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A Note from the Dean ................................................................. 2

What the New Treasury Must Do .................................................. 4
by ROBERT C. HOCKETT

Barack Obama, Implicit Bias, and the 2008 Election ................................. 8
by JEFFREY J. RACHLINSKI and GREGORY S. PARKS ’08

Lipitor and Women: Questionable Advertising and the Implications for FDA Preemption Claims .................................................. 12
by THEODORE EISENBERG

The Uniform Commercial Code: White & Summers Produce Fifth Edition ................................................................. 16

Briefs ............................................................................................ 20
New Avon Center for Women and Justice at Cornell Law School .................. 20
Thomas Named Director of Middle East Clarke Initiative .......................... 21
Cornell Law School Partners with Leading Asian Institutions .................... 22
Cornell Professors Awarded for Their Work Defending Death Row Inmates .... 23
Underkuffler Expands Ideas of Property ............................................ 23
Defending the Legality of Controversial Wars .......................................... 25
Sherwin “Demystifies” Legal Reasoning ............................................. 25
Legal Remedies When Products Fail .................................................. 25
Newest Cornell Law Students Bring Life and Work Skills to the Classroom .... 28

Faculty .......................................................................................... 32

Profiles .......................................................................................... 48
Claire M. Germain ............................................................................. 48
Robert S. Summers ........................................................................... 50
Margaret Finerty ’78 ......................................................................... 54
Neil Getnick ’78 ................................................................................. 56
K. Robert Hahn ’48 ........................................................................... 58
Jia Jonathan Zhu ’92 ........................................................................... 60
Quinton D. Lucas ’09 ........................................................................ 62
Magdalena Hale Spencer J.D./LL.M./D.V.M. ’09 ..................................... 64
Erin Kathleen Mawson Wiley ’09 ......................................................... 66

Alumni ............................................................................................ 68
Kotz ’90 Investigates SEC’s Handling of Madoff ..................................... 69
Victor J. N. Cummings ’89 Stands and Delivers ...................................... 71
Marcia Goldstein ’75 Receives Two Honors ........................................... 73
Dear Alumni and Friends:

What an exciting time to be in the Cornell Law School community!

As we face the new political and economic realities of 2009, it is wonderful to see the critical role our law school is playing in analyzing and understanding the causes and effects of change in our society, change that could not have been predicted a decade, or even a year, ago. As I introduce this issue of the Cornell Law Forum, I want first to reassure you that our institution remains strong. Despite the financial turmoil that pervades higher education and our economy generally, both Cornell University and the Law School operate from a position of strength, even as we take prudent cost-cutting measures to insure our continued success and stability. This is not a time, I believe, to lower the bar we have set for ourselves; rather, it is a time to raise our sights and redouble our efforts to attain the institutional goals we have identified. Chief among them are our commitments to recruiting great faculty and strengthening scholarship support to provide for students from all walks of life. These commitments will not change, as our continued engagement with the legal and social issues of the day depends on the talented faculty and students that make up this community of learning.

This month’s featured articles help demonstrate how our faculty and students are prepared both to face and to address the realities of our age. Racial prejudice, healthcare advertising, and the economic downturn are three such realities, and we are proud to present research that helps shape the national discourse. The rest of the issue also illustrates the intellectual vibrancy in Myron Taylor Hall. It’s a busy place.

As I review the events of the past six months reflected in this issue, I am reminded of what a truly special place Cornell Law School is and will continue to be. From distinguished faculty research and visitor presentations, to student activities and alumni achievements, we are proud to showcase stories that reflect our founder’s commitment to educating “lawyers in the best sense.” That commitment each day reminds us why this community will succeed in grappling with the challenges ahead.

On behalf of our faculty and students, I thank all of you for your unwavering support of our efforts and wish you every success in the months to come.

Happy reading,

Stewart J. Schwab
The Allan R. Tessler Dean and Professor of Law
dean@lawschool.cornell.edu
ABOVE: Students share a laugh before an afternoon presentation in Myron Taylor Hall.

LEFT: Dr. Ing-wen Tsai, LL.M. ’80, chair of the Democratic Progressive Party of Taiwan, with Dean Schwab prior to Dr. Tsai’s presentation of this year’s Clarke Lecture.

What the New Treasury Must Do

by Robert C. Hockett

After a number of heady false starts, against the backdrop of threatened financial catastrophe, Congress and the White House enacted a stopgap financial “bailout” plan early in October 2008. From that point onward the “plan” has repeatedly morphed, morphed again, and morphed back through a string of remarkably fleeting guises. One suspects this dynamic will continue, at least for a while, as a new president and Congress find their footing in the first half of 2009.

Late in September 2008, the Bush Treasury first projected the plan we’re now living with as a “buy-up” of mortgage-backed securities (MBSs) said to be clogging the credit markets. The Treasury next began speaking, in mid-October 2008, of “buying-in” to financial institutions. By early November, the Treasury had announced that the “buy-in” plan would entirely supplant the earlier “buy-up” plan. About mid-November, however, the Treasury announced it would enter the short-term debt markets as well. Then, near the end of that month, the plan changed again when the Treasury announced it would resume purchasing “toxic” assets, but more than just MBSs. The term “erratic,” it seemed, could be used to describe more than presidential candidates.

Throughout all the abrupt changes of direction, a few voices, softer than Treasury’s, persistently offered proposals geared toward the actual primary cause of our present financial worries—the ongoing mortgage foreclosure crisis afflicting our post-bubble real estate markets. With time and continued tumult, these proposals have gradually gained a hearing. Now it is not only Sheila Bair, of the Federal Deposit Insurance Corporation (FDIC), but even Ben Bernanke, at the Federal Reserve, who can be added to the small, growing list of those focusing on the mortgage foreclosures that lie at the core of our woes.

It is good news that many are at last looking for solutions to the foreclosure crisis as the
Many of these mortgages are troubled, in turn, because they were imprudently or in some cases “predatorily” financed by a shadow industry of scarcely regulated “mortgage banks.” These institutions, which are not actually banks at all—they take no deposits and are accordingly not regulated as depository institutions—sprang up and grew rapidly with our recent real estate bubble, indeed helping to fuel it. Naïve and in some cases even uncreditworthy borrowers not only received loans from these institutions, but were lured with offers of low front-end “teaser” payments that later “ballooned.” While ordinarily lenders would not have found this a profitable practice, bubbles have a funny way of changing people’s calculations. Borrowers not unreasonably assume they can refinance inexpensively on the strength of the underlying collateral’s apparently inexorable appreciation. Primary and secondary lenders naturally assume likewise and convince borrowers of the same, lured by the returns on investments that are there to be had during any bubble. For a time in such cases—typically a decade or so at most—everyone wins. But bubbles have a way of bursting too. And when they do, the erstwhile winners who have not left the ship go down with it.

The housing price slump that commenced in mid-2006 quickly threw ill-structured, bubble-vintage mortgages into default, threatening homeowners and creditors alike.

The second component of our mortgage-rooted financial crisis is derivative and psychological: something much like the proverbial “market for lemons,” known to macroeconomists since at least the time of Akerloff’s and Stiglitz’s canonical articles of the early 1970s (for which both won Nobel Prizes), follows many a burst bubble. In the present iteration of this all too familiar story, no institution knows what portion of its own MBS-holdings will prove underperforming in consequence of the mortgage industry’s post-crash troubles. That is partly because no one knows how low property values will fall. And it is partly because property values, hence mortgage, hence MBS values are themselves partly determined by whatever action we collectively take or do not take to prevent defaults. There is an element of self-fulfilling prophecy in whatever we do here.
The self-fulfilling prophecy part of the story radiates outward. The market grows ever more jittery over the uncertainties. The longer the jitters endure, the more prone investors become to undervalue affected financial institutions’ portfolios, hence stocks. The more investors shed their stakes in these institutions, the more quickly the remaining such stakes lose their short-run values. With institutions interlinked by collateralized debt obligations, credit-default swaps, and other derivative risk-sharing arrangements, even those not holding MBSs are ultimately affected. The familiar “downward spiral” and “widening gyre” of all financial crises ensues. But what goes down can be turned back up, or at any rate stabilized.

Enter here the FHA and its GSE siblings. We can quickly reverse the widening downward spiral, as the Treasury’s original plan of late September 2008 contemplates, by directly addressing the cause at its core—the bad mortgages and the securities they back. This is precisely what the FHA and the GSEs originally were and still are for. The Treasury should be instructed to work through them. Here is how.

As originally envisaged by the Treasury, purchase, through the newly refederalized GSEs, the “toxic” MBSs from key financial institutions now holding them. Pay more than currently undervalued market value, but less than discounted cashflow value. The expenditure will then be recouped when the full portfolio of MBSs rises back to its true value. Finally, ensure that financial institutions that overinvested in MBSs incur some cost, hence avoiding moral hazard concerns.

Will the MBSs rise back to higher values? Yes, for two reasons. The first is rooted in the “market for lemons” and “self-fulfilling prophecy” phenomena. The problem in this case is that, while we know only a minority of MBSs are actually “toxic,” we don’t know which ones. During those periods of irrational despair that follow periods of irrational exuberance, individuals irrationally fear they hold toxic investments disproportionately. (“I must have the bad ones.”) Fearing this individually, they then in effect make it so collectively, by stampeding to sell what they irrationally undervalue. Concentrate ownership of the full affected portfolio, then, and you solve this collective action problem. You’ll restore real portfolio value, pocketing the difference between that and the current irrationally depressed market value.

The second and complementary part of the plan is simultaneously to arrange refinancing and financial counseling, through the FHA, for those mortgagees who are now going under owing to poorly structured or misleadingly packaged mortgages. This can be done at a reasonable pace once the FHA’s sibling GSEs own the MBSs per the first part of the plan. The newly renationalized GSEs do not face the same financial imperatives as private lenders. (Debt workouts too are familiarly a collective action problem, as any bankruptcy expert can attest.) This is yet another benefit to concentrating ownership of these now troubled assets in the hands of our GSEs. The FHA, in the meantime, can effect mortgage refinancings much more efficiently than can judges or any new cadre of bankruptcy trustees of the sort some are proposing. For again, it is an FHA specialty.

To our detriment we have long since forgotten how effective the FHA and its GSE siblings were, upon their foundings during the Roosevelt era, in ending our last mortgage “meltdown.” At literally no ultimate cost to the public fisc—none!—they cured that real estate crisis, and in so doing transformed us from a nation in which fewer than 40 percent owned their homes, to a nation in which nearly 70 percent do. Since the FHA remains both self-funding and best at what it does, and since the GSEs have been refederalized in keeping with their original, pre-privatization mandates, their complementary original missions can now be restored. Their mandates are clear, are constitutional, and still can be more or less costlessly accomplished: they exist to spread and maintain nonspeculative home-ownership on Main Street. Let them do that now and we’ll save Wall Street—and the global financial system—as well. At least until the next bubble.

Robert C. Hockett is an associate professor at Cornell Law School.
The election of Barack Obama as the forty-fourth president of the United States suggests that the United States has made great strides with regard to race. The blogs and the pundits may laud Obama’s win as evidence that we now live in a “post-racial America.” But is it accurate to suggest that race no longer significantly influences how Americans evaluate each other? Does Obama’s victory suggest that affirmative action and antidiscrimination protections are no longer necessary? We think not. Ironically, rather than marking the dawn of a post-racial America, Obama’s candidacy reveals how deeply race affects judgment.

With notable exceptions, conscious or explicit racism was not part of the 2008 campaign. But social psychologists argue that unconscious or implicit biases have a powerful effect on how people evaluate each other. Implicit racial bias is widespread; the vast majority of adult Americans, for example, more closely associate White faces with positive imagery and Black faces with negative imagery. Implicit bias induces dangerous assumptions; White Americans more readily associate Black Americans with weapons and White Americans with tools than the opposite pairing. Implicit bias is crude and ugly; White Americans associate apes and animals with Black Americans. White adults also more frequently associate the concept of “American” with being White, and showing White adults subliminal images of the American flag increases their anti-Black bias. This last finding particularly shows the contrast between explicit beliefs and unconscious associations; African-Americans are obviously American, but they seem less so to most adult White brains.

Furthermore, implicit biases influence how people evaluate others. White interviewers who harbor strong anti-Black unconscious biases make less eye contact with Black job applicants, exhibit hostile body language, and report that these interviews are
The blogs and the pundits may laud Obama’s win as evidence that we now live in a “post-racial America.”

But is it accurate to suggest that race no longer significantly influences how Americans evaluate each other?
uncomfortable. White interviewers who do not harbor such biases do not exhibit the same effects. And implicit biases have a documented neurobiological component. Those who evidence a strong association of White with good and Black with bad use a part of their brain associated with the fear response (the amygdala) to process Black faces. And at least one study also shows that unconscious racial biases can affect how people vote.

But did this landscape of unconscious bias affect the course of the 2008 election? Researchers have struggled to demonstrate the influence of unconscious biases in the real world. Ironically, several aspects of the election of the first Black president of the United States provide that demonstration.

First, throughout the campaign, criticisms abounded that Obama was unpatriotic or insufficiently American. These attacks began early, when a news story that Obama failed to place his hand over his heart during the singing of the national anthem at an Iowa fair prompted negative associations toward Black people and apes. At his restaurant, a White Georgia bar and grill owner began selling T-shirts depicting the image of Curious George, a cartoon monkey, with the slogan “Obama in ’08.” In June, a Utah company began making a sock monkey (doll) of Obama. During the fall, a man at a McCain rally carried a monkey doll with an Obama sticker wrapped around its head. At various points, both Democrats and Republicans used milder racial slurs to refer to Obama. Clinton surrogate, Andrew Cuomo, used the phrase “shuck and jive” in an indirect reference to Obama’s campaign strategy. Republican congressman Tom Davis, in discussing how Obama would have difficulty handling the immigration debate, described this issue as a “tar baby.” Even when charging Obama with being an “elitist”—a charge that would seem to be inconsistent with stereotypes about Black Americans—many of his detractors used the more racially tinged word, “uppity.”

Third, the primary elections exhibited what has been called the Bradley Effect—the tendency of polls to overestimate support for a Black candidate in an election against a White candidate. Although commentators denied that the Bradley Effect occurred, a clear pattern emerged in the spring primaries. States that held primaries and reported small percentages of Black voters (California, Massachusetts, New Hampshire, and Rhode Island) exhibited the Bradley Effect. By contrast, polls were basically accurate in states with Black populations in line with the national Black population of 12.3% (Illinois, Indiana, Ohio, Tennessee, and Texas). A reverse Bradley Effect—whereby pollsters underestimate support for Obama—occurred in Alabama, Georgia, Mississippi, North Carolina, South Carolina, and Virginia, all of which are 19% or more Black. Of the eighteen states with open primaries and available data, only Wisconsin was inconsistent with this trend.

The pattern of polling error suggests strongly that voters either lied to pollsters or changed their minds at the last minute. White voters flinched at the last moment, unwilling to pull the lever in favor of the Black candidate. Black voters did the opposite: finding themselves unable to resist the prospect of voting for a viable Black candidate when the time came to

The election was marked by deeply racially stratified voting. Obama won among Black voters by 91 percentage points; among Latinos by 36 points; among Asians by 27 points; but he lost among White voters by 12 points. The spring Democratic Party primaries (which obviously control for political party preferences) were even more stratified. Exit polls showed that Obama never fared better among White voters than Black voters.
cast their ballots (or turning up at polls in numbers greater than expected). That this pattern did not persist in the fall is an interesting and promising development. But no pollster who assesses the spring primary data carefully will advise a future Black candidate to ignore the possibility of the Bradley Effect occurring.

Fourth, the election was marked by deeply racially stratified voting. Obama won among Black voters by 91 percentage points; among Latinos by 36 points; among Asians by 27 points; but he lost among White voters by 12 points.4 The spring Democratic Party primaries (which obviously control for political party preferences) were even more stratified. Exit polls showed that Obama never fared better among White voters than Black voters.5 Although he won overwhelmingly among Black voters everywhere, only in Iowa, Illinois, Vermont, Indiana, and North Carolina did he win among White voters. After the news reports about his former pastor, Reverend Jeremiah Wright, surfaced, he performed even less well among White voters. He lost White voters in Pennsylvania, Ohio, and Kentucky by 26, 30, and 49 points, respectively. All of this occurred even as less than 10 percent of voters indicated to pollsters that race influenced their vote, suggesting that voters might not understand their own motives well.

