawyers in America 2008* for Land Use, Zoning Law, and Real Estate Law.

**William H. Hornberger**, an attorney at Jackson Walker LLP in Dallas, has been elected to the Board of Directors of the Dallas Holocaust Museum. Hornberger was also selected by his peers for inclusion in *The Best Lawyers in America 2008* for Tax Law.



**Don Lawless**, a partner at Varnum, Riddering, Schmidt & Howlett LLP in Grand Rapids, Michigan, has been named chair of the Board of Directors of the Interurban Transit Partnership (also known as The Rapid).

**Thomas M. Melsheimer**, managing partner of Fish & Richardson's Dallas office in the area of commercial litigation, is one of three attorneys from the Dallas office of Fish & Richardson PC who have been recognized in the 2008 edition of *The Best Lawyers in America*.

**Stephen C. Rasch**, a partner for Thompson & Knight LLP at its Dallas office, has been elected to serve on the firm's Managing Committee for 2008. Rasch is a member of the firm's trial practice group in Dallas.



**Jay Zweig** has joined Bryan Cave LLP as a partner in the Phoenix office. He heads the labor and employment group of eighty lawyers firm wide.

### 1987



**Jack Hicks**, an attorney with Womble Carlyle Sandridge & Rice, PLLC, has joined Elon University School of Law as an adjunct professor. Hicks is a licensed patent attorney with significant experience in

counseling clients in all areas of patent, trademark, copyright, and trade secret law. He is a frequent speaker and noted author on intellectual property matters and has been named to *The Best Lawyers in America*; North Carolina Super Lawyers and *Business North Carolina* magazine's Legal Elite lists.

### 1988

**John R. Cohn** of Thompson & Knight, Tax, has been included in the 2008 *Chambers USA* "Leaders in their Field" legal directory.

**Kathy L. Poppitt** of Thompson & Knight, Healthcare, has been included in the 2008 *Chambers USA* "Leaders in their Field" legal directory.



**Jay K. Rutherford**, a partner in the labor and employment section of the Fort Worth office of Jackson Walker LLP, has been named chairman of Camp Fire USA First Texas Council for 2008. He has also been elected to serve as president-elect of the Texas Lyceum. Rutherford is one of the 2007 Texas "Super Lawyers," is Board Certified in labor and employment law by the Texas Board of Legal Specialization and was recently selected as one of *Fort Worth, Texas* magazine's "Top Attorneys."

### 1989



**David N. Calvillo**, with Calvillo Law Firm, has recently been elected to membership in the Fellows of the Texas Bar Foundation. Fellows of the Foundation are chosen for their outstanding professional achievements and their continuing commitment to improve the Texas justice system.

**Russell L. Reid, Jr.** joined the New York office of Sheppard Mullin Richter & Hampton LLP as a partner in the firm's finance and bankruptcy practice group.

### 1990

**Kevin R. C. Gutzman** recently published his new book, *The Politically Incorrect Guide to the Constitution*, by Regnery in June. His

book has been the first Jeffersonian account of American constitutional history in more than a century, and made the *New York Times* online paperback nonfiction best-seller list two weeks in a row.

**Dale Kimball**, formerly vice president and general counsel, Latin America at Cadbury Adams in Plano, Texas has been promoted to regional legal director for Cadbury Schweppes in Europe.



**Liam O'Connell** has joined the law firm of Nutter McClennen & Fish LLP in its Boston office as a partner in the litigation department and as a member of the firm's labor, employment, and benefits practice group.

## 1991

**Leonard H. Dougal**, an attorney at Jackson Walker LLP at the Austin office, was selected by his peers for inclusion in *The Best Lawyers in America 2008* for Water Law.

## 1992

**Brian Tagtmeier** is a full-time mediator and arbitrator focusing on commercial litigation and civil trial matters, including construction, insurance coverage/bad faith, PI, maritime, partnership/corporate disputes, employment law, probate matters, and family law.

## 1993

**Joseph W. Gagnon** has joined the Houston office of Fisher & Phillips LLP, a labor and employment firm representing employers nationwide. His areas of practice will primarily include Title VII actions, Sarbanes-Oxley whistleblower claims, trade secret protection, and appellate proceedings at the state and federal levels.

**Brenda Hustis Gotanda** of Manko, Gold, Katcher & Fox LLP was recently elected Chairperson of the Radnor Township Environmental Advisory Committee. Gotanda has also been named a Rising Star for 2007 in the area of Environmental Law by the *Pennsylvania Super Lawyers* publication.

**Christopher Hawkins**, of counsel to the San Diego law firm of Sullivan Hill Lewin Rez & Engel, was recently sworn in as the vice president of the San Diego Bankruptcy Forum. A member of the forum since 2002, Hawkins was elected to its Board of Directors in 2007 and will serve as vice president for 2008.

## 1994

**Nellie Shipley**, an attorney at Womble Carlyle Sandridge & Rice, PLLC, has been appointed to a second term as Chair of the Town of Cary, North Carolina, Economic Development Commission.

**Patrick Whalen**, partner with Spencer Fane Britt & Browne LLP in Kansas City, Missouri, was the keynote speaker at the Gartner Global Comprehensive Governance, Risk Management, and Compliance Summit in Chicago.

## 1995



**Anne McGowan Johnson** has been named partner with the law firm Haynes and Boone, LLP in its Dallas office. Johnson is Board Certified in Civil Appellate Law since 2002, has experience in all aspects of appellate practice in trial and appellate courts, including preparation of the jury charge, error preservation, judgment formation, post-trial motions, appellate briefs, and oral argument. She is also a frequent CLE speaker and author on topics ranging from arbitration appeals to summary judgment practice. Johnson currently serves on the twelve-member Appellate Council of the State Bar of Texas.

**Wes Jones** has been named to the partnership at Vinson & Elkins LLP in Austin.

## 1996

**George W. Jordan, III** has joined the Houston office of Fulbright & Jaworski LLP as senior counsel. He is a member of the firm's patent litigation and intellectual property practice groups.



**Daniella D. Landers** has been promoted to member of Epstein Becker Green, PC in the firm's Houston office. Her practice focuses on commercial litigation and environmental law issues.