The campaign was thus a reflection of how contemporary racism works. Modern racism does not produce an overt smoking gun marking its influence; one has to look fairly carefully. It operates not as an absolute barrier, but as a kind of tax on members of racial minorities. It facilitates certain negative assumptions through an invisible influence. McCain, after all, did not face a fair fight. Obama’s success arose in large measure from his success in raising significantly more money than McCain and from the specter of an unpopular Republican president presiding over a horrific financial crisis that induced great demand for the kind of government intervention more closely associated with Democrats. And of course, implicit and explicit biases against older Americans’ abilities are common as well.

Obama navigated the racial waters well. He spent a great deal of time and money creating positive imagery to combat the negative associations that are so common. For most of the spring campaign, his message was one of raw optimism, unadorned with details. Wisely so, as studies of implicit racial bias suggest that details concerning resumes and qualifications are influenced by unconscious associations. Obama created his own set of associations, he was rarely seen without a bevy of American flags behind him. Although campaign leaders now report that they only rarely discussed race, they ran a campaign well-suited to combating unconscious bias, just as McCain ran one well-suited to taking advantage of it.

But, of course, Obama had an army of strategists and pollsters backing his lengthy job interview with America. The ordinary Black job applicant faces the same racial environment without such assistance. Affirmative action and antidiscrimination laws can hardly be said to be unnecessary in a world in which the enormous resources Obama had available are necessary to combat bias. The 2008 campaign thus teaches us that America is not so virulently racist as to reject outright a Black applicant for a serious position. The nature of the campaign, however, shows that race continues to play a complex and profound role in how Americans judge each other. The post-racial American may be on its way, but has yet to arrive.

Jeffrey J. Rachlinski, J.D. and Ph.D., is a professor at Cornell Law School. Gregory S. Parks, Ph.D., is a 2008 graduate of Cornell Law School and is presently a law clerk in the U. S. District of Columbia Court of Appeals. Next year he will be a law clerk in the U. S. District Court for the District of Maryland.

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1. Except where noted, the work described in these paragraphs is documented in full at www.projectimplicit.net/.
4. www.abcnews.go.com/PollingUnit/ExitPolls2008#Pres_All.
Questionable Advertising and the Implications for FDA Preemption Claims

by THEODORE EISENBERG

Lipitor has been the top-selling drug in the world and has accounted for over $12 billion in annual sales. Pfizer, Inc., Lipitor’s producer, claims that Lipitor is clinically established to reduce heart attacks without indication of qualification by gender.

Pfizer states:

“LIPITOR is clinically proven to reduce the risk of heart attack, stroke, certain kinds of heart surgeries, and chest pain in patients with several common risk factors for heart disease. (Risk factors include family history, high blood pressure, age, low HDL (“good” cholesterol), or smoking.)”

One might reasonably conclude from this that age plus low HDL, for example, would count as “multiple risk factors” for which clinical proof exists that Lipitor reduces heart attack risk. Yet it is not possible to find high quality clinical proof in the medical literature documenting reduced heart attack risk for women.

Furthermore, Pfizer’s advertising omits label information relevant to women. In discussing the clinical trial of Lipitor, Pfizer’s label states:

LIPITOR significantly reduced the rate of coronary events [either fatal coronary heart disease... or nonfatal MI ...]. . . . Due to the small number of events, results for women were inconclusive.

This express acknowledgment of “inconclusive” results for women contrasts with the cardio-protective claims, not qualified by gender, in Pfizer’s overall advertising. Nor do the label or the advertising disclose that the key clinical trial of Lipitor found a modest increased risk of heart problems in women. The nondisclosures continued even after analysis of relevant statin studies concluded that the existing literature provides no “significant evidence to back up the claim that statin therapy reduces the risk of CHD [coronary heart disease] in women without heart disease.”
Statins, including Lipitor, are among the world's most widely used drugs. Yet for years Pfizer appears to have been able to advertise Lipitor's cardioprotective effect without including material information relevant to millions of consumers.
If omissions from Pfizer’s advertising occurred, then neither market forces nor Food and Drug Administration (FDA) regulation has effectively regulated the mass marketing of Lipitor. At a minimum, the FDA should use its authority under the Federal Food, Drug, and Cosmetic Act (FDCA) to address questionable marketing. The Lipitor experience also helps assess legal theories relating to federal regulatory preemption of state law causes of action. Preemption analysis of advertising claims differs from preemption analysis of claims based on incomplete warnings on labels. Existing doctrine supplies no preemption protection from state law false advertising claims challenging advertising that does not disclose material information contained in an FDA-approved drug label. With respect to broader preemption issues, including warnings about side effects, the Lipitor experience suggests that courts evaluating preemption claims should consider actual agency performance as well as theoretical institutional competence.

Possible Violations of Law

Pfizer’s interpretation of results for its Lipitor clinical trial, ASCOT, on which FDA approval was based, is questionable. Pfizer’s label states, “Due to the small number of events, results for women were inconclusive.” This “inconclusive” result contrasts with the cardioprotective claims, unqualified by gender, in Pfizer’s advertising. Even the claim that results were merely inconclusive is questionable. As a class, the statin drugs were not shown in any of the major randomized clinical trials (RCT) primary prevention studies to significantly reduce the clinical end point events for reasonably healthy females. The data to date, if anything, suggest that statins have no protective effect for substantial groups of reasonably healthy females. In the ASCOT study, women on Lipitor were found to have increased risk of relevant adverse outcomes, though the result was not statistically significant.

FDA regulations state that advertisements for a prescription drug “are false, lacking in fair balance, or otherwise misleading” if they have one or more of twenty enumerated characteristics. The first characteristic is that the advertising contains “a representation or suggestion, not approved or permitted for use in the labeling, that a drug is . . . useful in a broader range of . . . patients . . . than has been demonstrated by substantial evidence or substantial clinical experience.” The eighteenth characteristic is that the advertising “Uses headline, subheadline, or pictorial or other graphic matter in a way that is misleading.”

With respect to the first criterion, Lipitor’s approved label states that cardioprotective “results for women were inconclusive.” Yet much of Pfizer’s advertising does not mention this uncertainty. For example, a Lipitor two-page advertisement in the magazine The New Yorker states “LIPITOR can lower the risk of heart attack . . . in patients who have risk factors for heart disease.” The advertisement does not indicate that RCT results for most risk factors show no significant reduction in heart attack risk for women, disclose the label’s information about inconclusive results in women, or disclose that ASCOT found no benefit for women.

A Wall Street Journal Lipitor advertisement, part of which appears opposite, states in a large graphic that “Lipitor reduces the risk of heart attack by 36%.” The fine print states that this statement is based on a clinical study. The advertisement fails to state that the same clinical study produced insignificant, inconclusive, and possibly contrary results in women. ASCOT expressly states that, “no benefit was apparent among women” and that risk to women of the primary end point increased.

The increase was not statistically significant but is important qualifying information in the context of advertising to consumers a 36 percent decrease without distinguishing between genders. The advertising thus might indicate that Lipitor is useful in a broader range of patients “than has been demonstrated by substantial evidence or substantial clinical experience.”

With respect to the FDA’s eighteenth criterion, some of Lipitor’s television advertising graphically emphasizes the reduction in heart problems found in a study. But neither the graphic, nor the voiceover, nor the text of the television advertisement indicates that no significant reduction was found for women. Similar omissions apply to print advertising for Lipitor, such as the Wall Street Journal advertisement. Lipitor’s advertising thus may use “headline, subheadline, or pictorial or other graphic matter in a way that is misleading.”

Preemption

Whatever one’s view of the FDA’s preemptive authority with respect to safety warnings and labeling, FDA scientific activity, or absence of activity, cannot reasonably protect against all possible marketing claims. The FDA does not regard advertising and safety warning issues as being similarly situated with respect to preemption. Given the FDA’s limited role with respect to advertising, courts generally have not found the FDA regulatory scheme to preempt state law actions based on false or misleading advertising. Where plaintiffs seek advertising disclosures that parallel those on an FDA-approved label, no conflict exists between the FDA’s scientific judgment and state law causes of action.

The Lipitor advertising experience bears on broader preemption issues. Debate exists about whether the FDA satisfactorily enforces its statutory mandates and whether agency expertise should trump consumer actions. Statins, including Lipitor, are among the world’s most widely used drugs. Yet for years Pfizer appears to have been able to advertise Lipitor’s cardioprotective effect without including material information relevant to millions of consumers. If the FDA has not adequately regulated a highly visible drug with an enormous audience, one might be skeptical about regulation of less visible drugs with smaller potential patient populations.

That the FDA felt powerless to compel a conclusive study or studies with respect to Lipitor and females, or felt that such studies were not needed, establishes that it should not be the sole force shaping this aspect of health care policy. The flexibility of the common law and consumer protection laws can contribute to creating appropriate incentives for socially and economically beneficial behavior. Theoretical structural arguments based on presumed agency expertise are not persuasive against a history of specific agency failure. Arguments favoring exclusive agency authority should be based on performance, not theoretical conjecture.
Theodore Eisenberg is the Henry Allen Mark Professor of Law and Cornell University adjunct professor of statistical sciences. This article is based on: Theodore Eisenberg & Martin T. Wells, “Statins and Adverse Cardiovascular Events in Moderate Risk Females: A Statistical and Legal Analysis with Implications for FDA Preemption Claims,” 5 Journal of Empirical Legal Studies 507 (2008).

5. Label, supra note, at 5.
9. 21 C.F.R. § 201(e)(6)(xviii).
10. Label, supra note, at 5.
13. Sever et al., supra note, at 1153.
14. Ibid. at 1155 (tbl. 4).
OPPOSITE: Professor Summers is the William G. McRoberts Professor of Research in the Administration of the Law and has taught at Cornell Law School since 1969.

The Uniform Commercial Code (UCC) is the largest body of law ever adopted by the American state legislatures. Today it ranges over such diverse fields of law as the sale of goods, leases of goods, negotiable instruments, electronic funds transfers, letters of credit, bills of lading, warehouse receipts, bulk transfers, investment securities, and security interests in personal property. For over thirty-five years the White and Summers treatise, published by West Publishing Company and now Thomson-Reuters, has been by far the most influential work on the Code.

The fifth edition of White & Summers’ Uniform Commercial Code: Practitioner Treatise Series, which was in preparation for over four years, comprises four volumes for a total of 3,291 pages. The one-volume first edition that appeared in 1972 consisted of 1,086 pages.

That first edition grew out of an earlier and different collaboration in the late 1960s involving Robert S. Summers, the William G. McRoberts Professor of Research in the Administration of the Law; Professor James J. White of the University of Michigan; and the late Professor Richard E. Speidel of the University of Virginia and, later, Northwestern University. In that earlier collaboration, the three professors coauthored and coedited a casebook for law school courses on the Uniform Commercial Code published by West. The book, Commercial Transactions—Teaching Materials, went through five editions. In 1969, when that book first appeared, Speidel was already a coauthor of a one-volume text on the Code with professors Charles Bunn and Harry Snead. Because of that, he declined to participate as a coauthor of the treatise that became “White and Summers.”

Summers was beginning his first year as a permanent member of the Cornell Law School faculty when, in the fall of 1969, he and White began work on the first edition of their treatise. Editions have appeared at regular intervals since then: the first in 1972, the second in 1980, the third in 1988, the fourth in 1995, and the four volumes of the fifth
“When we began the first edition, we did not envision how dramatically the mountain would continue to change and grow while we were in the very course of trying to climb it.”
For over thirty-five years the White and Summers treatise has been by far the most influential work on the Uniform Commercial Code.

For forty years almost every scholar who has published a major article on any aspect of the Code has cited the treatise, often many times.

In the highest state courts, in the U.S. Supreme Court, and in all the lower state and federal courts, no treatise is as widely cited in opinions on Code issues. Indeed, the White & Summers treatise is far more widely cited than any other work.

The uniform Commercial Code has been undergoing revisions for many years and the newly published fifth edition takes account of these. Because of the actual and proposed revisions of the text of the Code, and because of the now vast accumulation of Code case law, various chapters in the fifth edition have been substantially rewritten. The coauthors aptly remarked in the preface to an earlier edition, Summers remarks: “It is an old complaint of some students that professors do not teach them enough rules and instead waste time teaching them how to think like a lawyer. But it is especially important to stress the ability to think like a lawyer in fields where change in the content of the law is frequent, and all the more so where change is taking place on a large scale during the very period when the student is in law school.”

The question is sometimes asked: Why do the names of White and Summers appear in reverse alphabetical order? The preface to the first edition explains: “One of us, White, was (because of a timely sabbatical) in a position to do more on the book than the other. That other felt the order of the authors’ names should reflect this fact, and was insistent.” However, the preface to the second edition records, “Our respective contributions to this book are now more evenly balanced, but since the book has established itself as ‘White and Summers’ we leave the authors’ names in reverse alphabetical order as in the first edition.”

The first and second editions each consisted of a single volume. The 1988 edition was a two-volume work, supplemented in 1991 with volume 1A, on the new Article 2A of the UCC on leases of goods, and supplemented further in 1993 with volume 1B, on the substantially revised Article 3 and 4 on negotiable instruments and the entirely new Article 4A on electronic funds transfers. The four volumes of the fourth edition, which appeared in 1995, systematically treat all of the Code, except Article 8 on investment securities. So, too, the fifth edition.

Although the third and fourth editions have appeared in multivolume form for scholars, judges, and practitioners, an abridged one-volume version (or a hornbook) has continued to be published for students. Since 1972, many thousands of law students have found the one-volume work highly helpful in finding their way through the Code’s thickets and underbrush.

West Publishing Company has, as of September 2008, sold more than 2,970 copies of “White and Summers.” Only one other comparable West treatise has been as successful in the marketplace.
Numerous courts have explicitly acknowledged the preeminent status of the treatise in the courts. For example, the U.S. Court of Appeals for the Second Circuit has referred to its authors as “the Code’s leading Commentators” and the work as the “definitive treatise.”

“When we began the first edition, we did not envision how dramatically the mountain would continue to change and grow while we were in the very course of trying to climb it.”

From the beginning, the coauthors have adhered to the same general philosophy of treatise writing, a philosophy that they articulated in the preface to their first edition as follows:

The libraries include many . . . treatises that answer all the questions no one ever asks and answer none of the questions that everyone asks. And some pages of treatises in statutory fields offer little beyond statutory paraphrase. Further, while in our system statutory law tends to be transformed into case law, the treatises often relegate cases to footnote status. At least we have done our work on this book mindful of these flaws; only the readers can say whether we have avoided them ourselves. Of course, a treatise on the Uniform Commercial Code must lay out basic content and collect and analyze the rapidly growing case law. We have, as well, sought to identify and treat real questions, and have forced ourselves to take positions on some important issues as yet unresolved in the cases.

The general reception of “White and Summers,” in the scholarly community, in the courts, and in the practicing bar, has been extraordinary. For forty years almost every scholar who has published a major article on any aspect of the Code has cited the treatise, often many times. Some scholars have even devoted entire articles, or major parts of articles, to the discussion of positions taken by the coauthors on such subjects as “the battle of the forms,” Article 2 damages measures, and the Article 9 filing provisions.

In the highest state courts, in the U.S. Supreme Court, and in all the lower state and federal courts, no treatise is as widely cited in opinions on Code issues. Indeed, the White & Summers treatise is far more widely cited than any other work. As of September 2008, it had been cited in judicial opinions more than four thousand times since its initial appearance in 1972. Numerous courts have explicitly acknowledged the preeminent status of the treatise in the courts. For example, the U.S. Court of Appeals for the Second Circuit has referred to its authors as “the Code’s leading Commentators” and the work as the “definitive treatise.”

The U.S. Court of Appeals for the Ninth Circuit, to cite only one further example, has also referred to its authors as “the leading commentators on the Code.” Ellen A. Peters, former chief justice of the Connecticut Supreme Court, and former professor of commercial law at the Yale Law School, has written that the treatise has been “enormously and deservedly influential.”

The treatise is also well known in other countries, especially in Europe and in Asia, and this has led foreign scholars to invite the coauthors to lecture on the Code abroad, something Summers has often done. Moreover, Summers and White have served as advisers to the Official Drafting Commission established by former President Yeltsin to prepare a new civil code for the Russian Federation.