## 1997

**Amy Caton** has been named partner at Kramer Levin Naftalis & Frankel LLP in New York.



**Blair Dancy** has become a partner with Van Osselaer, Cronin & Buchanan LLP. Dancy's trial practice encompasses complex insurance, public utility, and other commercial disputes. He is a current Keeton Fellow, a Founding Life Fellow of the Austin Bar Foundation, named a "Texas Rising Star" by *Texas Monthly* magazine for several years, and a board member of Texas Accountants and Lawyers for the Arts.

**Jim Noles**, a partner with the law firm of Balch & Bingham LLP in Birmingham, Alabama, where he practices environmental law, has written a new book entitled *A Pocketful of History: Four Hundred Years of America – One State Quarter at a Time*. His book has taken each of the U.S. Mint's fifty state quarters and describes how each state came to choosing the image for the quarter, and the historical reference behind the image.

**Dahesh Patel** has been named partner in the litigation department of Reed Smith LLP in its Philadelphia office. Patel's focus is on tax, benefits, and wealth planning.

**Kim Van Winkle** of Gardere Wynne Sewell LLP in Austin, was elected to membership in the Fellows of the Texas Bar Foundation.

## 1998

**Lisa Chavarria** has become an associate with Stahl, Bernal & Davies LLP. She is an expert in the wind energy industry, negotiating wind leases and surface use documents. She has written extensively about wind power, including co-authoring the first Texas legal article on the topic.



# InCamera



PHOTO BY JOHN LANGFORD



## Class Notes

**Brian Moss** has been named to the partnership at Vinson & Elkins LLP in Houston.

**Daxton R. "Chip" Stewart** has been named assistant professor of Journalism at Texas Christian University, where he will teach courses in news reporting, media law, and ethics.

### 1999

**Richard W. Bass** has been named a partner at Thompson & Knight LLP. Bass is a member of the firm's trial practice group in Houston and New York where his focus of practice is on oil, gas, and energy-related disputes. He also handles a broad range of non-energy-related general civil and commercial litigation matters, including personal injury defense and intellectual property matters in both state and federal courts.

**Edmund "Skip" Davis** was honored by the Texas Civil Rights Project, which presented him with the First Amendment Hero award for his defense pro bono for the Round Rock High School students who were arrested for exercising their right to free speech by protesting U.S. national immigration policy reform in April 2006. The award presentation was made at the 17th Annual Bill of Rights Dinner on November 3, 2007 at the University of Texas Alumni Center. TCRP benefactor Michael Tiger and UT Law Dean Larry Sager were in attendance.



**William J. Dodge** was recently elected as a director at Downs Rachlin Martin PLLC. Working from the firm's Burlington office, Dodge is a member of the business law, public utilities law, and real estate and environmental law practice groups.

**Yolanda C. Garcia** has been named partner at Weil, Gotshal & Manges LLP in Dallas.

**Justin A. Hoover** of Winstead PC in Fort Worth was named one of Tarrant County's Top Attorneys 2007 in the *Fort Worth Texas* magazine.

**Mark Jungers** has been named a partner with the legal search firm Major, Lindsey & Africa. Jungers is the partner practice group leader for MLA's Midwest offices. He specializes in the representation of large multi-partner practice groups and has opened three domestic offices and one international office for AmLaw 100 firms.

**Jonathan Lass**, an attorney in the corporate and securities section of the law firm Clark, Thomas & Winters in Austin, has been elected to shareholder in the firm.

**Marquette M. Maresh**, of Walsh, Anderson, Brown, Schulze & Aldridge, PC has become a shareholder in the firm.



**David J. Sewell** has been named a partner at Stahl, Bernal & Davies LLP. Sewell's practice includes commercial real estate law, corporate law, and Texas tax litigation. He is actively involved in the firm's wind energy practice. Sewell is Board Certified in Commercial Real Estate Law by the Texas Board of Legal Specialization.



**Matt Strock** has been named to the partnership at Vinson & Elkins LLP in Houston.

**Wade Williams** has opened the Law Offices of Wade Williams in Houston, a general business law practice focusing primarily on real estate transactions and wind energy project development.

### 2000

**Jeremy Fudge** has been named a partner at Berry Appleman & Leiden, working from both the Dallas and Houston offices. Fudge specializes in U.S. immigration issues for *Fortune* 100 companies, particularly within the energy industry.



**Lee Legault** has joined the Austin litigation firm of Reeves & Brightwell LLP. Legault is a civil litigator with significant appellate experience.



**Karen A. Monsen** has been named a partner at Jackson Walker LLP. Monsen practices commercial and employment litigation at Jackson Walker's San Antonio office. She has represented clients across the country in state forums, in federal court, and in international arbitration.



**Eric L. Schiele** has become a partner with Cravath, Swaine & Moore LLP in New York.

**Kristopher M. Stockberger** has recently joined the firm Preis & Roy at its Houston office. Stockberger's practice predominantly includes commercial disputes and litigation, construction defects, environmental and pollution issues, and insurance coverage.



**Marcello E. Tamez** has been named a partner at Jackson Walker LLP. Tamez is a member of the international, corporate and securities, and real estate practice groups of Jackson Walker's San Antonio office. He represents clients in connection with domestic and international mergers, acquisitions and divestitures, private equity fund investments, and joint venture formation.



**John Thompson**, an attorney in Cantey Hanger's general litigation group, has been named partner. Thompson has represented a diverse range of commercial and individual clients as both plaintiffs and defendants in a variety of litigation matters. His experience includes litigation involving contract, oil and gas, construction, and real estate disputes.

**Shaarik "Rik" Zafar**, a Senior Policy Advisor at the U.S. Department of Homeland Security's Office for Civil Rights & Civil Liberties, received the Secretary's Award for Excellence at the 2007 DHS Awards Ceremony.



## 2001

**Marco "Mark" Guerrero** has joined the law firm of Fish & Richardson, PC in Austin as a litigation associate. Guerrero has also been elected as a Fellow of the Texas Bar Foundation.

**Koy R. Killen** of Winstead, PC in Fort Worth was named one of Tarrant County's Top Attorneys 2007 in the *Fort Worth Texas* magazine.