To that end, they met with the Russian drafting commission at the Cornell Law School, at the Supreme Court of Arbitration in Moscow, and also at the University of Leiden in the Netherlands. Summers and White also traveled to Cairo where they advised on the drafting of the Egyptian Civil Code, as well.

West Publishing Company (now a division of Thompson-Reuters) has, as of September 2008, sold more than 2,970 copies of “White and Summers.” Only one other comparable West treatise has been as successful in the marketplace. The coauthors are very mindful that a multivolume treatise of this kind can be written and periodically revised only with substantial institutional and other assistance. Each of the five editions includes a page devoted to generous acknowledgments of the roles of deans, administrators, librarians, student research assistants, and secretaries at the Cornell Law School and at the University of Michigan Law School. And there are also grateful acknowledgments of the contributions of members of the coauthors’ families, several of whom had various roles in each edition.

2. Cf. Erwin N. Griswold, “English and American Legal Education,” 10. Legal Education 429, 434 (1958): “In the United States, the average law teacher regards it as far more important that his students be taught how to think than that they should be taught any specific rules or system of law….As things are in the United States, the students of today will not be using in their practice twenty years hence, or even ten years hence, much of the specific rules which they learn today. Our law, in many fields, changes too fast for that. But they will be using the methods, the approach, the technique, the capacity to think, to analyze, and to state their views in clear and concise English which we are trying to teach them in the law schools.”
4. Males Chrysler Credit Corp. v. Religa, 999 F.2d 607 (2d Cir. 1993).
New Avon Center for Women and Justice at Cornell Law School

Women and children seeking refuge from gender-based violence in Asia, Africa, and the Americas will have a better chance of obtaining justice in the courts, thanks to a forward thinking Law School alumna, a grant from the Avon Foundation, and support from involved Law School faculty and staff.

A recently announced $1.5 million grant from the foundation arm of the international beauty products giant establishes the Avon Global Center for Women and Justice at Cornell Law School. The new center is focused on working with judges, legal professionals, and governmental and non-governmental organizations to improve access to justice in an effort to eliminate violence against women and girls.

The gift was announced by Stewart J. Schwab, the Allan R. Tessler Dean and Professor of Law at Cornell Law School, and Andrea Jung, chief executive officer of Avon Products, during the Global Forum for Women and Justice, a two-day meeting held in Washington D.C., hosted by the International Association of Women Judges (IAWJ). IAWJ engages judges and legal practitioners from around the world to address obstacles and solutions to the issue of violence against women.

“We are grateful to the Avon Foundation for Women for this generous grant,” said Schwab. “Cornell Law School has a long and rich tradition of educating lawyers in the best sense who are committed to global justice. The Avon Global Center for Women and Justice at Cornell Law School is in keeping with that tradition. We are proud to establish this center, with the Avon Foundation for Women, to assist judges throughout the world and to help provide access to justice for survivors of gender-based violence.”

Kim Azzarelli ’97, vice president and associate general counsel for Avon Products, spearheaded the grant and the center’s formation. “It was her brain child, her vision to have a judge-led initiative,” says Jocelyn Getgen ’07, the center’s first Women and Justice fellow.

The new Avon Global Center for Women and Justice at Cornell Law School will undertake four major initiatives in an effort to improve access to justice and eliminate violence against women, including:

- engaging in intensive legal clinical projects
- providing legal research for judges
- hosting conferences and events
- maintaining an extensive, online library of relevant laws, articles, and reports.

“In spite of the national and international laws meant to guard women against violence, gender-based violence continues to be a global epidemic. In too many cases, and too many places, the justice system is not effectively enforcing these laws,” said Sital Kilantry, faculty director of the Avon Global Center for Women and Justice at Cornell Law School. “The Avon
Center will work with judges, and governmental and non-governmental organizations toward effective enforcement and implementation of these laws.”

Former U.S. Supreme Court Justice Sandra Day O’Connor, who was jurist-in-residence at the Law School in 2007, was one of the keynote speakers at the Avon Center’s kickoff conference in Washington, D.C., on March 3. Also present was actress Reese Witherspoon, a spokesperson for Avon. Conference participants included judges from places as far-flung as Ecuador, India, and Kenya, working to halt the cycle of violence against women around the world.

The Avon Global Center (lawschool.cornell.edu/womenandjustice), which launches this fall, will serve as a forum for judges and legal practitioners to share ideas and strategies on the role of the justice system in facilitating access to justice for women victims of violence.

Chair of the Democratic Progressive Party of Taiwan Gives Clarke Lecture

Dr. Ing-wen Tsai, LL.M. ’80, chair of the Democratic Progressive Party of Taiwan, addressed students and faculty at Cornell Law School on September 4. Tsai spoke on the topic of “Cross-Strait Relations: Past, Present, and Future,” from a Taiwanese perspective.

“Dr. Tsai is one of our most treasured and accomplished alumnae,” said Stewart Schwab, the Allan R. Tessler Dean and Professor of Law, when announcing the visit. “She exemplifies the kind of intellectual integrity and leadership we hope to instill in all our students.”

During Tsai’s presentation of the 2008–2009 Clarke lecture, she told the audience that Taiwan’s future must be determined by the Taiwanese people. She also called for greater diplomatic recognition for Taiwan by the international community.

“China, in the views of most, if not all, of Taiwanese people, is a business partner and a competitor (increasingly a competitor, as China further develops its economy),” said Tsai during her talk. “It is also like a member of the family, a close relative, or simply a neighbor (depending on the individual’s perception of China), but incessantly seeking political dominance over Taiwan with military threat.” She concluded her presentation by saying, “Despite the [fact that] different players may have different agendas, the consensus is clear, i.e., peace and stability across the Taiwan Strait serves the best interest of all the parties concerned.”

Tsai’s presentation was sponsored by the Clarke Program in East Asian Law and Culture at Cornell Law School. “Dr. Tsai’s lecture was a subtle, complex, sophisticated and reasoned analysis of one of the most intractable problems in the region,” said Annelise Riles, the Jack G. Clarke Professor of Law in Far East Legal Studies and director of the Law School’s Clarke Program in East Asian Law and Culture which sponsored the talk. “Dr. Tsai’s achievements as a politician, an entrepreneur, a legislator and an international negotiator are well known,” Riles continued. “But what I heard in her speech most of all was the voice of a lawyer and an academic. I could not imagine a better contribution to our distinguished lecture series.”

Thomas Named Director of Middle East Clarke Initiative

Chantal Thomas has been appointed director of the newly renamed Clarke Initiative for Law and Development in the Middle East. Thomas served as a legal researcher and dean of the law department at the American University in Cairo from 2007 through 2008 and expects to leverage that experience in her new role. “To have the opportunity to lead and develop such an important program brings together all I have worked for in my legal career,” Thomas said. “I am grateful for Jack Clarke’s generosity in sustaining the program and for the Law School’s efforts to open the doors to a greater understanding of legal systems and scholarship, both in the Middle East and around the world.”

Recent Cornell Law School Graduates Attain Historic Bar Pass Rate

Ninety-nine percent of the Cornell Law School graduates taking the New York State Bar exam in July passed, an all-time record for the school and the highest pass rate of any law school in New York State. “We are proud that our students performed so well,” said Stewart J. Schwab, the Allan R. Tessler Dean and Professor of Law. “It reflects their collective talent and diligence, traits that we saw daily during their time at Cornell and traits that will serve them well as members of the bar.”

Law School faculty do not “teach to the bar,” Schwab said, “but our faculty are superb teachers and mentors and our students hard-working and inquisitive. The combination leads to great results.”

Over 130 students took the New York exam, the majority of them recent graduates from the class of 2008. Cornell Law students also sat for bar exams in 21 other states, including Massachusetts where the Cornell pass rate for first time takers was 100%.
Dolidze has been advising the Open Society Institute, the Organization for Security and Co-operation in Europe, and the United Nations Development Programme. She recently worked with the Russian Justice Initiative to document the human rights impact of the Russian—Georgian war in South Ossetia, Georgia. Currently, she serves as a consultant for Human Rights Watch on issues in Uzbekistan.

Dolidze recommends that the international community refrain from what she calls “the fallacy of electoralism, that merely holding elections will channel political action into peaceful contests among elites and accord public legitimacy to the winners in those contests.” She urges the international community to focus instead on furthering reforms in Georgian institutions, judiciary electoral commissions, and media monitoring agencies. Her recent efforts resulted in filing twelve complaints in the European Court of Human Rights in Strasbourg, defending the interests of sixty-four victims of the Russia—Georgia conflict over South Ossetia. She also filed a report for Human Rights Watch to credibly document human rights violations and present recommendations for reform in Uzbekistan.

Human Rights Lawyer Visits Cornell Law School

“If you perform your duties as a lawyer in an authoritarian regime, you become part of the system,” says Anna Dolidze. “That’s when I started working to change the system.”

Dolidze, a human rights lawyer and a Cornell Law School research fellow, serves as an advisor to the United Nations on issues of human rights in the former Soviet Union. She has participated in high-level meetings between senior European Union leaders and Georgia government officials, making recommendations to the international community on how to promote reforms in key Georgian institutions. She is a sought-after speaker and writer on the current Georgian conflict and human rights issues.

These conferences are part of our ongoing commitment to build solid, substantive, and collaborative relations with legal scholars doing exciting new work in Asia. We realize that serious collegial relationships—the type that grow with time and that produce truly new ways of seeing the legal problems of our countries—require real effort on all sides,” said Riles.

Cornell Law School Partners with Leading Asian Institutions

The Clarke Program in East Asian Law and Culture at Cornell Law School cosponsored four international conferences in Tokyo, Shanghai, Beijing, and Hong Kong during October. “Each conference focused on cutting-edge legal topics in partnership with leading institutions in the region,” Riles noted. “These conferences are part of our ongoing commitment to build solid, substantive, and collaborative relations with legal scholars doing exciting new work in Asia. We realize that serious collegial relationships—the type that grow with time and that produce truly new ways of seeing the legal problems of our countries—require real effort on all sides,” said Riles.

In addition to Riles, Law School participants included Schwab; Gregory S. Alexander, the A. Robert Noll Professor of Law; Naoki Sakai, professor of Asian studies and comparative literature at Cornell University; Hirokazu Miyazaki, Cornell University associate professor of anthropology; and Jack G. Clarke, LL.B. ’52, benefactor of many Clarke programs at the Law School.
Two Cornell Law School professors have won prestigious awards for their pro bono work on behalf of prisoners sentenced to death. John H. Blume and Sheri Lynn Johnson were both honored with the Thurgood Marshall Award for Capital Representation, given by the New York City Bar. Blume and Johnson were among more than 200 New York State lawyers honored in July for having done significant pro bono work in the past decade to represent death-row inmates.

“We want to recognize people’s hard work,” says Art Coy, chair of the bar’s Committee on Capital Punishment. “But the hope is the day will come when we won’t have to give this award—because there won’t be any death penalty.”

Blume directs the Cornell Death Penalty Project, which has represented thirty-five cases in the past ten years at the trial, post-conviction, and federal habeas corpus stages. Johnson, an expert on the influence of race on the criminal process, is the project’s assistant director. The project has won the reversal of death sentences and/or convictions in fifteen cases and won the release of one prisoner. Six of seven trial cases have resulted in sentences of life or less. Other cases are still pending.

**Underkuffler Expands Ideas of Property**

Does conventional property law apply in the virtual world, “Second Life?” Can it be used to address social issues like the sale of body parts, human cloning and genetic engineering, and the ownership of human embryos? Or are personal contracts better suited to these topics? Laura Underkuffler, a distinguished scholar who joined the faculty in January as the J. DuPratt White Professor of Law, covers these topics in her seminar on property law.

“Because these areas are all emerging ones, there is little out there in the way of law,” says Underkuffler, the author of *The Idea of Property: Its Meaning and Power*. “I became interested in these questions because of my work in property theory and the fact that property rights are so often cited as the answers to current social conflicts. It is difficult to open the newspaper in a major city and not see articles dealing with claimed new forms of property rights.” Underkuffler is also teaching a course in the theory and history of land use planning.

Previously, she taught at Duke Law School, Harvard University, the University of Pennsylvania, Georgetown University, and the University of Maine. She also practiced litigation law for six years in Minneapolis.

**Tsinghua Law School Dean Wang Is Visiting Professor**

The Wang Distinguished Visiting Professor of Law in spring 2009 is Chenguang Wang, dean and professor of law at Tsinghua Law School in Beijing. He will teach a seminar in Chinese Society and Chinese Law. His visit is supported by an endowment created by Anthony W. Wang ’68 and his wife, Lulu C. Wang, hosting a series of distinguished Chinese law scholars at Cornell Law School.

At Tsinghua Law School, Wang teaches Legal Theory, Legislative and Judicial Theory and Practice, Legal Clinic, and Comparative Law. He is the coauthor of several books, including *The Chinese Legal System, New Trends in Comparative Law,* and *Twenty Years of Reform and Development of The People’s Congress.* Wang has taught law in China, Hong Kong, Spain, and the United States.

Other Wang Visiting Professors have been Zhu Suli and Li Guo of Peking University Law School and Cui Zhiyuan of Tsinghua University.

**Spring Visiting Professors Focus on Economics**

This spring, Cornell Law School hosts two visiting professors who are specialists in headline issues of economic and corporate governance law.

**David A. Hoffman,** associate professor of law at Temple University, is teaching Contracts II and a law and economics seminar. Hoffman’s
studies focus on behavioral law and economics, empirical legal studies, and private dispute resolution. He is also hoping to spend time researching two ongoing projects. The first looks at veil-piercing litigation in federal district courts; the second looks at the progress of dispute resolution on Wikipedia. “I and a coauthor,” says Hoffman, “are looking at how Wikipedia’s dispute resolution system, which includes binding formal arbitration run by volunteers, helps to coordinate large-scale social production.” Hoffman’s research is part of the “new legal realism” movement, an empirically rooted inquiry into how the law is produced and how citizens respond to its commands. He has a J.D. from Harvard Law School and a B.A. from Yale University.

Christine Windbichler, a law professor at Humboldt University in Berlin, will teach Comparative Corporate Government, which will address current developments in corporate and capital market law in several countries. Windbichler is asking her students to read the daily newspaper as well as texts. “Business news, especially if an instructive new scandal happens to come up, will be used, too,” she says. In Germany, she teaches comparative corporate governance, corporations, labor relations, and business law. She has published extensively in both German and English. Windbichler previously taught at the University of Freiburg and practiced law in Munich. Along with four German degrees, she holds an L.L.M. from the University of California Berkeley Boalt Hall School of Law.

Dean Schwab Discusses Employment Discrimination

“Maybe the situation has not gone from bad to worse in the last five years. But [employment discrimination] plaintiffs may have gone from merely faring badly to feeling bad about their chances for success, which would affect their litigation behavior,” Schwab advised.

“Today employment discrimination plaintiffs still must swim against a strong tide—in the federal district court and on appeal,” said Schwab at a panel presentation at the National Press Club in Washington on September 18. Schwab was there to present his paper “Employment Discrimination Plaintiffs in Federal Court, From Bad to Worse?” which he coauthored with Kevin M. Clermont, the Robert D. Ziff Professor of Law. Schwab’s visit was hosted by the American Constitution Society for Law and Policy at the National Press Club in Washington, D.C.

Cramton’s Proposal to Make the Justices “Less Divine”

The Supreme Court hears only a few cases each year—handpicked by their law clerks. This system allows them too much control, argues Roger C. Cramton, the Robert S. Stevens Professor of Law Emeritus, in a forthcoming Cornell Law Review article cowritten with Paul D. Carrington, Chadwick Professor of Law at Duke University Law School. The writers propose instead a system in which independent judges would select the cases for the court.

Their proposal, described in “Judicial Independence in Excess: Justices as Superlegislators,” was discussed by faculty and distinguished guests in a forum on November 6. Panelists included Hon. Patrick E. Higgenbotham of the U.S. Court of Appeals for the Fifth Circuit; Daniel Meador, professor of law emeritus at the University of Virginia School of Law; and Michael C. Dorf, the Roberts S. Stevens Professor of Law.
“Our proposal,” writes Cramton and Carrington, “. . . would serve to remind Justices that elected legislators are our primary lawmakers and would moderate the office of Supreme Court Justice to a more human, less divine, scale.”