**Christina A. Mondrik** of Mondrik & Associates has become board certified in tax law by the Texas Board of Legal Specialization. She is the 2007–2008 chair of the SBOT Tax Section's Solo and Small Firms Committee. Mondrik also serves on TSCPA Board, the State Bar of Texas and TSCPA State Taxation Committees, and the TSCPA Committee on Relations with the IRS.

**Evan Pritchard** has recently joined the law firm of Walsh, Colucci, Lubeley, Emrich and Walsh in Northern Virginia as an associate. His practice will focus on real estate, zoning, and land use matters.

**Tara Branum Ross** has co-authored *UNDER GOD: George Washington and the Question of Church and State*, which was released in February. She has also authored *Enlightened Democracy: The Case for the Electoral College*.



**Erin Hacker Shanley** has been elected as a new partner with the law firm Stone Loughlin & Swanson, LLP. Shanley's practice focuses on administrative law, insurance defense, and appellate work, including representation of insurance carriers before administrative tribunals, formulating judicial challenges to administrative acts and decisions, and consulting on compliance and regulatory requirements.

## 2002



**Luke Ellis** of Jackson Walker LLP has been recognized as the "2007 Young Leader of the Year" by the Austin United Way's Young Leaders Society.



**Kristin S. Gardner** has joined the law firm Jones, Walker, Waechter, Poitevent, Carrère & Denègre LLP at its Baton Rouge location as an associate in the business and financial practice group.

## 2003

**Omar J. Alaniz**, former law clerk to the Honorable D. Michael Lynn, has become an associate of Baker Botts LLP in Dallas. Alaniz is also an adjunct faculty member at Southern Methodist University's Dedman School of Law, where he teaches Advanced Bankruptcy Law.

**Amanda Bush**, an associate in the litigation section of Jackson Walker in Fort Worth, was recently selected as one of *Fort Worth, Texas* magazine's "Top Attorneys."



**Matt Frederick** has joined the Austin litigation firm of Reeves & Brightwell LLP. Frederick is a litigation associate.

**Lt. Brent E. Troyan** is currently serving as the staff judge advocate for the Naval Special Warfare Center in Coronado, California. Lt. Troyan is scheduled for his second deployment to Iraq in Spring 2008.

**Brad Wyly** recently formed the Wyly Law Firm, PC in Houston. The Wyly Law Firm specializes in civil litigation and business law.

## 2006

**Alejandro Suarez-Mendez, LL.M.**, has joined the law firm of Fredrikson & Byron PA at its Minneapolis office in its international practice. Suarez represents U.S. and Canadian companies and individuals doing business in Mexico and Latin America. He received his license from the Minnesota Supreme Court of Justice as the first Mexican foreign legal consultant. Minnesota is one of the few states that allow foreign attorneys with U.S. credentials to be admitted to the Bar as foreign legal consultants.

**David M. Peterson** recently joined the Houston office of Susman Godfrey LLP as an associate.

**Joseph Portera** recently joined the Dallas office of Susman Godfrey LLP as an associate.

## 2007

**Mateo S. Barnstone** joined the law firm of Thompson & Knight LLP as an associate in the finance practice group in Dallas.



**Charlie Chen** has joined Weil, Gotshal & Manges LLP in the Dallas office.

**R. Reece Norris** has joined the law firm of Thompson & Knight LLP as an associate in the corporate and securities practice group in Dallas.



**Blake D. Royal** has joined the law firm of Boyar & Miller as an associate in the firm's business group.

**Kristen Smith** has joined the law firm of Thompson & Knight LLP as an associate in the trial practice group in Fort Worth.



**Nigel R. Stark** has joined Baker & Daniels LLP as an associate. He practices in health and life sciences with a concentration in data privacy and information security law.

**Nicholas Tsai** has joined the law firm of Thompson & Knight LLP as an associate in the corporate and securities practice group in Houston.

# In Memoriam

**The Honorable Wilson Cowen, '28,** died on October 28, 2007 at the age of 101 years old. Cowen began his career as a county judge in Dalhart, Texas and was later appointed to the United States Court of Appeals for the Federal Circuit.

**Joshua Nyman Kahn, '35,** died on December 2, 2007 at the age of ninety-four.

**Edgar A. Pfeil, '36,** died on February 13, 2008 at the age of ninety-eight. After graduating from the Law School, Pfeil entered private practice in San Antonio and Seguin until being elected county attorney for Guadalupe County in 1938. In 1940 he was appointed assistant attorney general of Texas, in which capacity he served until he resigned in 1942 to volunteer for duty in the armed forces. He served in Europe as a combat intelligence officer in Patton's 3rd Army. After the war he remained in Europe for a year serving on the legal staff of Colonel Leon Jaworski. Pfeil retired from the Army in 1946 as a captain and returned to his private law practice. From 1956 to 1983 he was a trial attorney first for the city of Houston and later San Antonio.

**Fancher S. Archer, '37,** died on February 29, 2008 at the age of ninety-four. Archer practiced law in Amarillo, Austin, Rockport, and Hale Center. He was a judge and had been the assistant attorney general of Texas.

Fancher was a captain in the U.S. Air Corps and was a veteran of World War II, stationed in Calcutta.

**Joe G. Fender, '37,** died on November 25, 2007 at the age of ninety-three. Fender was elected county attorney for Fisher County, Texas, where he organized the Midwest Electric Cooperative which brought electricity to farmers of the area. During World War II, he was inducted into the United States Army in 1941, serving with Battery E, the 131st Field Artillery of the 36th Division of the National Guard. As part of the unit that became known as the "Lost Battalion," Fender was captured when the Japanese overran Java and spent the remainder of the war as a POW. Upon returning to Texas, he joined the law firm of Baker Botts LLP before founding his own firm. He practiced transportation law in federal and state courts and before various commissions, and was well known in the legal community for his work in those areas.

**Jack William Flock, '38,** died on October 15, 2007 at the age of ninety-four.

**Randolph M. Jackson, '38,** died on January 9, 2008 at the age of ninety-three. Jackson retired as a legal assistance officer to the Pentagon after thirty-five years with the Federal Business Association.