Cramton, who served as dean of the Law School between 1973 and 1980, just celebrated his fifty-first year as a legal scholar. In 2000, he was awarded the American Bar Foundation’s research award for lifetime scholarly contributions to research on law and government. For more information on Cramton and Carrington’s ideas for revising the U.S. Supreme Court, see their book, Reforming the Court: Term Limits for Supreme Court Justices.

Defending the Legality of Controversial Wars

In a provocative new book, Cornell Law professor, Jens D. Ohlin, asks—and answers—one of the most debated questions of our time: when is war justified?

In Defending Humanity: When Force Is Justified and Why (Oxford University Press, 2008) Ohlin and coauthor George Fletcher of Columbia University School of Law argue that a nation has the right to defend itself when attacked. But what about a preemptive war? Or crossing a country’s border to stop a genocide? What about the U.S. invasion of Iraq?

Ohlin offers an innovative theory on the legality of war, with clear guidelines for evaluating these types of interventions. The authors compare self defense in domestic and international law and the differences between French and English-language concepts of self defense—and find solid legal grounds for countries to intervene with force to protect themselves and others. In addition to providing a genuinely new legal argument for these “humanitarian interventions,” their theory also places strict limits on when this doctrine can be evoked to justify a war. Chapters include analyses of aggressive war, humanitarian intervention and the Bush doctrine of preventive war.

Sherwin “Demystifies” Legal Reasoning

Do lawyers and judges use a special form of reasoning to make decisions? Emily L. Sherwin doesn’t think so. Instead, as she asserts in her new book Demystifying Legal Reasoning (co-written with Larry Alexander, the Warren Distinguished Professor of Law at the University of San Diego and published by Cambridge University Press), they use the same thought processes that we all do. In mid-November, the Law School community gathered to celebrate her new book in a panel discussion that included comments from Frederick Schauer of the University of Virginia, Heidi M. Hurd of the University of Illinois, and Dorf of Cornell Law School.

“Probably the most controversial aspect of the book is that it challenges the logical validity of analogical reasoning, which lawyers often view as their special art,” says Sherwin. “My coauthor and I believe that analogical reasoning is either a form of rule-following (often without acknowledging the underlying rules) or a purely intuitive connection between cases, which is not a legitimate basis for legal decisions.”

Legal Remedies When Products Fail


This text focuses on cases and theory in American products liability and includes chapters on manufacturers’ strict liability for defect-caused harm, adjusting the liability system to the demands of a national economy, and international perspectives on products liability. It is an accessible look at products liability, providing a problem-based approach that applies the law to real-life situations.

Henderson, a leading commentator in the field of torts and products liability, has testified extensively on torts, products liability and insurance before the Senate and Congress, as well as before numerous state legislatures. He currently serves as Special Master in the World Trade Center Site Litigation in the U.S. District Court for the Southern District of New York.

Conference in Croatia Discusses Lasser’s Books


Professor Sinisa Rodin, the Jean Monnet Chair of European Public Law at the University of
Thai law tends to borrow from American law, a trend that in this case, Wendel feels to be ill-matched. “Enron and similar cases have tended to be gatekeeper failures, involving insufficient monitoring by accounting firms, law firms, analysts, rating agencies, and the like, which caused harm to shareholders,” said Wendel. “In the U.S., shareholders are relatively weak as compared with corporate managers, and managers were able to manipulate earnings to the detriment of shareholders. In Thailand, by contrast, the problem tends to be powerful owners exploiting the benefits of corporate control for their own advantage. That’s a very different dynamic than in the U.S., yet Thai law has recently tended to borrow from American law.”

Expanding International Legal Dialogue with Thailand

In November, W. Bradley Wendel traveled to Thailand as the first Cornell Law faculty member to visit under the Bajrakitiyabha faculty exchange program. The program, established by the Thai Bar in honor of HRH Princess Bajrakitiyabha Mahidol LL.M. ’02/ J.S.D. 05, seeks to strengthen connections between Cornell Law School and the legal profession in Thailand, although ties between Cornell and the Thai legal community already run deep.

As part of the faculty exchange, Wendel gave lectures at the faculties of law at Chulalongkorn and Thammasat Universities, and also gave a public lecture on new Thai legislation addressing the liability of corporate directors. In Thailand there is currently a great deal of interest in reforming their corporate law to deal with the problem of corruption in the form of “cozy” relationships between government officials and corporations.

Two Visitors Enhance Summers’s Classes

Students studying contracts under Robert S. Summers, the William G. McRoberts Professor of Research in the Administration of the Law, benefitted from the experience of distinguished visitors during the fall semester. Okko Behrends, renowned professor of law, emeritus at the University of Göttingen in Germany and the A. D. White Professor at Large at Cornell, visited the class on October 6. A lively discussion followed Behrends’s lecture on “the spirit of the Roman law.”

A second visitor to Summers’s Contracts class was Rick Olczyk ’96, the assistant general manager and director of hockey operations and legal affairs for the Edmonton Oilers hockey team and a former Contracts student of Summers’s. On November 12 Olczyk discussed contracting in professional sports and the roles of lawyers in the process. He focused on special problems arising in the negotiation and drafting of contracts in the professional hockey world, especially contracts between teams and players.

Record-Breaking 2008 Conference on Empirical Legal Studies

The world’s leading empirical legal scholars gathered at Cornell Law School for the 2008 Conference on Empirical Legal Studies. Presented by the Society of Empirical Legal Scholars, and jointly organized with New York University School of Law and the University of Texas School of Law, Cornell Law School, an acknowledged leader in the field, hosted the third annual conference. Scholars debated such questions as: if you are a male investor, do you have less respect for a company with a female chief executive officer? If you and your spouse are about to be in a car crash, who is more likely to sacrifice themselves—the husband or wife?

The two-day conference, which featured original empirical and experimental scholarship from a diverse range of fields, attracted more than 300 participants from all over the world. More than thirty Cornell Law School faculty participated, including conference co-organizers Valerie Hans; Jeffrey J. Rachlinski; Theodore Eisenberg, the Henry Allen Mark Professor of Law; and Michael Heise.

The Future of Federal E-Rulemaking Is Released

A significant report on the future of federal electronic rulemaking was presented to Congress and the president on October 21 in Washington, D.C. The report was created by an esteemed committee of legal and social science researchers, technologists, and business and public interest leaders, including a large Cornell University contingent: William Y. Arns, professor of computer science; Thomas R. Bruce, director of the Legal Information Institute; and Cynthia R. Farina, Cornell Law School professor and principal
“Rulemaking is one of the most important ways public policy is made in our country today,” said Farina. “The Internet can improve both the process and the outcomes—for the public and for the government—but only if we build effective e-Rulemaking systems.

The report, written under the auspices of the American Bar Association’s Section of Administrative Law and Regulatory Practice, assesses the state of the present federal e-Rulemaking system and proposes a roadmap for the future.

“Rulemaking is one of the most important ways public policy is made in our country today,” said Farina. “The Internet can improve both the process and the outcomes—for the public and for the government—but only if we build effective e-Rulemaking systems. The committee recognizes the remarkable effort already made in this area, but we strongly believe that significant technological, organizational and funding changes must happen before we will see the benefits in increased public participation and more efficient, effective regulation that everyone is hoping for.” The report is available through CeRI at ceri.law.cornell.edu/erm-comm.php.

**Cornell Law School Hosted Immigration Forum in Washington DC**

On November 19, Cornell Law School hosted leading immigration experts to discuss immigration policy in an Obama administration. Stephen W. Yale-Loehr, adjunct professor of law at Cornell Law School, moderated the forum. Yale-Loehr is one of the nation’s preeminent authorities on U.S. immigration and asylum law. He coauthors a twenty-volume immigration law treatise and has testified many times before Congress on immigration issues.

The forum, which was held at the National Press Club in Washington, D.C., attracted nearly fifty people from Capitol Hill, government agencies, and think tanks. The panelists discussed the future of immigration policy under President Barack Obama.

While all panelists agreed that immigration policy will change in the new administration, none were sanguine that the policies would change quickly. There was consensus among the panelists that comprehensive immigration legislation is unlikely to pass before 2011.
They expect an immigration bill to be introduced in Congress in 2009, but not taken up again until 2011 if it fails. All agreed that Congress would not focus on such legislation in 2010, which is an election year.

**STUDENT NEWS**

**Newest Cornell Law Students Bring Life and Work Skills to the Classroom**

Members of the incoming class of Cornell Law students have worked for the Peace Corps and AmeriCorps, taught school children and college students. They’ve been actors and small-business owners, flutists, and soldiers. The 199 students hoping to graduate in 2011 with a J.D. come to Cornell Law with significantly more collective life experiences than in previous years and are slightly older, on average, than previous classes. More than half are women, and close to 40 percent are ethnic minorities. In addition, the Law School welcomes twelve exchange students, two visiting students, and sixty-three international graduate students, representing twenty-two countries all over the world, from Australia to Zimbabwe. A majority of these students are lawyers in their home countries and are working toward their Master of Laws (LL.M.), a one-year program for practicing attorneys and recent law school graduates seeking a U.S. law degree. “I have to say that this incoming class is among the most diverse and interesting that we’ve had,” says Richard Geiger, associate dean for communications and enrollment.

Students with significant life experience enhance the dynamic discussions that are a trademark of Cornell Law classes. “They see connections that others might not see,” Geiger says. “And they advance the conversation.” Accomplished artists and musicians bring to the classroom sharp focus, attention to detail, and a well-honed work ethic, Geiger reported. “Those traits are just as important as anything else in overall success here and in the profession.” Traditional professions are also well represented, with students coming from the military, the legal profession, politics and business. As in previous years, New York is the most represented state, with California a close second. Here are but a few samplings of this accomplished class of students:

**Catherine Suh** has been an active and dedicated member of the Cornell community since she arrived in Ithaca in August of 2001 for her freshman year. She was awarded a Cornell Tradition Fellowship as an incoming freshman and completed over 250 hours of work and 75 hours of community service during her first three years of college. During her senior year Catherine was awarded the University Baccalaureate Award and wrote an honors thesis about the U.S. Supreme Court, a precursor to the legal studies she would later pursue.

**James Nault** is a retired navy captain with a long and distinguished career in the U.S. Navy. Prior to his tenure at Cornell University, Jim was operations manager at the U.S. Strategic Command, operations manager at the U.S. Navy’s Sixth Fleet, and submarine commanding officer of the USS Toledo. He also served as the commanding officer for Cornell’s Navy ROTC unit. Nault has just passed the patent bar exam and hopes to practice patent or intellectual property law.

**Nelsy De La Nuez** graduated from Barnard College of Columbia University, where she received a bachelor of arts degree in political science and a minor in English literature. She most recently was a human rights specialist at the New York City Commission on Human Rights. Nelsy has long been committed to the civil liberties of others and has interned at various nonprofit organizations for which she provided immeasurable support. Nelsy was accepted into the New York University Wagner Fellowship for Emerging Leaders in Public Service and spent six months meeting and learning from public service leaders.

**Michael McDorman,** graduated from Rhodes College with a degree in philosophy and international studies. His graduate work includes a postgraduate diploma in philosophy from the University of Melbourne and a master’s degree in cognitive science from École normale supérieure—Ulm in Paris. He most recently worked as a personal assistant to media mogul Sean (Diddy) Combs, chief executive officer of Bad Boy Records. He will be pursuing the U.S. Juris Doctor/French Master en Droit degree, a dual degree program in partnership with Université Paris I Panthéon Sorbonne, and intends to practice law in France after graduation.
Prizes and Awards for the Class of 2009

Each year, a handful of third year Cornell Law Students are chosen by faculty and their peers for prizes that acknowledge their excellence in scholarship and public service. “This year,” says Associate Dean Anne Lukingbeal, “the selection committee had so many excellent nominations that it was difficult to select the prize winners. I am confident that all of these prize winners will have careers in law where they make a real difference in our troubled society.”

The Freeman Award for Civil—Human Rights, a gift from Professor Emeritus Harrop A. Freeman, J.D. ’30/J.S.D. ’45, will be shared by Michael H. Page ’09, Christian A. Williams ’09, Michael J. W. Siegel ’09, Ginger P. McCall ’09, and Katherine S. Higgins ’09. Page was also honored by his fellow students who voted to award the Fraser prize to him and to classmate Matthew O’Connor ’09. The prize honor students who demonstrate “high qualities of mind and character by superior achievements in scholarship” and is a gift of William Metcalf Jr., LL.B. 1901, in memory of Alexander Hugh Ross Fraser, former librarian of the Law School.

Meryl I. Phipps ’09, John C. Busby ’09, and Joseph C. Hashmall ’09 are co-winners of the Stanley E. Gould Prize for Public Interest Law. The prize is a gift from Stanley E. Gould ’54 and is awarded to a student or students who, in the judgment of the faculty, has exhibited the best work of all his peers through the end of the second year.

The Administrative Committee to the Dean awarded the Kerr Prize to Nicholas A. Dorsey ’09 in honor of his general academic excellence. The prize was established in memory of Ida Cornell Kerr and William Ogden Kerr by Jane M. G. Foster, LL.B. ’18.

Student Paper Wins National Acclaim Three Times

Law students are thrilled when a paper they wrote wins a writing prize, but third-year Cornell Law student Michael A. Zuckerman ’09 was stunned to learn that his paper “The Offshoring of American Government” garnered three national writing awards. The note, which appears in the current issue of the Cornell Law Review, received first place in the Andrew P. Vance Memorial Writing Competition, sponsored by the Customs and International Trade Bar Association and Brooklyn Law School; first place in the American Bar Association (ABA) Public Contract Law Journal Writing Competition; and second place in the Inter-American Bar Association Best Law Student Paper Competition. The first two competitions drew from student papers across the United States, while the Inter-American competition attracted papers from throughout North and South America. Additionally, the ABA Federal Procurement Institute has invited Zuckerman to present his paper at their annual meeting in Annapolis, Maryland, in March.

Outsourcing of private-sector American service jobs has become common, but most people were unaware that state governments have followed the same trend, that is until state legislatures began to restrict it. “This was a subject I became interested in as an undergraduate in Cornell’s School of Industrial Engineering and Applied Economics,” Zuckerman said. During his second year, he took a seminar in Public Sector Management, taught by Professor Mark A. P. Money, which sparked his interest in the subject. Zuckerman is currently working to complete the requirements for his Public and Private Management certificate.

During fall term 2008, Securities Law Clinic students continued to review potential client cases and filed another case on behalf of an investor. Students also participated in a mock mediation run by Julie M. Crotty ’96, assistant director of mediation at FINRA Dispute Resolution. At the mock mediation, clinic students assumed various roles (client, attorney, mediator) to negotiate the settlement of an investor claim. Participants included: (front row) Lucia Benabentos ’09; Julie M. Crotty ’96; Professor Jacobson; (center row) Zijia Liu, exchange student from Peking University; Sharice L. Davids ’10; Lily H. H. Chu ’09; Seth M. Nadler ’10; Skylar M. Tanner ’09; Joseph G. Tucci ’10; (back row) Taylor R. Dalton ’10; and Tamim Bazzi, LL.M. ’09.
and Labor Relations,” Zuckerman said. “Most recently I decided to pursue it from a constitutional angle. I argue that state government restrictions on offshore contracting are unconstitutional because they violate the Foreign Commerce Clause of the U.S. Constitution, which generally prevents the states from interfering with international trade.”

Zuckerman credits Professor Bernadette A. Meyler with encouraging him to dig deeper. “Michael was asking hard questions about the Foreign Commerce Clause and other constitutional provisions restricting state power to act internationally. His note is fully deserving of the high honors and awards that it has received.”

What is Meant by “Choice”? 

On November 3, Professor Rosalind Petchesky, distinguished professor of political science and women’s studies at Hunter College and the Graduate Center, City University of New York, presented a well-attended talk about the rhetoric of abortion. According to Lindsay Strauss ’10, president of Cornell Law Students for Reproductive Justice, “Petchesky demonstrated how choice is an empty term when women do not have the resources or the access to the necessary services—whether its abortion providers, birth control, or safe sex education—to live a full and healthy life.”

Defining Sustainable Development

In November, Law School students collaborated with faculty and graduate students throughout Cornell University to organize a multidisciplinary conference that would look at sustainability holistically. “Defining Sustainable Development: Land Use, Climate Change, and Water Resources” took place November 7 and 8 at Cornell Law School. The conference included eight segments, each addressing key aspects of sustainability.

A theme occurring several times throughout the event was that of governance structures—what level of government should have authority over a natural resource? One of the most dynamic panels of the event, “Sustainability: The Role of Cities,” addressed governance issues in land use. Panelists debated whether reducing local power in favor of regional planning authority, or alternatively, expanding local government authority to provide greater flexibility for local solutions would lead to sustainable development. Water resources experts also addressed governance issues, noting that although there is federal regulation of water resources under the Clean Water Act, state and local governments, who are tasked with implementation, face numerous challenges.

Other highlights of the event included a contentious debate about the efficiency of biofuels and a hard look at satisfying global energy demands. Cornell Law School professors Eduardo M. Peñalver and Gregory S. Alexander, the A. Robert Noll Professor of Law, contributed to the conference with a discussion about how land use and conceptions of private property pose unique obstacles to sustainability. The conference harnessed the academic strengths of more than ten different Cornell University departments and was well attended by faculty and students from across the campus.

Frozen Relations: Who Gets the Embryos When a Couple Splits?

Divorcing couples have always fought over property, income, and custody of children. But new technology has added another twist: after the breakup, who owns the frozen embryos created by the couple during happier times? Visiting scholar Esther Farnós-Amorós, a Ph.D. candidate at the Universitat Pompeu Fabra in Barcelona, Spain, addressed this topic in her talk, “Divorce and Disputes Over Frozen Embryos.”

Farnós-Amorós compared the differences in the way United States and European Union courts handle this issue. Both favor the party who opposes using the embryos, she noted, but she argued that this is based on faulty reasoning. “In absence of an agreement anticipating unforeseen circumstances, relative weight of genetics . . . should favor the party wishing procreation as long as no legal link
between the future child and the other progenitor is established,” said Farnós-Amorós.

Legal Ethics and Human Dignity: A Panel Discussion

Are the virtues of zealous advocacy an unchallenged fiction? Is the humiliating cross-examination of a rape victim ever justified? When determining what charges to bring, should the prosecutor of the Jena Six case have considered the races of the people involved? Are good lawyers necessarily good people?

Recently, a panel of legal ethics scholars met at Cornell Law School to discuss these very issues. The panelists were the authors of a recently published Cornell Law Review colloquium, which addressed these questions through the lens of Professor David J. Luban’s new book Legal Ethics and Human Dignity. The publication of the suite of essays began a fresh dialogue and threatened to alter and further our understanding of the subject. Rather than risk allowing the moment to pass, Cornell Law Review invited all seven of the colloquium participants to Cornell Law School to continue the dialogue in person.

Luban is well known for his indictment of the “adversarial excuse,” the argument that a lawyer’s professional role excuses reprehensible conduct. In the October 3 meeting to discuss legal ethics and human dignity, Luban responded to his critics and defended his theory that lawyers are obligated to enhance the human dignity of their clients, applying it to myriad legal contexts, such as large, faceless organizations and the notorious “torture memos.”

The panelists who joined Luban represented a wide range of viewpoints, some building upon the arguments in Legal Ethics and Human Dignity, others questioning its central thesis.

Panelists included Luban plus Anthony V. Alfieri of the University of Miami School of Law; Susan Carle of the American University Washington College of Law; Katherine R. Kruse of the William S. Boyd School of Law, University of Nevada Las Vegas; William H. Simon of Columbia Law School; and W. Bradley Wendel of Cornell Law School.

Cuccia Cup Competition

The Moot Court Board congratulated Alison L. M. Bain-Lucey ‘10 and Kimberly D. Knudson ‘10 as the winners of the 2008 Cuccia Cup Moot Court Competition, and Julie Fukes ‘10 and Aditya G. Nagarajan ‘10, the competition finalists. Competition finalists received a cash award, endowed by a gift from Francis P. Cuccia, LL.B. ’12, in memory of Mary Heagan Cuccia. Lewis M. Kamiński ‘10 and Yousef M. Mian, visiting student from Duke University, were the recipients of the Kaiser Best Brief Award. The Kaiser Award is endowed by a gift from Louis Kaiser, LL.B. ’21.

Presiding over the final competition on November 1 in the MacDonald Moot Court Room were: Hon. Duane Benton of the U.S. Court of Appeals for the Eighth Circuit; Hon. Raymond J. Dearie, chief judge of the U.S. District Court for the Eastern District of New York; Hon. David N. Hurd of the U.S. District Court for the Northern District of New York; and Hon. Susan P. Read of the New York State Court of Appeals.

DEPARTMENT NEWS

New Research Attorney in Law Library

The Law School welcomes Amy Emerson who will join the expert team of research attorneys in the Cornell Law Library, teaching legal research courses and providing faculty and students with research services. Emerson obtained her J.D. cum laude from Syracuse College of Law and her M.L.S. cum laude from Syracuse School of Information Studies. Following her studies, she practiced law for eight years in both Ithaca and Syracuse as a real estate attorney in the private sector. During this time, Emerson also served as adjunct faculty at Ithaca College where she taught courses in legal research and real estate law.

Are the virtues of zealous advocacy an unchallenged fiction? Is the humiliating cross-examination of a rape victim ever justified? When determining what charges to bring, should the prosecutor of the Jena Six case have considered the races of the people involved? Are good lawyers necessarily good people?
Gregory S. Alexander, the A. Robert Noll Professor of Law, traveled to Japan and China in October with Stewart J. Schwab, the Allan R. Tessler Dean and Professor of Law, and Professor Riles. In Tokyo, he delivered a paper, “Property and Human Flourishing,” at a conference, “Hope in Law and the Economy,” sponsored by the University of Tokyo Institute of Social Sciences. In Shanghai, Alexander delivered remarks on the new dynastic trust in America at the conference “Law, Markets, and Social Equity,” sponsored by Fudan University, and again in Beijing at a conference organized by the law faculty of Peking University (Beida). Finally, in Hong Kong, he gave a paper on the social obligation theory of ownership at a conference, “The Promises of Law,” held by the law faculty of the Chinese University of Hong Kong. Alexander also attended the inauguration ceremony of the new Peking University School of Transnational Law, in Shenzhen, whose chancellor and founding dean is Jeffrey S. Lehman, former president of Cornell University. While in these various cities, Alexander also attended alumni receptions.

In September, Alexander attended a meeting of the Board of Advisors for the Restatement 3d of Trusts, in Philadelphia. Later in the semester, he participated on a panel at a conference on sustainability at the Law School. In November, his chapter on Property Rights was published in Global Perspectives on Constitutional Law, edited by Vikram Amar and Mark Tushnet and published by Oxford University Press.

A paper by John J. Barceló, the William Nelson Cromwell Professor of International and Comparative Law, on the topic of “Anti-Foreign-Suit Injunctions to Enforce Arbitration Agreements,” was published in Contemporary Issues in International Arbitration and Mediation, edited by Arthur W. Rovine (2008). A second paper by Barceló, “Burden of Proof, Prima Facie Case and Presumption in WTO Dispute Settlement,” was published online in the SSRN accepted paper series as Cornell Legal Studies Research Paper No. 119 (lsr.nellco.org/cornell/lsp/papers/119). In the second paper, which will be included in the forthcoming symposium issue of the Cornell International Law Journal, Barceló argues that the World Trade Organization (WTO) Appellate Body (AB) should abandon its current procedural terminology in dispute settlement cases (prima facie case, presumption and burden shifting). Barceló contends that the AB should simply state that the complaining Member bears the burden of proof on its basic claim and that this burden (the burden of persuasion) does not shift during the course of the proceeding. The reverse should hold for the responding Member’s defenses.

In July Barceló served as cochair of the fifteenth annual Cornell Paris I Summer Institute of International and Comparative Law and taught a condensed course on International Commercial Arbitration. He also organized a panel devoted to arbitration issues held July 28 at the Court of Arbitration of the International Chamber of Commerce in Paris.

On September 4, Barceló served as cochair of the eleventh annual Cornell Paris I Summer Institute of International and Comparative Law and taught a condensed course on International Commercial Arbitration. He also organized a panel devoted to arbitration issues held July 28 at the Court of Arbitration of the International Chamber of Commerce in Paris.

On September 4, Barceló was a panelist commenting on the paper presented at the Law School by the 2008 Clarke Lecturer, Dr. Ing-wen Tsai, LL.M. ’80, chair of the
Democratic Progressive Party (DPP), Taiwan. Tsai’s topic was “Cross-Straight Relations: Past, Present, and Future.” (For more information about Dr. Tsai’s visit, see p. 41.) Barceló was Tsai’s academic advisor when she received her LL.M. from Cornell in 1980.

In early October the Einaudi Center for International Studies at Cornell awarded Barceló and Professor Harry de Gorter at the Cornell College of Agriculture and Life Sciences’ Department of Applied Economics and Management, a seed grant for an interdisciplinary study of worldwide biofuel policies and trade law. The study will include scientific, legal, and economic analysis of governmental biofuel policies and programs.

On October 30 the Scheinman Institute for Conflict Resolution, based in Cornell’s School of Industrial Labor Relations, agreed to join the Law School’s Berger Program in support of an innovative course on International Arbitration and Negotiation to be held at the University of Buenos Aires in Argentina June 7-14, 2009. Barceló and Ignacio L. Torderola, LL.M. ’02, are two of the principal organizers of this new undertaking.

As the Elizabeth and Arthur Reich Director of the Berger International Legal Studies Program, Barceló planned and moderated a number of events in the Berger Program’s fall lecture series at the Law School. He also served as a member of Vice-Provost Alice Pell’s International Studies Advisory Council and as a member of the Steering Committee of the Institute for European Studies on campus.

In August, John H. Blume, professor of law and director of the Cornell Death Penalty Project, gave several lectures at the thirteenth annual Federal Habeas Corpus Seminar in St. Louis. One session focused on Supreme Court practice and the art of drafting a persuasive brief in opposition to a petition for writ of certiorari. Another dealt with developments in mental retardation and capital representation in the five years since the Supreme Court’s decision in Atkins v. Virginia barring the execution of persons with mental retardation. In September, at the Conference on Empirical Legal Studies held at Cornell, Blume presented the preliminary results of a study of the Delaware death penalty that he and Professors Eisenberg, Johnson, and Hans are currently involved in.

In October, Blume participated in a panel presentation to the University’s trustees on the effect of the election on the Constitution and the Courts. Blume’s presentation focused on who the (then) presidential nominees might appoint to the Supreme Court of the United States.

Blume, along with Johnson; Keir Weyble, director of Death Penalty Litigation in the Law School Death Penalty Project; and Professor Seeds; authored several briefs in the Supreme Court of the United States including an amicus curiae brief for the National Association of Criminal Defense Lawyers in Knowles v. Mirzane, an amicus curiae brief on behalf of the American Association of Individuals with Development Disabilities and the Arc in Brisenos v. Quartersman, a petition for writ of certiorari in Owens v. South Carolina, and a brief in opposition to the petition for writ of certiorari in Bobby v. Bies.

Blume also published an article in the *Journal of Empirical Legal Studies*, “The Dilemma of the Defendant with Prior Convictions: Lessons from the Wrongfully Convicted,” and released the eighteenth edition of the *Habeas Corpus Update*, an annual compendium of developments in the law of habeas corpus that he coauthors with Mark Olive, Denise Young and Weyble, and which is published by the Administrative Office of the United States Courts.

Cynthia Grant Bowman, the Dorothea S. Clarke Professor of Law, was on research leave during the fall semester of 2008, working on her book, *Heterosexual Cohabitation and the Law*, to be published by Oxford University Press. In November, she was a commentator on the panel, “Pauli Murray’s Human Rights Revolution,” at the annual meeting of the American Society for Legal
The director of the Legal Information Institute (LII), **Thomas R. Bruce** has been busy traveling. July found him in Williamsburg, Virginia, at the biennial Conference on Substantive Technology and Legal Education, an invitational international meeting of academics interested in technology and legal education. In August, he participated in the Independent Government Observers Taskforce workshop in Chicago, a gathering of free-access legal publishers aimed at establishing new information architectures and standards for legal information in the public domain.

In late October, Bruce was invited to follow up on some earlier written work by participating in an experts meeting at the Permanent Bureau of the Hague Conference on Private International Law. The aim of the meeting was to examine the feasibility of an international convention that would outline necessary apparatus for legal information exchange between jurisdictions. The outcome of the two-day meeting was rough agreement on a set of guidelines for open access to legal information intended to streamline the process of information-seeking during the adjudication of international disputes—an important step forward in both policies and practicalities.

From The Hague, Bruce traveled by noisy train to Florence for the ninth annual Law via the Internet Conference. There, he chaired a plenary session titled “Strategic Solutions and Sustainability Models for the Diffusion and Sharing of Legal Knowledge” and delivered a paper whose overarching theme was the not terribly surprising notion that Google is a force to be reckoned with, even if you are a legal publisher or court that would rather not.

December brought Bruce back to a much chillier Florence for JURIX 2009, the annual conference for European XML-and-legislation aficionados and artificial intelligence types. There his responsibilities consisted entirely of smiling and nodding approvingly while LII text-processing guru Dave Shetland described his ongoing work translating the LII’s U.S. Code architecture into the European MetaLex standard for legislative interchange.

**Sherry F. Colb,** professor of law and the Charles Evan Hughes Scholar, has been working this semester on her contribution to the George Washington Law Review symposium entitled “What Does Our Legal System Owe Future Generations? New Analyses of Intergenerational Justice for a New Century.” Colb delivered her presentation at George Washington in October, and her article will appear next semester. Her paper, to which other commentators presented their reactions, argues that there is at least one thing that we do not owe the individual (potential) members of future generations: existence.

Colb delivered her presentation at George Washington in October, and her article will appear next semester. Her paper, to which other commentators presented their reactions, argues that there is at least one thing that we do not owe the individual (potential) members of future generations: existence.

Though seemingly controversial, Colb argues that there is broad consensus across the population on two basic ingredients of reproductive rights: first, the offspring selection interest, which holds that people have a legitimate interest in deciding when and with whom to have and not to have offspring; and second, the bodily integrity interest, which holds that in pregnancy, an embryo or fetus imposes an invasive burden upon its mother against which she, at least in extreme cases, has the right to protect herself. By identifying these two interests and the significance of disentangling them from each other, Colb contends that all sides of reproductive rights
debates can achieve a better understanding of one another’s views and perhaps come to agree on more than they now do.

Colb also served as a commentator at the Conference on Empirical Legal Studies 2008, held at Cornell, at which she presented the hypothesis that the unusually low rates of female criminal activity in modern times (compared to pre-industrial female crime rates) may be explained by reference to the corporate structure of the modern illicit drug trade, combined with the impotence of anti-discrimination law in regulating discrimination within that trade.

Colb has also published a biweekly column on FindLaw (Writ.FindLaw.com), with titles including “Great Apes, What are the Implications for Human Beings and Other Animals,” “Is Sex a ‘Major Life Activity’? Why a Claim of Disability Discrimination Turns on the Answer to This Question,” “Are Different Abortion Methods Morally Distinguishable? The U.S. Court of Appeals for the Fourth Circuit Hears Richmond Med. Center v. Herring,” “Do Convicts Have a Constitutional Right to Access Crime-Scene DNA? The U.S. Supreme Court Considers the Question,” and “A Judge Orders a Woman Not to Have Children While On Probation: Did He Violate Her Rights?” all archived under her name at the Writ.Findlaw.com Web site.

During the summer, **Angela B. Cornell**, associate clinical professor of law and director of the Labor Law Clinic, was part of a team chosen to evaluate Honduras’s compliance with international labor law norms. The group visited multiple locations throughout the country and interviewed business and labor union representatives, labor lawyers, non-profit organizations, as well as labor department and judicial representatives. International representatives from the Solidarity Center, the International Labor Organization, and the Friedrich Ebert Foundation were also interviewed for the project. The team produced a lengthy report, which in part analyzed domestic labor law and practice. The purpose of the assessment is the advancement of fundamental labor rights with directed development aid.

In June, Cornell gave the keynote address at the Northeast Association of Pre-Law Advisors Conference held at Cornell this year. The title of the talk was “The Study of Law and the Pursuit of Justice.”