**The Honorable Paul H. Huser, '38,** died on January 26, 2008 at the age of ninety-three.

**William R. Eckhardt, III, '40,** died on January 7, 2008 at the age of ninety-three. Upon graduation from the University of Texas, Eckhardt became a prosecutor in the United States Attorney's Office for the Southern District of Texas. After serving his country in World War II, he began practicing law with McGregor & Sewell. In 1956, Judge J.A. Elkins asked him to join the law firm of Vinson & Elkins, where he became a partner and handled many high-profile cases until his retirement. Eckhardt was also a member of the prestigious American College of Trail Lawyers.

**William K. Rutledge, Sr., '41,** died on August 20, 2007 at the age of eighty-eight. Rutledge practiced law in Dallas with his twin brother and father. He served four years during World War II as a Signal Corps officer attached to the Army Air Corps, and was discharged in 1945 with the rank of major. Rutledge and his wife moved to Vicksburg, Mississippi, where he practiced oil and gas with the law firm Brunini, Brunini & Everett from 1945-1949. He and his wife then moved back to Abilene where he and his brother established the Rutledge and Rutledge firm. Rutledge served as president of the Abilene Bar Association from 1978-1979,



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and was admitted as a Fellow of the Texas Bar Foundation in 1979 and then as a Life Fellow in 1985.

**Alfred Clement Goodson, '42**, died on August 11, 2007 at the age of ninety-one.

**Harry F. Thornberry, '42**, died on November 24, 2007 at the age of eighty-eight. After graduation, Thornberry enlisted in the Army to serve his country in World War II. He was commissioned as a second lieutenant and assigned as junior staff officer at the Supreme Headquarters Allied Expeditionary Forces. In May 1945, as a member of General Eisenhower's staff, he was assigned the duty of finding a location for the surrender of Nazi Germany to the Allied Forces. Captain Thornberry left the service in 1945. He was a lawyer for the Department of Veterans in Washington, D.C. With the breakout of the Korean War in 1951, Thornberry returned to active duty, where he served as captain in the Counter Intelligence Corp, and received a Bronze Medal for outstanding service during the Korean War. Once he returned home, he joined the legal department of Reserve Life Insurance in Dallas. At the time of his retirement in 1981, he was vice president and general counsel for the company.

**James F. Weiler, '42**, died on December 8, 2007 at the age of ninety-two. Weiler was a professional trumpeter, and while at the University of Texas the "Jimmy Weiler band" played everywhere from dances at Gregory Gym to the Paramount Theatre. In June of 1942, he joined Fulbright, Crooker, Freeman and Bates (the firm later became Fulbright and Jaworski). In September 1943, he was drafted into the United States Army during World War II. He was first assigned as a combat engineer but was quickly transferred to Camp Abbot in Bend, Oregon as a member of the 362nd Army Services band, playing trumpet and bugle. In 1946 he moved to Washington, D.C. to work in the United States Patent Office. He later returned to Fulbright and Jaworski and became a partner in 1958. He continued to practice there until his retirement in 1986.

**William L. Taylor, '46**, died on October 14, 2007 at the age of eighty-five. He was admitted to the Texas Bar in 1946 and

practiced law for thirty-nine years. Taylor was elected for two terms as district attorney of Harrison County, served as the first city attorney of Garland, the municipal judge in Garland, and as president of the Chamber of Commerce in Garland as well.

**Robert M. Martin, Jr., '47**, died on December 8, 2007 at the age of eighty-six. Martin enlisted in the Army and served as a cryptographer in the Army, assigned to Headquarters XII Air Support Command. At the conclusion of the war he returned to the University of Texas to earn his law degree. He began his law practice in Dallas with the firm Storey Armstrong Steger and Martin from 1953–1997, and thereafter with Storey and Martin, until he retired in 2001. Martin was a member of the American Bar Association, State Bar of Texas, Dallas Bar Association, the American Bar Foundation and the Texas Bar Foundation. He served on the board of directors for the State Bar of Texas, Dallas Bar Association, State Junior Bar of Texas, and the Downtown YMCA.

**The Honorable Joseph T. Sneed III, '47**, died on February 9, 2008 at the age of eighty-seven. Judge Sneed served as the deputy attorney general of the United States in 1973. He served for more than thirty years as a federal judge on the Ninth Circuit Court of Appeals.

**Robert C. Sneed, '47**, died on January 12, 2008 at the age of eighty-four. After graduating from the University of Texas School of Law, he joined the Sneed law firm. A friend to politicians of all political persuasions, he served as Travis County Democratic Party chairman from 1966–1972, where he pioneered the recruitment of women and minorities to seek public office. After serving in World War II, he returned to Sneed, Vine and Perry law firm, where he was a partner. He was a U.S. Commissioner (now federal magistrate) from 1949–1960, a member of the Travis County and American Bar Associations, and the State Bar of Texas. The Travis County Bar Association named him distinguished lawyer in 1998. He represented the Texas Association of Life Insurance Officials for more than fifty years and the Texas Land Title Association for thirty-four years.

**E. Stewart Watson, '47**, died on January 13, 2008 at the age of eighty-nine. Following his service to his country during World War II in the United States Air Force, he became the vice president of Arco Oil and Gas Land Department in Dallas.

**O. Kenneth Johnson, '48**, died on January 16, 2008 at the age of eighty-eight.

**Bennett L. Woolley, Jr., '48**, died on October 15, 2007 at the age of eighty-five. Woolley was a law partner at Jackson Walker. For decades, he was very active in the oil and gas industry. He also served as a board member for the Children's Medical Center.

**Clifton E. Speir, '49**, died on October 8, 2007 at the age of eighty-four. After graduating from the Law School, Speir joined the Austin City Attorney's office and served as assistant city attorney, from which he took leave to work for the State Building Commission to acquire land for the Capital Improvements Program. He returned to the City Attorney's office and later joined the State Highway Department to set up a program for acquiring land for the Interstate Highway System. With the law firm of Lock, Locke and Parnell, Clifton co-authored House Bill 79, authorizing the Texas Highway Department to acquire Right-of-Way. In 1960, he joined the Houston City Attorney's Office as head of the Land Section, where he served until his retirement in 1982.

**William F. Erwin, Jr., '50**, died on February 26, 2008 at the age of eighty-six. After graduating from the Law School, Erwin worked in Washington, D.C. for the Internal Revenue Service for several years. He then joined Gulf Oil Corporation in the law department in Houston and served as associate general counsel at the time of his retirement. Upon retirement, he served as a securities arbitrator for the Securities and Exchange Commission.