During the fall semester, Cornell took a group of students from her Labor Law, Practice and Policy course to hear the U.S. Supreme Court argument in *14 Penn Plaza v. Pyett*. Petitioners in that case were represented by Cornell alumnus Paul Salvatore ’84. In a case that involves both labor and employment issues, the Court will decide whether a mandatory arbitration clause in a collective bargaining agreement will waive access to a judicial forum when a statutory employment claim is asserted by bargaining unit members. Salvatore spoke in the class and students were very enthusiastic about attending the oral argument.

**Cornell in Honduras evaluating the country’s compliance with international labor law norms.**

Cornell taught two Webinar programs as part of a School of Industrial Labor Relations (ILR)-sponsored series on labor and employment law, the Family Medical Leave Act, and the Americans with Disabilities Act. In October she participated in another ILR Webinar series, cosponsored with the International Commission for Labor Rights, titled “Global Perspectives on Workers’ Rights,” which was a seven-week series on international labor law.
In October, at the George Washington Law School, Michael C. Dorf, the Robert S. Stevens Professor of Law, attended a symposium on what our legal system owes future generations and presented a paper, “The Aspirational Constitution.”

Roger C. Cramton, the Robert S. Stevens Professor of Law Emeritus, has completed work, with Paul D. Carrington of Duke University School of Law, on two articles dealing with the U.S. Supreme Court’s tendency to act as a super-legislature. In this capacity, the Court has deprived the federal and state governments’ executive and legislative branches of their legitimate responsibility over important policy decisions on contested issues of political and societal importance. One article will be published in the March 2009 issue of the *Cornell Law Review* and the other in a forthcoming issue of the *William and Mary Law Review.*


In October, at the George Washington Law School, Michael C. Dorf, the Robert S. Stevens Professor of Law, attended a symposium on what our legal system owes future generations and presented a paper, “The Aspirational Constitution.”
In October, Cynthia R. Farina concluded the first phase of her work as reporter for the Committee on the Status and Future of Federal e-Rulemaking when the committee’s seventy-page report, “Achieving the Potential: The Future of Federal e-Rulemaking,” was released. The public launch was hosted in Washington, D.C., by the Council for Excellence in Government, an organization of individuals and entities from business, government, and education working to improve government performance. The event involved high-level administration officials and congressional staff, as well as representatives from several good-government groups. Also in October, Farina presented the report’s recommendations at the fall meeting of the Administrative Law and Regulatory Practice Section of the American Bar Association (ABA). She and committee chair, Sally Katzen, had obtained the Section’s endorsement of the report over the summer; endorsement by the entire ABA will be sought at the midyear meeting in February 2009.

The report makes an interrelated set of recommendations to Congress and the new administration about changing technical, management, funding, and agency culture aspects of the current federal e-rulemaking project. In the second phase of her work with the committee, Farina has been seeking additional endorsements of the recommendations by approaching non-profit organizations and business groups with an interest in government performance, transparency, and use of technology. Over the next several months, she will work with members of President Obama’s transition teams, as well as with staff in the Congress, to forward legislative, presidential, and administrative action implementing the recommendations. Information about, and the text of, the report can be found at ceri.law.cornell.edu/erm-comm.php.

Glenn G. Galbreath, clinical professor of law, gave a flurry of presentations to judges in central New York this fall as part of his work with the New York State Judicial Institute’s curriculum committee. Galbreath gave a flurry of presentations to judges in central New York this fall as part of his work with the New York State Judicial Institute’s curriculum committee. In October and November, he made three presentations on the topic of “Judicial Ethics” to judges in Oneonta, Dryden, and Binghamton as part of their advanced training, and he developed a new presentation, “Appeals from Town and Village Justice Courts,” to be used throughout New York in 2009. He also led two sessions in Syracuse for the “Taking the Bench” training given to all the newly elected New York State town and village justices. His four presentations included: “Introduction to the Law,” “Life Cycle of a Criminal Case,” “Criminal Arraignments” (demonstration and lecture), and “Domestic Violence and Orders of Protection.”

In Buffalo and Syracuse this December, he presented lectures and trial demonstrations for child protective services workers in order to prepare them to testify regularly in trials involving child abuse and neglect. These programs were sponsored by the Center for Development of Human Services, State University of New York Buffalo.

On a different note, Galbreath spent some time traveling in Iceland this past summer and heartily recommends it to those interested in a dynamic geography, very friendly people, and a bargain. Apparently, due to the recent economic collapse, the cost of traveling in Iceland now is about one third of what he paid this past summer.
This summer, Claire M. Germain, the Edward Cornell Law Librarian and Professor of Law and director of the Law School’s dual degree programs in Paris and Berlin, was interviewed by Fred Antil for the Saturday morning Lifelong radio show on WHCU AM870. In July, she also participated in the annual meeting of the American Association of Law Libraries in Portland, Oregon, and co-taught, with Professor Xavier Blanc Jouvan, an introduction to French law for the Paris Summer Institute. In August, she spoke on digital preservation at the meeting of the International Federation of Library Associations. Germain serves as secretary of the Section on Law Libraries.

In October, Germain attended a meeting of experts on worldwide access to foreign law at The Hague, at the invitation of the Hague Conference on Private International Law. She enjoyed being part of the process toward a multinational convention, which, if approved, may become a binding instrument for countries that ratify it. The participants advocated for free access to law worldwide, and for encouraging national governments to provide authoritative versions of their digital law documents, legislation, court decisions, and regulations. Several speakers mentioned the importance of providing context for the raw materials of the law and an explanation of how the law fits into a particular legal system, stressing the importance of orientation materials, experts, and networks such as law libraries and the expertise of law librarians.

Germain, in November, hosted the visit of a United Nations delegation pursuing the building of a print and electronic archive to maintain the legacy of the Rwanda genocide trials. That month, at Duke University, during the dedication of their new library, she conferred with other law library directors about future directions for law libraries. She also attended the International Association of Law Libraries meeting in San Juan, Puerto Rico, networking with librarians from the region.

Valerie Hans spent the fall of 2008 speaking and writing to judges, lawyers, and scholars about the implementation of ideas from her 2007 book, American Juries: The Verdict. In multiple trips to the Boston region, she spoke to groups at the Flaschner Judicial Institute, the Social Law Library, and the fourth annual Lambert Conference at Suffolk University Law School about how practitioners might apply the findings of jury research to trial practice.

Hans has continued to examine a fascinating development, the international expansion of the use of lay citizens as legal decision makers. Her overview, “Jury Systems around the World,” was published in the Annual Review of Law and Social Science. Hans lectured to students in Cornell Law School’s Suzhou Program about the contemporary American jury and the recent Chinese expansion of the use of lay assessors in its legal system. With judges, lawyers, and law professors at the Academia Sinica in Taiwan and at the Kenneth Wang School of Law in Suzhou this past summer, she also participated in informative and lively roundtables on international lay participation. Her talks at these roundtables are being translated into Chinese for publication.

In addition to his regular Law School course work, George A. Hay, the Edward Cornell Professor of Law and professor of economics at Cornell University, taught an undergraduate course, Competition Law and Policy, in the fall. He also cochaired the University Hearing Board.

Hay published “Facilitating Practices,” a chapter in Issues in Competition Law and Policy, edited by W. D. Collins, an ABA Monograph 2008. As the guest of Professor Alfonso Miranda Londoño, LL.M. ’87, Hay traveled in October to Bogota, Colombia, where he was the keynote speaker at the Second Economic Law International Lecture Series at Javeriana University. There, he discussed recent developments in antitrust law in the United States.
During the fall semester, **Michael Heise** participated in the Third Annual Conference on Empirical Legal Studies hosted by Cornell Law School. Heise presented a working paper, “Pass or Fail: The Uneasy Past and Uncertain Future of High-Stakes Testing and Educational Policy by Litigation,” at a conference sponsored by the American Enterprise Institute and the Fordham Foundation. This paper will emerge as a chapter in a forthcoming book published by the Brookings Institution Press.

An article by **Robert A. Hillman**, the Edwin H. Woodruff Professor of Law, “Warranties and Disclaimers in the Electronic Age,” coauthored by Ibrahim Barakat ’08, was published in the *Yale Journal of Law and Technology*. The article looks at the effects of technology on the presentation of software warranties and disclaimers in standard form contracts. Hillman also wrote another article, “UCC Article 2 Express Warranties and Disclaimers in the Twenty-First Century” that focuses on similar issues in the context of the sale of goods.

In September, Hillman traveled to Philadelphia to present new portions of his project, “Principles of the Law of Software Contracts,” to his American Law Institute advisors and consultative group members. In December, he returned to Philadelphia to present the project to the American Law Institute Council.

Hillman chairs the faculty appointments committee again this year.

**Robert C. Hockett** spent most of the summer working on several articles and a small book project. All are slated for publication in early 2009. In August, Hockett also began preparations for his Financial Institutions course. The latter had become even more topical than usual by early September, however, with the onset of what is now proving to be a serious episode in U.S. and world financial history.

In August, Hockett also began preparations for his Financial Institutions course. The latter had become even more topical than usual by early September, however, with the onset of what is now proving to be a serious episode in U.S. and world financial history. In consequence, Hockett found himself making a number of media appearances, in addition to doing a bit of consulting and giving a number of talks, in connection with the developing crisis. At the time of this writing, these activities have been continuing.

In late October, Hockett delivered a paper, “Justice in Time,” at a George Washington University conference in Washington, D.C., devoted to the subject of what our legal system owes future generations. Also at this conference were Cornell Law Professors Colb and Dorf, as well as former Cornell Law Professor Douglas Kysar and scholars from peer schools. Also in late October, Hockett gave a talk at a law and philosophy colloquium in New York City, jointly sponsored by the New School and Cardozo Law School.
His interlocutor was the well-known French philosopher and mathematician Alain Badiou.

In November, at Kendall and at the Telluride House, Hockett gave talks on the financial crisis and made more media appearances on the same subject. He also gave a paper at the Cornell Law and Economics Workshop, served on a panel at the Cornell Environmental Law Society’s sustainability conference, and presented a paper for an American Society of International Law conference held in Washington, D.C., devoted to the subjects of distributive justice and international economic law.

William A. Jacobson, associate clinical professor of law and director of the Securities Law Clinic, gave two presentations at the annual meeting of the Public Investors Arbitration Bar Association (PIABA) in October 2008: “Overcoming Common Defenses to Customer Claims,” and “Ethical Issues with Retainer Agreements.” Jacobson also served as a co-trainer for an arbitrator training session run at the annual meeting by the Financial Industry Regulatory Authority (FINRA). Jacobson regularly assists FINRA in training new arbitrators. In addition, Jacobson has been named to the Board of Editors of the PIABA Bar Journal.

Livak’s article, “Between Competition and Piracy: In Search of Learned Hand’s Patent System” argues for a new way of discussing patent law where it is viewed as a natural extension of competitive markets rather than as an exception to them.

Sital Kalantry, assistant clinical professor of law, director of the International Human Rights Clinic and codirector of the Asylum and Convention Against Torture Appellate Law Clinic, moderated a panel in an interdisciplinary conference entitled “Immigrant Child: Past, Present, and Future” at Cornell University. She also worked on numerous international human rights projects. One project involved providing comments on the draft of the Inter-American Convention on the Elimination of All Forms of Racial Discrimination to the committee that is drafting the treaty. In another project, she worked with students to provide assistance to an organization litigating reproductive rights issues in India.

Finally, she is working on establishing the Avon Center for Women and Justice at Cornell Law School to promote access to justice for victims of gender-based violence.

In August, Oskar Liivak traveled to the Intellectual Property Scholars Conference held at Stanford Law School. He presented his article, “Between Competition and Piracy: In Search of Learned Hand’s Patent System.” The article argues for a new way of discussing patent law where it is viewed as a natural extension of competitive markets rather than as an exception to them. In October, he was invited to the International Trade Commission in Washington, D.C. There he presented a lecture on recent developments in patent law, focusing on the Supreme Court’s decision in KSR v. Teleflex and its impact on the law of obviousness.
In late summer, Anne Lukingbeal, associate dean and dean of students, was appointed to the ABA’s Accreditation Committee. The committee is charged with the administration of the ABA accreditation process, including review of site evaluation reports, progress reports, and fact-finding reports. It reviews J.D. programs, post-J.D. programs, foreign summer programs, semester abroad programs, cooperation programs for foreign study and individual student programs for foreign study. She attended an orientation for new members held in Rosemont, Illinois in September and in October attended a full committee meeting in Napa, California.

In October, Lukingbeal attended an annual meeting of peer schools’ deans of students. This year’s meeting was held in Ann Arbor, Michigan. In November, Lukingbeal was the featured speaker at the San Francisco alumni program hosted by Eric Fastiff and his law firm of Lieff, Cabraser, Heimann & Bernstein. The topic of her presentation was “Some Things Never Change but Some Things Change Remarkably Over the Years”.

At Cornell, Lukingbeal moderated a panel of law school admissions deans and gave a talk to undergraduates, “More Than You Ever Wanted to Know about the Law School Admissions Process.” The popular program is presented by the Cornell Career Center and has been a staple of the Law School advising process for more than twenty years. She also is serving as a member of the search committee for a new university registrar.

In August, Peter W. Martin, the Jane M.G. Foster Professor of Law, delivered the keynote address, “The Role of Law Reports in an Era of Google and Wikis,” at the annual meeting of the Association of Reporters of Judicial Decisions.

In August, John Mollenkamp, associate clinical professor of law, served as a part of a three-member panel discussing the use of technology to teach legal writing at the Biennial Conference of the Legal Writing Institute (LWI). Mollenkamp was also named cochair of the committee for the LWI/Association of Legal Writing Directors Survey, a national survey of the teaching of legal writing. That work continues the efforts of several years’ detailed statistical analysis of the status of legal writing within the academy.

In December he spoke on public access to court records at E-Courts 2008, a conference organized by the National Center for State Courts. The presentation drew on Martin’s article “Online Access to Court Records—from Documents to Data, Particulars to Patterns,” published the same month in the Villanova Law Review.
Jens Ohlin contributed a chapter to International Criminal Procedure: Towards a Coherent Body of Law (Cameron May, 2008). The chapter, “Towards a Unique Theory of International Criminal Sentencing,” analyzed the disparity between sentences handed down by the International Criminal Tribunal for Yugoslavia and those of many domestic penal systems such as the United States. While the former deals with wartime atrocities, the sentences are often much lower than those received by defendants in the latter for far-less severe crimes. Ohlin’s paper...
Ohlin contributed a chapter to *International Criminal Procedure: Towards a Coherent Body of Law* in which he argues that international criminal law was badly in need of a coherent jurisprudence of sentencing that is specific to crimes against humanity, war crimes, and genocide.

Ohlin also published a commentary about joint criminal enterprise in the *Annotated Leading Cases of International Tribunals*, a case reporter that publishes decisions from international tribunals, including the drafting of non-binding international sentencing guidelines.

During the fall semester, **Eduardo M. Peñalver** presented his forthcoming article, “Land Virtues,” at the Yale Legal Theory Workshop and in the faculty workshop series at Queens Law School. The paper explores some of the limitations of traditional economic analysis of landownership and argues that Aristotelian virtue ethics offer a framework capable of avoiding those limitations while still making room for the use of sophisticated positive economic modeling in land use scholarship. The paper will appear in the *Cornell Law Review* in May 2009. He also participated in the annual Brigham-Kanner property conference at William and Mary Law School, where he discussed the impact of Robert Ellickson’s property scholarship.

Rachlinski’s research on unconscious biases reveals that like most adults, trial judges harbor invidious unconscious associations concerning women and minorities, but indicates that these implicit attitudes do not directly affect judges’ decisions when race or gender is identified explicitly. The influence of these biases emerges, however, when judges are induced to think about the race of a defendant in unconscious ways. The research on apologies suggests that in a wide variety of settings, apologies do not affect trial judges. Surprisingly, trial judges do not seem to be more lenient on criminal defendants, tortfeasors, or debtors who apologize for their transgressions. Rachlinski presented this work at the University of Pennsylvania Law School, Northwestern University Law School, St. Louis University Law School, and Temple University Law School. He was also able to present this work to two groups of administrative law judges, a group of judges and court officers in a Ninth Circuit conference, and at the annual meeting of the American Bar Association.