**William R. Sarsgard, '51**, died on October 19, 2007 at the age of seventy-nine. Upon graduation from the Law School, Sarsgard joined what eventually became the law firm of Hudson, Keltner & Sarsgard. In 1959, he left the private practice of law to become

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the vice president and secretary of A.B. Culbertson & Company, a corporation that specialized in financing church and institutional construction. In 1967, he was elected to Fort Worth's city council and reelected in 1969. Upon taking office in 1967, the council elected him mayor pro tem and he served in that capacity for his entire four-year tenure on the council. Later, Sarsgard was president of the North Central Texas Council of Governments, chairman of the City of Fort Worth Planning Commission, and served as board member to many more organizations in Fort Worth.

**Earl M. Scott, '51**, died on December 2, 2007 at the age of ninety.

**The Honorable Henry H. Vollentine, Sr., '51**, died on March 2, 2008 at the age of eighty-three. Judge Vollentine was a retired Gonzales County judge.

**Forrest Nolan Welmaker, '53**, died on November 5, 2007 at the age of eighty-two. After serving his country in World War II and the Korean War, he achieved the rank of captain. He returned to Texas, received his law degree from the University of Texas School of Law, was admitted to the State Bar of Texas in 1953, and practiced law for more than fifty years. Welmaker served as president of the San Antonio Bar and was also named a San Antonio Bar Association Life Fellow.

**William Melvin Hill, '55**, died on November 22, 2007 at the age of seventy-six.

**J. Evans Attwell, '56**, died on October 27, 2007 at the age of seventy-six. Attwell was the youngest managing partner of Vinson & Elkins law firm from 1981–1991. He was the chairman of the board of the Welch Foundation from 2005 until his death. Attwell also served on the board of American General Corporation (now AIG) for forty years, the board of Ocean Energy (now Devon Energy) and many other *Fortune* 500 and charitable boards.

**Edward A. Cazares, '56**, died on October 9, 2007 at the age of eighty-four. Cazares served in many official capacities, including assistant attorney general of Texas, assistant

city attorney of Austin, assistant city attorney of Houston, and was appointed the first Hispanic city attorney of Houston in 1980.

**Robert W. B. Dickerson, '56**, died on December 3, 2007 at the age of seventy-five. Dickerson had a distinguished career as an intellectual property rights attorney.

**Tom J. Fotheringham, '56**, died on January 30, 2008 at the age of seventy-six. Fotheringham practiced law for more than fifty years at the Robinson and Fotheringham law firm.

**William E. McDonald, '56**, died on December 2, 2007 at the age of seventy-six. McDonald began his law practice in 1956 at Vinson & Elkins.

**Robert G. Guthrie, '57**, died on October 10, 2007 at the age of seventy-six.

**Denny O. Ingram, Jr., '57**, died on October 14, 2007 at the age of seventy-eight.

**William F. Whitfield, Sr., '57**, died on January 21, 2008 at the age of eighty. After graduating from the Law School, Whitfield accepted a position with the Vinson & Elkins law firm in Houston. In 1960, he moved his family to New Mexico, where he engaged in banking, ranching, and other investments.

**Donald O. Baker, '58**, died on January 16, 2008 at the age of seventy-eight.

**Lola L. Bonner, '58**, died on February 8, 2008 at the age of seventy-five. Bonner was the first woman president of the Aransas County Bar Association and the first chairwoman of the county's Democratic Executive Committee.

**Frank R. Douglass, '58**, died on November 23, 2007 at the age of seventy-four. Douglass was a civic leader, mentor, and one of the most highly-regarded oil and gas lawyers in the country. A long-time Austin attorney and resident, Douglass was a founding partner of the Austin law firm of Scott, Douglass & McConnico LLP. He joined the Powell firm (later known as McGinnis, Lochridge & Kilgore) in 1958 and became a partner in 1961. In 1976, Douglass teamed

with Wally Scott to form Scott & Douglass. Many of Douglass' cases reached the Supreme Court of Texas and became important parts of the State's oil and gas law. In 2006, Douglass received the first Ernest Smith Award for Lifetime Achievement in Energy Law from the *Texas Journal of Oil, Gas & Energy Law* and the second Outstanding Lifetime Achievement in Energy Litigation Award by the Institute for Energy Law at the Center for American and International Law.

**L. Bruce Fryburger, '58**, died on November 24, 2007 at the age of seventy-four. Fryburger practiced labor law for more than thirty years in San Antonio, where he operated the Law Offices of L. Bruce Fryburger. He was a past president of the Texas Young Lawyers Association and a member of the Texas Bar Association.

**Robert T. Rylee, II, '58**, died on December 25, 2007 at the age of seventy-seven.

**Claude C. Freeman, Jr., '59**, died on January 19, 2008 at the age of eighty-one.

**Kenneth C. Keener, '59**, died on November 8, 2007 at the age of seventy-four. Upon completion of Law School, Keener became a briefing attorney with the Texas Supreme Court. He became a major legal representative for Gulf Chemicals World Wide until his retirement from Gulf in mid-1980. After leaving Gulf Oil (Chevron), Keener had a second career with Cooper Industries, where he was in charge of the litigation department until his final retirement in August 1996.

**Charles J. Kvinta, '59**, died on February 5, 2008 at the age of seventy-five.

**Kyle Wheelus, Jr., '59**, died on November 26, 2007 at the age of seventy-seven. Upon graduation from the Law School, Wheelus joined the law firm of George Weller, which later became Weller, Wheelus and Green. He left the firm after many years and opened his private practice, from which he retired in November 2006. He was an active member of the Jefferson County Bar Association of Texas, State Bar of Texas, and the Texas Association of Defense Council.



**Don W. Reed, '61**, died on November 26, 2007 at the age of seventy-four. After graduating from the Law School, Reed served as an attorney for the State Board of Water Engineers in Austin and later was assistant city attorney in Lubbock. From 1968 through the mid-1990s, he was in private law practice in the Fort Worth area.

**Isaac David White, '61**, died on October 7, 2007 at the age of seventy. White was a corporate law attorney. He worked for Lone Star Gas Company and in later years he was in private practice.

**The Honorable Don B. Morgan, '62**, died on November 6, 2007 at the age of seventy-one. Judge Morgan was a state judge.

**Walter Alex Harrison, '63**, died on August 3, 2007 at the age of seventy.

**Charles G. Berry, '64**, died on October 21, 2007 at the age of seventy-three. After receiving his degree from the Law School, Berry was a practicing attorney in New Mexico for thirty-seven years. He retired from law practice in 2002.

**Hamilton P. Rogers, Jr., '64**, died on January 19, 2008 at the age of sixty-nine. Rogers spent most of the 1980's in Savannah, Georgia with different projects and investments, before returning to Houston to work for the Department of Justice, from which he retired in 2002.

**Samuel D. Ward, '64**, died on December 4, 2007 at the age of sixty-nine.

**William Wiseman Wells, '64**, passed away on November 28, 2007. During a thirty-year career spent working for the Texas Legislature, Wells used his training as a lawyer in many capacities but was proudest of the accomplishments of the Texas Sunset Commission, which he helped create and then served as the director of for seventeen years until his retirement in 1994.

**Douglas H. Chilton, '65**, died on August 6, 2007 at the age of sixty-nine. From 1965–1969, Chilton was with the Attorney General's Office as assistant attorney

general. He was a member of the Galveston County Junior Bar and served as president in 1971. In 1972, Chilton became president of the Mainland Bar of Galveston County. He served with distinction as a director of the State Bar of Texas from 1979–1982. He was a Life Fellow of the Texas Bar Foundation, certified as a Civil Trial Specialist by the National Board of Trial Advocacy and Board Certified, Civil Trial Law, Texas Board of Legal Specialization. His practice areas were civil litigation, mediation, and employment law.

**Robert A. Huttash, '65**, died on November 5, 2007 at the age of sixty-six.

**Laurance Lannen Priddy, '66**, died on February 13, 2008 at the age of sixty-seven. After serving in the Army, Priddy worked in the Fort Worth city attorney's office. He later joined the law firm of George Busch and worked there until forming his own partnerships. He left private practice in 2000 and began working as a managing attorney for Advocacy, Inc. Priddy was an active member of the ACLU and in 2002 received the Louise McGuigan Award for being Civil Libertarian of the Year. He also taught medical jurisprudence at the Texas College of Osteopathic Medicine for about twelve years. Priddy published three novels: *Winning Passion*, *Son of Durango* and *Critical Evidence*.

**Thomas Autry, '67**, died on February 3, 2008 at the age of eighty-one. Autry was a criminal defense lawyer until he retired.

**J. Edward Mann, Jr., '67**, died on December 23, 2007 at the age of sixty-five. After serving his country, Mann began working as a certified public accountant with Arthur Anderson in Houston in 1969. In 1973, he became an associate with Sternberg, Skaggs, and Koppel law firm in Harlingen. In 1976, Mann opened his own practice and continued on his own until he was joined by his son in 1998.

**Larry W. Langley, '68**, died on November 8, 2007 at the age of sixty-four. After graduation from the Law School, Langley accepted a job as an undercover special agent with the Federal Bureau of Investigation. During his career, he was a partner with the law firms of

Jackson Walker (formerly Small, Craig and Werkenthin) and Akin, Gump, Strauss, Hauer & Feld. Langley was director of the State Bar of Texas and president of the Travis County Bar. The Austin Bar Association recognized his commitment to the legal community by presenting him the 2004 Professionalism Award.

**Douglass F. Norman, '68**, died on January 9, 2008 at the age of sixty-four. Norman worked for the SEC in Washington, D.C., and SCI in the early seventies. He then went into private practice and was judge of the 312th Family Law Court.

**Charles M. Hineman, '69**, died on January 24, 2008 at the age of seventy-two. Upon graduation from the Law School, Hineman became a prosecutor in the Travis County District Attorney's office. After several years he began his private practice.

**John B. Garrett, III, '71**, died on December 19, 2007 at the age of sixty. Garrett's law career began in administrative law with the Texas Real Estate Commission, included a short term in private practice in Ennis, and was concluded in administrative law at the Texas Department of Health.

**Robert B. McGehee, '73**, died on October 9, 2007 at the age of sixty-four. He was chairman and chief executive officer of Progress Energy.

**Genevra Kay Loveland, '75**, died on August 25, 2007 at the age of sixty-six. Loveland received her law degree with honors from the University of Texas School of Law and had a distinguished career in law, spending the last thirteen years before her 2007 retirement at the Federal Judicial Center in Washington, D.C. While at the National Center for State Courts in 1989–1992, she also co-authored a book, *Managing Notorious Cases*.

**Paula S. Waddle, '76**, died on January 4, 2008 at the age of sixty.

**Richard G. Wells, '76**, died on September 22, 2007 at the age of fifty-six. Wells worked for Arthur Anderson and then as a tax attorney for Abercrombie Mineral

## In Memoriam

Company before starting his own corporate tax law business in 1983. He was a member of the Texas State Bar Association, the American Bar Association, and the Texas Society of CPAs.

**Charles E. Frost, Jr., '81**, died on February 21, 2008 at the age of fifty-seven. Frost served as an editor on the *Texas Law Review*, as a member of the Board of Advocates, and on Moot Court while he was at the University of Texas School of Law. After law school, he worked for twenty-five years as a trial lawyer. Frost was a partner at Chamberlain Hrdlicka, with a specialty in intellectual property law.

**George H. Ledbetter, '83**, died on November 9, 2007 at the age of fifty-six. Ledbetter entered the Air Force in 1974 through Officer Training School, and while he began his career as an aircraft maintenance officer, he moved to the staff judge advocate corps upon graduation from the Law School.

He retired from the Air Force as a colonel with more than thirty years service in 2005. Ledbetter served a multitude of duty stations throughout the country and abroad. Assignments included the San Antonio Air Logistics Center Staff Judge Advocate, 31st Combat Support Group, 831st Combat Support Group, Air Force Engineering and Service Center for Ballistic Missile Support, and the Air Force Legal Service Agency. Ledbetter's last assignment was at the Pentagon as an associate general counsel (environment & installations) with the Department of Defense Office of the General Counsel. Ledbetter's military awards include the Defense Superior Service Medal and the Air Force Meritorious Service Medal with five oak leaf clusters.