During the fall semester, **Jeffrey J. Rachlinski** made several presentations on the decision-making processes of trial judges. These presentations covered a variety of topics, but particularly the role of unconscious biases in trial judges and the role that apologies play in the courtroom. Rachlinski’s research on unconscious biases reveals that like most adults, trial judges harbor invidious unconscious associations concerning women and minorities, but indicates that these implicit attitudes do not directly affect judges’ decisions when race or gender is identified explicitly.
In addition to his Law School instruction, Faust F. Rossi, the Samuel S. Leibowitz Professor of Law and Trial Techniques, again taught a course, “Introduction to the American Legal System,” to students and faculty.

Annelise Riles, the Jack G. Clarke Chair in Far East Legal Studies and professor of anthropology at Cornell University, took advantage of a sabbatical leave to present portions of her forthcoming book, which takes an anthropological approach to understanding global financial regulation and corporate debt, in fifteen lectures and seminars in the United States, Japan, China, and the United Kingdom. Some highlights include a public lecture at the University of Michigan, the distinguished honorary lecture in transnational law at Washington and Lee School of Law, the Munro Lecture at the University of Edinburgh, the Inaugural Lecture of the Drexel Law Review in Philadelphia, and the keynote lecture for a conference on law and anthropology at the University of Cambridge, U.K.

In October, she organized four conferences and workshops in Tokyo, Beijing, Shanghai, and Hong Kong where she and other members of the Cornell Law School faculty presented their work. In November and December she served as the Hallsworth Visiting Professor at the University of Manchester, U.K., where she presented her work in a variety of formats and advised advanced graduate students in the social sciences.

Riles published a special issue of Law and Contemporary Problems entitled “Rethinking the Private in Private International Law.” The special issue included a coauthored introduction exploring new approaches to private international law (conflict of laws) and an article, “Cultural Conflicts,” which outlines how insights from anthropology can help judges think through conflicts problems.

E.F. Roberts, the Edwin H. Woodruff Professor of Law Emeritus, in pottering about with his unbook came across some notes dating from the days his generation of do gooders had railed against large lot zoning, excessive bulk requirements and grandiose building codes that made it impossible to construct affordable housing. It never occurred to them that the real answer was to make all too expensive housing affordable by making a mockery of sound mortgage lending practices.

In his unbook Roberts is concerned with a question germane to the educational system: how really good is an education the best and brightest products of which lead a society into one balls up after another? What is one to make of a society in which, when it comes to raising warnings of impending disaster, astrology, economics, and tarot cards appear to be equally useful? His current guess is that the answer may be found in the phrase “To get along, you have to go along.” No one wants to be seen rocking the boat. Somehow at least a few graduates have to have had the opportunity to acquire not only critical standards but the character that would enable them to throw dead cats into the temple of conventional wisdom. In fairness, however, they have to be warned as to the fate of the real Socrates.

In addition to his Law School instruction, Faust F. Rossi, the Samuel S. Leibowitz Professor of Law and Trial Techniques, again taught a course, “Introduction to the American Legal System,” to students and

In October, she traveled to San Diego for a roundtable on the subject of rule-following, sponsored by the University of San Diego Institute for Law and Philosophy. She also moderated a panel at the third annual Conference on Empirical Legal Studies held at Cornell. In November, she was honored to participate in a panel discussion of her book, Demystifying Legal Reasoning, also at Cornell.

Robert S. Summers, the William G. McRoberts Professor of Research in the Administration of the Law, prepared new pocket parts updating the references to, and summaries of, the case law for the pocket parts of the four volumes of his treatise, The Uniform Commercial Code, coauthored with Professor James J. White of the University of Michigan School of Law. [Read about the publication of the fifth edition of this definitive treatment of the Code, pp. 16]

Summers also completed his work on teaching booklets addressed to the new Code
Faculty

Much of Thomas’s activity in the fall semester focused specifically on international labor law and its relationship to the global economy. For example, in November Thomas traveled to Nigeria to serve as consultant, principal reporter, and team leader for the U.S. Agency for International Development (USAID) as it spearheaded an intensive assessment of the country’s labor laws. The assessment is intended to inform USAID’s global labor program activities.

This fall Chantal Thomas delivered a keynote address entitled, “Democratic Governance, Distributive Justice and Development,” to the American Society of International Law (ASIL) conference on International Legal Theory held at ASIL’s Tillar House headquarters in Washington, D.C. The conference featured both lawyers and philosophers active in the field of global justice. Papers from the conference will be published by Cambridge University Press in a volume entitled Distributive Justice and International Economic Law.

The ASIL address was one of Thomas’s ongoing efforts to support multidisciplinary inquiries into international law. In the same spirit, this fall Thomas completed work on the volume Developing Countries in the WTO Legal System (Oxford University Press) with her coeditor Joel P. Trachtman, who is a professor of international law at the Fletcher School of Law and Diplomacy. The volume is due out in March and brings together experts from law, economics, and government to discuss substantive and institutional challenges shaping World Trade Organization policy and practice on economic development.

Much of Thomas’s activity in the fall semester also focused specifically on international labor law and its relationship to the global economy. For example, in November Thomas traveled to Nigeria to serve as consultant, principal reporter, and team leader for the U.S. Agency for International Development (USAID) as it spearheaded an intensive assessment of the country’s labor laws. The assessment is intended to inform USAID’s global labor program activities.

Thomas also published three articles during the fall semester that address the relationship between international trade and labor flows. The first, “Globalization and the Border,” appears in the McGeorge Law Review and memorializes Thomas’s lecture for McGeorge Law School’s Annual Distinguished Speaker Series. Here Thomas argues that contemporary debates about immigration in the United States overlook the role that U.S. trade policy, especially the North American Free Trade Agreement (NAFTA), has played in affecting the “push and pull” dynamics of immigration.

The second article explores the same theme from a different angle, by tracing the history of macroeconomic law and policy reforms in Mexico in the late twentieth century. The effects of NAFTA and its sister agreement, the North American Agreement on Labor Cooperation (NAALC), are placed in a context of the structural reform of Mexico’s trade and investment regime, and transformation of the country’s regulatory approaches to labor and economic growth. That essay is entitled “Globalized Economic Governance in...
Mexico and Its Effects on Trade, Labor and Migration,” and it appears as a chapter in the volume *Social Regionalism in the Global Economy*, published by Routledge. This volume collects the papers presented and discussed at a conference held at McGill University’s Faculty of Law in Montreal, and cosponsored by the Centre de Recherche Interuniversitaire sur le Mondialisation et le Travail. The conference, “Mapping the Social in Regional Integration,” assembled experts on trade and labor from Canada, Mexico, and the United States.

The third article turns the focus to the World Trade Organization, and studies the evolution of WTO discourses on “linkage” between trade and labor obligations under international law. This essay adopts a methodology that incorporates insights from international relations and political theory. The article is entitled, “Labor Rights and Multilateral Trade: Strategies of Linkage.” It is published as a chapter in the volume *World Trade Organization Human Rights: Interdisciplinary Perspectives*, by Edward Elgar Publishing. The volume collects the papers from a conference held in Prato, Italy, and sponsored by Monash University’s Castan Centre for Human Rights Law.

Finally, at the end of the semester, Thomas began to gear up for her transition to directorship of the Clarke Middle East Fund, which will be renamed the Clarke Initiative for Law and Development in the Middle East. (See related story, p. 41.) In assuming leadership of the Clarke Initiative, Thomas will build on and apply her experiences as a researcher and university administrator in Cairo, Egypt from 2005 through 2008. In the spring semester, the Clarke Initiative will announce its upcoming calendar of activities, beginning with a conference slated for early fall 2009.

In November, **W. Bradley Wendel** traveled to Thailand as the first Cornell faculty member to visit under the Bajrakitiyabha faculty exchange program. The program, established by HRH Princess Bajrakitiyabha Mahidol, LL.M. ‘02/J.S.D. ‘05, seeks to strengthen connections between Cornell Law School and the legal profession in Thailand. As part of the faculty exchange, Wendel gave lectures at the faculties of law at Chulalongkorn and Thammasat Universities, and also gave a public lecture on new Thai legislation regarding the liability of corporate directors. While there, he met with Cornell alumni in Bangkok and with numerous Thai law students considering graduate legal studies in the United States.

In September, Wendel appeared in Brussels, Belgium on a panel at the ABA Section of International Law’s meeting entitled “Advising the New U.S. President: How Legal Advice Will Reshape Foreign Policy in the Next Administration.” His presentation focused on the nature of legal advising within the executive branch, and argued that there are certain structural reforms that can contribute to higher-quality legal advising by government lawyers.

Wendel gave one of the keynote addresses at the third annual International Legal Ethics Conference on the Gold Coast, Australia in July. His lecture, “Legal Advising and the Rule of Law,” argued that the central issues in legal ethics should not be understood as issues within moral philosophy, but should be seen as part of political theory. In particular, the political values underlying the ideal of the rule of law are the normative foundation of the lawyer’s role.

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Claire M. Germain

When Claire M. Germain, the Law School’s Edward Cornell Librarian and Professor of Law, learned in July 2007 that she would be given the Chevalier de la Légion d’Honneur, France’s highest honor, for her role in bridging American and French legal cultures, “I was so surprised I was in shock,” she says.

Those who know her were not. “She is a powerhouse who has dedicated much of her professional life to that role,” comments John J. Barceló, the William Nelson Cromwell Professor of International and Comparative Law. The award recognized Germain’s leadership in the creation of the Cornell Center for Documentation on American Law, the 13,000-volume American law collection given by the Law School to France’s highest court two years ago.

Barceló, who directs the Law School’s Paris Institute for International and Comparative Law, recalls: “When the Paris program was founded in 1993, the Law School was looking for a librarian. Claire’s name came up. I read her background in international and comparative law and said, ‘Wouldn’t this be a dream come true?’ Fortunately she accepted and came.”

Although she grew up in France and still dresses with the elegance of a Parisian, Germain has had a nearly lifelong love affair with the United States and has lived here much of her adult life. “I like American people very much,” she says. “They’re warm-hearted, gregarious, welcoming, and believe in ‘doing,’ not just talking.”

She was twenty-two when she left her native country to pursue a Master of Civil Law degree at Louisiana State University (LSU) in Baton Rouge in 1974. She already had a B.A. in German and an LL.B. degree from the University of Paris. But the offer of a fellowship to study comparative law in Louisiana had a special appeal— the state’s laws contain remnants of the Napoleonic civil law code.

At LSU, renowned comparative law scholar Saul Litvinoff supervised her thesis, a comparative study of French and Louisiana civil law systems relating to contract law and consumer protection. “Claire was one of—if not ‘the’ most brilliant foreign graduate student I had the pleasure to teach,” says Litvinoff today. “I still keep her thesis in my office.”

Several years before LSU, while studying German at the University of Erlangen-Nürnberg, Germain formed a friendship with an American exchange student, Stuart Basefsky, that grew into a long-distance romance. They corresponded and visited while she was in Baton Rouge and he was getting a master’s degree in international studies at Duke University. They married and moved to his hometown of Denver in 1976.

“I didn’t know what to do with my law expertise, but my husband advised me to combine it with a degree in law librarianship,” Germain recalls. “At the time I thought librarians were little old ladies with their hair in buns.” Still, she took his advice, completing her M.L.L. (Master of Law Librarianship) degree at the University of Denver with honors in 1977.

“Then I wrote a letter, blind, to the head of Duke’s law library stating that I had law degrees from a civil law country and an American law school and was fluent in several languages,” says Germain. “There just happened to be a position open for a reference librarian, and I had the training and skills they wanted. Stuart and I drove all the way from Denver to Durham in our orange Volks-
“She is much more than a librarian,” comments Professor Barceló. In addition to being “a strongly energetic teacher and a leader in the library world, she is at the forefront of all the technical developments in library science. And she is a diplomat who has represented the school in many foreign venues and is extraordinarily good with our alumni.”

Most significant, in 1991 she published Germain’s Transnational Law Research: A Guide for Attorneys, which won an American Association of Law Libraries (AALL) award. “It was the first time that anyone tried to capture all international and foreign law research in one book,” Germain notes. That was when her expertise caught the attention of Barceló and other Law School faculty, who recommended her for the position of head librarian in 1993. “Dean Osgood liked my international background and offered me the job,” recalls Germain. Along with the school’s stature in comparative law, the tenured faculty appointment appealed to her. “I’ve always enjoyed teaching, and I think the contact with students makes me a better librarian,” she says.

Now, sixteen years later, Germain has built the Law Library into a major resource and she has contributed to the school’s international and comparative law presence. She also teaches courses in French law in Myron Taylor Hall and at the Paris Summer Institute and directs the school’s programs at the University of Paris I and Berlin’s Humboldt University.

“One accomplishment Germain is especially proud of: arranging for Cornell Law School graduates to clerk at the Paris Constitutional Court starting in 2008, a first in any French supreme court for any law student.”
“I have nothing but high praise for Claire’s leadership of the library,” comments Robert A. Hillman, the Edwin H. Woodruff Professor of Law. “She has a keen interest in the world of ideas and in their collection both digitally and in print, and that’s reflected in the superb service the Law Library offers to facilitate faculty research and support our scholarship needs.”

“I’ve tried to make service to faculty and students the highest priority,” reports Germain. “We have a wonderful staff of experts who offer customized assistance, and I’m very proud to be part of such a team. Seven have law degrees and are ‘lecturers in law’ who teach credit courses in legal research. In addition, we give research technique sessions in courses in labor and asylum law and other topics.”

In 2005, when the floodwaters rose in New Orleans during Hurricane Katrina, Germain was president of AALL and spearheaded its efforts to aid affected law schools and lend books to replace damaged ones. (Cornell Law School also pitched in by welcoming displaced law students.)

Germain says she strongly believes that U.S. law librarians have a responsibility to help law librarians in countries with emerging economies and can learn from them as well. Cornell Law Library is advising a United Nations contingent on creating an archive of materials related to the Rwandan genocide. “The lessons learned from the horrors in Rwanda need to be studied and the documents preserved,” she says. “This is not just an African issue, it is a global concern.”

Germain publicizes the need to digitize the world’s laws as a board member of the Global Legal Information Network. She discussed an eventual online portal to those laws at a recent conference in The Hague. And Cornell Law Library cosponsored, with New York University, a Starr Foundation workshop, “Tapping into the World of Electronic Legal Knowledge,” hosting librarians from places as widespread as Brazil and Botswana.

Mixing work with leisure, Germain travels to far-flung places with her husband, now an information specialist and lecturer at the Cornell School of Industrial and Labor Relations’ Catherwood Library. In a recent trip to Brazil, she gave a keynote address at a conference on digital libraries. For fun she hikes local trails, sees Shaw plays at Niagara-on-the-Lake, and takes digital photos of everything that interests her.

In addition Germain admits to being a passionate baker of French pastries. Her son Nicolas, 26, and other fans say her apple tart is her signature piece.

-LINDA BRANDT MYERS

**FACULTY PROFILE**

**Robert S. Summers**

Robert S. Summers, renowned coauthor of*The Uniform Commercial Code* (see article on page 16), who turned seventy-five last fall, grew up on a small farm near the remote village of Halfway, Oregon, and still prizes the life skills he gained there. “I may be the only American law professor with genuine cow-milking muscles,” he jokes. “They haven’t atrophied.”

Neither have the passion and energy that distinguish his fifty-year career as a legal scholar and teacher, admirers say of the William G. McRoberts Professor of Research in the Administration of the Law at Cornell. “He’s just as engaged now as when he started,” declares Kevin M. Clermont, the Robert D. Ziff Professor of Law. “He has kept the fire in the belly. That’s hard to do.”

**Some achievements:**

“He is an absolute giant in contracts and the Uniform Commercial Code,” adds Clermont, noting that Summers’s multivolume treatise on the code, cowritten with University of Michigan Law Professor James J. White and now in its fifth edition, is the most-cited by courts and commercial practitioners.

“He’s a renowned scholar in legal theory, for which he has received honorary degrees, and has lectured all over the world and published several books in the field as well,” says Hillman ’71, a former student.

“He’s an influential teacher and mentor,” asserts Judge Richard C. Wesley ’74, of the U.S. Court of Appeals for the Second Circuit. “Some of my fondest Law School memories—still bright in my mind—were conversations I had with him in his office decades ago.”