**William M. Bingham, Jr., '86**, died on December 3, 2007 at the age of forty-seven. Bingham was an expert in insurance law. During his career, he served in the Office of Public Insurance Counsel, as deputy

commissioner for the Department of Insurance, and most recently as counsel for Mitchell, Williams, Selig, Gates & Woodyard Law Firm in Austin.

**Patrick S. Gerald, '90**, died on October 6, 2007 at the age of forty-three. Upon graduation, Gerald moved to Midland, where he began his law career specializing in trial and appellate law. He was managing partner of the firm Davis, Gerald, and Cremer. Professional associations and memberships include: State Bar of Texas, Bar Association of Fifth Federal Circuit, Midland County Bar Association, and American Bar Association.

**Aaron D. Pollack, '05**, died on February 28, 2008 at the age of twenty-nine. After graduating from the Law School, Pollack moved to New York City and worked as a public defender with Legal Aid.

**Christian Charles Draayer, '06**, died on October 10, 2007 at the age of thirty-one.



# UT Law Alumni Directory Coming Soon!

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PHOTO BY BRIAN BIRZER

# THE MYTH OF HOME OWNERSHIP

by A. Mechele Dickerson

*Owning a home is viewed as a basic American privilege. The road to financial security and stability, it is said, is best achieved by buying a house. Moreover, investing in a home elevates the investor to a culturally significant status: that of a Homeowner. The metastasizing housing crisis—best illustrated by the almost overnight demise of banking giant Bear Stearns—suggests that it may be time for this country to decide whether it makes sense to continue to encourage and subsidize universal homeownership.*

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A noted expert on bankruptcy law, A. Mechele Dickerson is the Associate Dean for Academic Affairs and the Fulbright and Jaworski Professor in Law at the University of Texas School of Law.

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## THE HOMEOWNERSHIP FRENZY

FOR YEARS, THIS COUNTRY has encouraged renters to become homeowners. The United States encourages and subsidizes homeownership in a number of ways. The Federal Housing Administration helps stimulate the housing market by guaranteeing lenders that certain loans they make will be repaid in full even if the borrower defaults. Government-Sponsored Entities (GSEs), including Fannie Mae and Freddie Mac, help stabilize the U.S. residential mortgage markets and they provide liquidity in the secondary mortgage market by, for example, purchasing conventional mortgages then pooling these mortgages to sell to private investors.

The biggest subsidies, however, are found in the Internal Revenue Code. Homeowners who itemize their deductions on their tax returns can deduct interest on most mortgage debt on both first and second homes and can also deduct state and local real property taxes. Homeowners also can keep up to \$500,000 in profits tax-free when they sell their home because those profits are excluded from the capital gains tax.

In addition to the benefits to individual homeowners and neighborhoods, homeownership's positive spillover effects provide macroeconomic benefits for the U.S. economy. The building and selling of homes increase jobs and boost the demand for goods and services. Indeed, for the last few years, housing revenue (including actual home sales and furnishing the home) has accounted for almost a quarter of the U.S. economy.

For the last few years, the housing market has been quite strong and the U.S. has experienced unprecedented home price appreciation. While this created vast sums of wealth for some homeowners, housing has become largely unaffordable to lower- and middle-income consumers. To respond to this unaffordability problem, the U.S. government encouraged the financial industry to engage in mortgage innovation to make house purchases more accessible.

The lending industry eagerly complied with this request by creating then extensively marketing a wide array of non-traditional (also called "exotic") products. These products

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## THE IRRATIONAL EXUBERANCE ASSOCIATED WITH HOMEOWNERSHIP HAS NOW CAUSED RENTERS AND EXISTING HOMEOWNERS TO EVALUATE THE REAL ESTATE INVESTMENT IN A HOUSE BASED ALMOST EXCLUSIVELY ON EMOTIONAL AND PSYCHOLOGICAL—NOT ECONOMIC—FACTORS.

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The federal government subsidizes housing investments because of its purported benefits to the individual borrower and the borrower's community, and because of the positive externalities associated with homeownership. The individual home buyer acquires an asset that can help build wealth, that can be used as collateral for a loan, and that can provide financial security for the buyer's descendants. Homeownership is thought to be beneficial for the individual homeowner's children since living in a home owned by the child's parents is viewed by many as the best environment in which to rear children.

Homeownership also can be good for neighboring property owners. Homeowners have an incentive to protect their investment and, unlike renters, are more likely to invest in home repairs (assuming, of course, they have sufficient disposable income). Homeownership can also benefit communities since homeowners are more likely to be involved with local civic organizations, to lobby for high quality community services (like neighborhood schools) and to ensure that their neighborhoods remain safe.

allowed people who would not have qualified for mortgages based on historical lending criteria to purchase homes. Thus, people who had bad credit (i.e., subprime borrowers), who had no money for a down payment, or who were unable (or unwilling) to document their income and assets were allowed to purchase houses. In addition to offering these products to renters, the products were heavily marketed to existing homeowners who wanted to remove equity from their homes to pay off debts or purchase goods.

Though the exact features of the innovated products vary substantially, one common feature was low monthly payments, at least initially. To keep the initial payments low, some of the products allowed borrowers to defer repaying the principal balance of the loan and, instead, to pay interest only. Almost all of the products had adjustable interest rates that had low "teaser" introductory rates that increased (sometimes dramatically) after the first few years of the loan.

The good news is that these affordability products helped cash-strapped people change their status from renter to homeowner, and the products helped the economy by fueling

housing sales. The bad news is that making housing “affordable” created a vicious cycle. People desperately wanted to buy a home so they could participate in the price appreciation frenzy. Tax benefits gave them an incentive to buy a house, and the exotic loan products made it possible. So, people who really could not afford to buy a house could buy one, which increased the pool of potential buyers. This larger pool of potential buyers allowed sellers to demand more for their homes. This then fed housing price appreciation, which meant that buyers who already couldn’t afford to buy a house needed to take out even larger exotic mortgages so they could afford to buy these now higher-priced homes.

The irrational exuberance associated with homeownership has now caused renters and existing homeowners to evaluate the real estate investment in a house based almost exclusively on emotional and psychological—not economic—factors. In the push to promote universal homeownership, the risks and costs associated with achieving or maintaining homeowner status were downplayed or not mentioned at all. The risks and many of the costs are present at the loan’s inception and often last years after the owners lose their homes to foreclosure.

Even at the beginning of the loan, low teaser rates are inherently risky because, when they adjust or reset, borrowers face a significant risk of suffering a payment “shock.” Borrowers who were approved for the loan based on the initial monthly loan payment and not the payment amount that would apply at the reset are especially vulnerable. Homeowners who accepted these loans often failed to consider that they might be able to keep their homes only if they refinanced their loans to a lower interest rate, which would be possible only if housing price appreciation continued and interest rates remained low. Without those economic conditions, the borrower could not maintain his status as a homeowner.

In addition to the short-term costs homeowners encounter when they lose equity in a home, losing an investment in a house can have a negative economic long-term effect on the homeowner and may make it prohibitively expensive for them to purchase a home in the future. Data show that homeowners who lose their homes—for any reason—may be unable to re-enter the home-buying market for a decade because of the effect the foreclosure has on the borrowers’ credit rating and because it will take time for borrowers to replenish the money they lost in the housing investment.

In addition to the risks posed by non-traditional loan products and the actual short- and long-term costs imposed by the obsession to be and remain a homeowner, the decision to invest in a house imposes significant opportunity costs. Cash-strapped consumers who invest in a house restrict their ability to make other investments. In addition, to achieve or retain their status as homeowners, they often deplete retirement funds or reduce spending on other consumer items, even critical ones like health insurance. Cash-strapped homeowners (or renters) also are less likely to have houses that are as valuable as those owned by people with disposable income, since stretching to buy the house often leaves them little money to spend on routine home maintenance.

Using scarce investment resources to buy a house may also prevent low- and middle-income renters and homeowners from investing (or making a larger investment) in their or their dependents’ pre-school, secondary, or college education. Education investments are perhaps more valuable to these consumers, since the investment is not as volatile as a housing investment and education investments can enhance the investors’ long-term prospects for economic stability. The irrational exuberance associated with homeownership also discourages renters and existing homeowners from carefully considering the tradeoffs between renting a home in a school district that has higher quality schools (but overly expensive housing) and buying a home in a district that has lower quality schools (but housing they can afford using a non-traditional loan product).

Just as homeownership has positive externalities, increased mortgage loan defaults and foreclosure rates have significant negative externalities. An increase in foreclosures decreases the value of neighboring homes largely because appraisers value homes based on recent sales of comparable homes. Using foreclosed properties as comparables will reduce the value of nearby homes. Lower home prices also make it harder for owners to refinance existing loans or to obtain new financing. Moreover, the presence of vacant houses that were sold in foreclosure creates incentives for criminals to vandalize the house, steal copper or other valuable items, and conduct other criminal activities in the home. This, again, will have a negative economic effect on neighboring properties.

Rising mortgage foreclosures also harm municipalities. As evidenced by the current crisis, increased foreclosures decrease property tax revenues, but increase the localities’ costs to maintain the appearance of vacant properties. Lower tax revenues make it harder for municipalities to adequately fund schools or to provide other vital governmental services. Cities may also need to increase police protection in areas with vacant homes to protect the homes from vandals, or even to investigate homeowners who are suspected of committing arson when faced with a pending foreclosure.

Moreover, as evidenced by the current turmoil in the U.S. housing markets, a weak housing market can create volatility across the spectrum of credit markets both in the U.S. and abroad. Most of the negative spillover costs could have been anticipated *ex ante*. For example, lenders not unexpectedly restricted the credit they were willing to extend to companies who made, or invested in, mortgage loans. They also, however, restricted the credit available to businesses who were credit-worthy, but who had neither originated nor invested in mortgage-backed securities. The housing meltdown has also had catastrophic spillover effects that no one reasonably could have anticipated. That is, the crisis caused the almost overnight collapse of a major investment bank (Bear Stearns), and several mortgage lenders and hedge funds also have dissolved because of the mortgage meltdown. Large institutional non-financial investors, like pensions and university endowments, have been harmed, the CEOs of Citigroup and Merrill Lynch were terminated as a direct result of those entities’ lending policies, and universities now worry that students may be unable to get student loans because of the credit crisis.



# UT Law Student Elected Chair of the National Black Law Students Association



Wintta M. Woldemariam, '09

WINTTA WOLDEMARIAM'S current occupation is law student, but making a difference is her true calling. In the past year alone, Woldemariam, '09, led a contingent of law students to assist with still overwhelming legal needs in New Orleans after Hurricane Katrina, worked as a student attorney in the Immigration Clinic, and served as the social action director of the National Black Law Students Association—all in addition to her legal studies. Now, the enterprising Woldemariam is set to lead that organization. Currently, the NBLSA counts more than 7,000 members and is the largest student-run nonprofit organization in the country.

"The ultimate goal of our organization is to train our members to be the best lawyers they can be," Woldemariam said. That translates into academic preparation and career support, but it also encompasses ambitious advocacy goals.

During Woldemariam's term, the group plans to participate in a

National Lobby Day, where members visit and cultivate support from lawmakers on issues affecting both law students and the African-American community. One issue focuses on recent discussions between the Department of Education and the American Bar Association involving accreditation standards for law schools.

The group also is planning a national education campaign, Know Your Rights, in response to an Indiana law that requires voters to show identification at the polls. "Residents who ride a bus or take public transportation may not have a driver's license. We want people to know their rights and be protected at election time," she said.

Her family is originally from Eritrea. She was raised in Atlanta, and these days she calls Austin home. For the past two years, she has served a summer internship at a law firm in Miami. Wherever the future takes her, one thing is certain: when it comes to advocacy, Woldemariam will be a voice to be heard. —Diana Smith





The University of Texas lit the Tower orange on Tuesday, April 29, 2008, to honor the Giles Sutherland Rich Intellectual Property Moot Court team's 2008 National Championship. Pictured, left to right: coach Pierre Hubert; national champion Alexis Steinberg, '09; regional champion Christopher Mierzejewski, '09; Dean Larry Sager; regional champion Siddhartha Rao, '08; national champion Jared Hoggan, '08; and coach Jennifer Kuhn. UT Law has won eleven national championships in the last nine years.

**University of Texas School of Law**

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