On Summers’s office shelf today sits a six-inch, pink-and-white stuffed animal that he calls the “particularistic contract snail.” A gift from a student, the snail sheds light on his teaching philosophy and character. “It inspires my students,” he says. “Generality and speed can be enemies of good legal analysis. Lawyers need to be careful, thoughtful, and proceed deliberately and slowly to solve complex legal problems.”

The best way to learn some of those skills, he says, is through the Socratic method of teaching, which employs probing questions that prompt students to think on their feet about the reasoning behind court rulings. “Bob Summers is a master of that hallowed, traditional method,” comments Clermont. “But it’s hard to do well, and he is one of the few who still use it.”

Being on the method’s receiving end can be unsettling at first, recalls Wesley, “but students
soon learn that ‘Summers the invincible’ is also ‘Summers the compassionate.’ He loves the law and his students.”

Brian Boyle ’09, a research assistant for Summers, agrees. “He made a huge impression with a speech he gave about how we were entering an ennobling profession, and we should never forget how important the work we’re going to do is. He has this abiding respect for what lawyers do and wants all of us to have it.”

Classes also can include references by Summers to his family’s farm, which he believes was ideal training for the intellectual heavy lifting he has done throughout his career. In addition to tending the farm’s twelve cows, he harvested wheat and alfalfa, baled hay, fed slop to pigs, and anything else that needed doing. “This taught me to be self-reliant, take initiative and responsibility, employ sustained focus to get things done, and value independence of judgment,” he says.

His parents encouraged him, along with his brother, to get a college education. In high school his focus and fluency with words won him a statewide public speaking contest and prompted his grandfather to say he’d make a good lawyer. His wide-reaching intellect—he read everything from Zane Grey novels to Shakespeare—caught the attention of his school’s principal, who steered him toward a liberal arts track at the University of Oregon in Eugene. “That was a major turning point in my life,” he says.

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Profiles

“I’ve always admired the real interest he takes in his student research assistants,” comments Hillman. “There have been more than one hundred now. They stay in close contact and have wonderful things to say about him.”

The feeling is mutual, says Summers. “It’s a great blessing that I get to work with them and watch them intellectually taking off.”

To pay for college he drove a school bus in Eugene on weekdays and fought forest fires in summer. “I also became president of the student body, partly for the $500 salary,” he confesses. While at Oregon he met and fell in love with a classmate, Dorothy Kopp, whom he married soon after earning his B.S. in 1955. That same year he won a post-college Fulbright fellowship to study law and social science in England.

“Dorothy and I felt we grew by leaps and bounds during that Fulbright year,” says Summers. In England he met H. L. A. Hart, a distinguished legal theorist from Oxford University, who became “one of the most influential figures in my life.” Their friendship was cemented at Harvard Law School, where Hart was a visiting professor during Summers’s first year as an LL.B. student in 1956–57. “I read everything by him,” he recalls.

After completing his law degree in 1959, Summers joined a Portland, Oregon, law firm. But prompted by his “strong academic bent,” he left in 1960 to become a member of the law faculty at the University of Oregon, where he first began teaching contracts and commercial law. A stint as a visiting professor at Cornell Law School in fall 1968 led to his move there the following year.

“Leaving Oregon was very tough, but of all the universities in the world, Cornell is probably the ideal one for me,” he says. “It is situated in a beautiful locale, has a great law school and faculty, great libraries, a great liberal arts tradition, and a great Ag school, which goes to my roots.”

As a scholar he has distinguished himself, publishing more than one hundred articles and a record-breaking fifty-two books to date, among them the UCC treatise and, in 2006, Form and Function in a Legal System, praised for breaking new ground in jurisprudence and legal philosophy by Harvard Law Review. He is now working on a book on reasons in the law and an autobiography.

“ABOVE AND RIGHT:

In nearly forty years as a professor at Cornell Law School, Professor Summers continues to enthral students with his engaging discussions of the law and issues of the day.”
Classroom Snapshot

On a bright October morning this fall, Professor Robert S. Summers enters 290 Myron Taylor Hall wearing a tweed jacket, maroon print tie, and baggy tan trousers to teach his Contracts class. Carrying a massive seating chart under his arm, which he will shortly use to cold-call a handful of his 100-plus students by name, he takes his seat at a desk on the dais in front (his knees are giving him trouble these days, so he prefers to sit).

As the roomful of chattering students turns quiet, he asks for comments on a case outlined in a casebook he cowrote with Professor Hillman involving an employer who sued to be compensated for financial loss after he was forced to replace a teacher who quit with a new one who required a higher salary. “Would the case have gone differently if a lower-cost teacher had been available to replace the one who left?” he asks. Several students say it would have.

“Aha!” says Summers, raising a finger like a homegrown Sherlock Holmes uncovering a clue. “So, cases are rationally distinctive.”

As he nudges his students through related cases requiring rising levels of reasoning, he lightens the work with humorous asides on contemporary issues—from the high price of college tuition, a sore point for him, to the stock market downturn, which prompts a sardonic aside: “Sometimes the market moves in the wrong direction, doesn’t it?”

“I find him very engaging and thought provoking,” says Cathy Tio ’11. “It’s readily apparent that he pushes us for our own good. He really wants the students to learn, talk to each other, and struggle together for solutions. But he also has a great sense of humor.”
Profiles

ALUMNI PROFILE

Margaret Finerty ’78

For Margaret Finerty ’78, who has blazed a trail in civil and criminal law, the motivation remains the same today as when she was a young girl growing up in Chicago. “I wanted to help people and still do,” she says.

She began her law career in 1978 as an assistant district attorney in the office of Robert Morgenthau, the long-reigning district attorney for New York County. “Anyone who has ever worked for Bob Morgenthau will tell you it was the best job they ever had,” says Finerty, who praises her former boss for giving beginning lawyers significant responsibility and never letting politics influence his actions.

She won a ninety-nine-count indictment in her first trial, which involved white-collar fraud in the travel industry. “To have that kind of opportunity as a young lawyer is phenominal,” says Finerty. “You can’t get it at a private law firm.”

Helping rape victims through the office’s Sex Crimes Unit was her most difficult work, but also the most gratifying emotionally, she says. In one case she prosecuted, four female prostitutes who didn’t know one another came forward to testify that the defendant had solicited them for sex, then pulled out a gun or a knife and held them overnight in a hotel, where he raped them and stole their money.

To ensure the jury would be fair Finerty asked potential jurors whether they could convict if the victims were prostitutes. She also directed the women to tell the jury how they ended up as prostitutes. “That humanized them. You really got to hear about these women as people,” she comments. The defendant was convicted and sentenced to a long jail term.

When Finerty called to tell one victim, “She said to me, ‘God bless America.’”

That kind of gratification was one reason Finerty remained with Morgenthau’s office for seventeen years and went on to prosecute major fraud cases. “I had wonderful opportunities, including the chance to develop and grow as an attorney,” she says. She left in 1995 after being appointed a judge in New York.

“In addition to being a good lawyer, skilled, smart, with the ability to see things from different points of view, she’s extremely well-liked,” notes Ronald Goldstock, an adjunct professor at the Law School and leader in organized crime prevention, who has known Finerty since she was a student in his Criminal Trial Process seminar. “When she left to become a judge, people in the D.A.’s office were happy for her but sad to lose her, particularly women in the office for whom she had been a role model.”

Being a criminal court judge was a sea change for her. Assigned to two of the busiest courthouses, she often worked the night court shift: “I would have about 100 cases on my docket at any given time, everything from jumping a turnstile to domestic violence to homicide. Most misdemeanor cases were resolved after arraignment but before trial, so when I sat in a calendar part I was looking at the evidence and making decisions quickly about whether to issue an order of protection, grant a hearing or a motion to dismiss a case. I had more power than I did as a litigator, but it was a more reactive role, with much less control over the investigation of a case.”

Social work, not law, had been her first career choice in high school. It wasn’t until her junior year at the University of Chicago when, after a friend’s suggestion to consider law school, “I realized that using the law to make changes might be a more effective way to help people,” she says.

Cornell Law School’s small size and strong academic reputation appealed to her. Once her studies began, she discovered that courses involving court action excited her the most. In addition to Goldstock’s seminar and classes in torts and trial techniques taught by the late Irving Younger, a former judge, she cites Rossi’s evidence course. “He was a fabulous teacher, outgoing and dynamic,” she says. “He brought real-life courtroom experiences as well as academics to the classroom.”

Her first week at the school, classmate Neil Getnick, whom she had met at a mixer, invited her to dinner at Johnny’s Big Red Bar and Grill in Collegetown. “We found out our backgrounds were different, but our values were the same,” says Finerty, whose family is Irish American (Getnick’s is Jewish American).
“We each had wonderfully supportive parents and live-in grandmothers, and we had the same views on education, on being close with your family and supportive of them.”

They fell in love and planned to marry right after graduation. But Getnick had also received a job offer from the New York County District Attorney’s Office. Hiring practices could be restrictive back then. “We didn’t know what the policy in the D.A.’s office was about married couples working together,” says Finerty. So the pair asked Goldstock, their respected professor and now dear friend who is a veteran of that office, to inquire of Morgenthau on their behalf. He did, and the district attorney assented.

Getnick left the district attorney’s office several years later to join his father’s private practice, which he then built into a firm specializing in antifraud and business integrity cases that is considered a pioneer in the field of *qui tam* and independent monitoring (see more about that in the profile of Getnick which follows). In 1998, Finerty decided to step down from her position as judge to join Getnick and Getnick because she missed investigating cases and wanted a new challenge, and the growing firm needed more lawyers.

Since then she and her husband have worked together on a team monitoring against fraud and theft at the World Trade Center site following the September 11, 2001, terrorist attacks. And under a False Claims Act provision, they and their team won a large settlement against Bayer, Inc., for defrauding the federal government of millions of dollars through improper Medicaid charges.

“We’re still working for the public good by fighting fraud but doing it as a private law firm working with the government to investigate it and filing cases on behalf of individual whistle blowers,” Finerty explains.

“Neil and Peggy view their firm as something more than just a business,” says Goldstock. “They will often take a case because they believe it’s important and its outcome will have a positive impact on society, and they will continue working on it even if it might not be profitable to do so.”

He also praises them for their ability to work together in the same practice. “Not every husband and wife can do it,” he says, “but they’re a pretty good match. They complement each other.”

One of the nice things about working in the same firm with your spouse, says Finerty, is “when you get home and are still obsessing over a case, you have someone you can talk to about it.”

Finerty and Getnick’s ongoing involvement with Cornell includes chairing reunions for their Law School class and organizing a continuing legal education program on the False Claims Act at their thirtieth reunion in 2008.

The couple’s daughters, Courtney, twenty-two, and Katherine, twenty, are now both undergraduates at Cornell. Finerty’s best advice to them and other young people planning their futures: “Spend time working on things you think are worthwhile that will make a difference. And don’t be afraid of new challenges.”
Ask antifraud fighter Neil Getnick ’78 if fraud is on the rise, and he may counter that it’s ever-present. “Fighting fraud and corruption is a perennial activity, and it requires ongoing vigilance,” he says. “It’s not as though we cross a line at some point, and it no longer needs to be a concern.”

But neither is the task hopeless, says Getnick, who, in the fall of 2008, was a guest speaker in the Law and Ethics of Business Practice course taught by Stewart J. Schwab, the Allan R. Tessler Dean and Professor of Law. “It’s easy to become dismayed and discouraged because there is fraud, but there’s solace in knowing we work within a system, and if you work hard enough and press fully for your rights within it, you can make a difference. A quote I love from Dr. Martin Luther King defines the fight: ‘The arc of the moral universe is long, but it bends toward justice.’”

A team at Getnick’s law firm that included his wife, Margaret Finerty ’78 (see previous profile of Finerty), helped bend that arc when it won $251 million in 2003 in a whistleblower suit that slammed Bayer, Inc., for grossly over-billing a federal agency for medications. At the time, the amount was the largest recovery in U.S. history in that type of Medicaid fraud case. The team was named a finalist for Trial Lawyer of the Year by the Public Justice Foundation in 2005 for its efforts.

The firm, Getnick and Getnick, used a “qui tam” provision of the False Claims Act. “Qui tam empowers private citizens with unique knowledge of fraud against the federal government to hire private counsel to bring a lawsuit on the government’s behalf,” Getnick explains. “In the past it had only been used in military procurement fraud. Our firm was one of the first to apply it to healthcare fraud.”

What’s most important to Getnick and his firm is to effect real change, “to leave behind a program of reform that goes beyond the individual recovery,” he says. Fighting fraud and corruption is “the flipside of promoting ethics and integrity. Our firm is trying to help foster integrity, transparency, good governance, and social responsibility on a macro and micro level. It’s part of my life’s mission to ensure that those principles are part of our lives and institutions. There’s nothing I’d rather be doing.”

The principles are key to Independent Private Sector Inspector General (IPSIG) methodology, which Getnick’s firm pioneered and applied in its role as a monitor in fraud prevention at the site of the former World Trade Center. Other specialty areas include complex fraud investigation and litigation; and business integrity, transparency, and compliance counseling.

“My dad was a major influence, a consummate trial lawyer and effective advocate who gave wise counsel and set an example for others,” says Getnick, who grew up on Long Island in Freeport, New York, the youngest in a close-knit Jewish American family. Although there was no pressure to become a lawyer, “I always knew I wanted to be one.”

Getnick, who also holds a B.A. from Cornell’s College of Arts and Sciences, first visited the campus in 1969, when his older brother, Michael, now counsel at Getnick and Getnick, was a law student there. Cornell’s academic rigor and the diversity of its students and breadth of its course offerings appealed to him, and he enrolled in 1971.

A friendship Getnick formed his freshman year with Kenyan classmate Koigi wa Wamwere has endured and changed both their lives. “We spent a lot of that year speaking of the future and how ultimately we might make a difference in the world,” Getnick says.
Returning to Kenya, Wamwere was falsely accused of treason and other crimes, imprisoned for thirteen years, and threatened with execution. “He was eventually freed and elected to parliament,” says Getnick, who worked hard for his release. No longer in office, Wamwere is seeking to heal the wounds caused by the recent ethnic strife in his country.

The two hope that a scholarship fund they cofounded for students in rural Kenya will create a new generation of leaders. It is monitored by Getnick’s firm using Independent Private Sector Inspector General (IPSIG) principles, which make sure “every dollar goes to its intended purpose.”

Getnick also became friends with Professor James Turner, director of Cornell’s Africana Studies and Research Center, who supported his efforts as a student trustee of the university to persuade Cornell to become more socially responsible regarding its investments in companies doing business with apartheid South Africa.

“He loved Cornell but brought his own moral concern to the matter and was willing to raise it with the university, in part because he thought its reputation would be harmed by its tacit support for an immoral government,” says Turner, who was impressed with Getnick’s disciplined research on the issues.

At the Law School, where Getnick enrolled in 1975, he studied under Professor G. Robert Blakey, a former U.S. Justice Department racketeering specialist credited with writing the Organized Crime Control Act of 1970 and its Racketeer Influenced and Corrupt Organizations (RICO) provisions. He also studied under Goldstock, who conceived the independent private monitoring, or IPSIG, approach.

“Neil is a hunter who unerringly makes his way to his target. His wife, Peggy, is smart, skilled, and empathetic,” comments Goldstock, who remains a close friend. “Together they combine an incredible earnestness and intensity with a wonderful enjoyment of life.”

Getnick and Margaret Finerty met their first day of Law School, dated throughout school, and married in Anabel Taylor Hall’s Founders Room the day after graduation. Interested in public service, each found jobs as assistant district attorneys in the office of New York County District Attorney Robert Morgenthau, whom Getnick calls “a legend who embodies public service in the highest tradition.”

In the office’s Trial Division and Frauds Bureau, Getnick was given the opportunity to try sixteen cases in four years. One was Operation Good Buy and it involved what was, at that time, the largest undercover fencing operation in New York City. “Litigating and winning that case was an extraordinary experience,” he says. “I met a great group of lawyers, investigators, forensic auditors, and detectives out of the D.A.’s squad and New York Police Department who remain amongst my closest working relationships.” It also began the multidisciplinary approach to fighting fraud that has defined his law career and practice.

Getnick left Morgenthau’s office in 1982 to join his father’s law practice. On January 1, 1983, they launched Getnick and Getnick. “I had a vision of how I wanted to take what I’d done in the D.A.’s office into private practice,” Getnick says. Soon after getting under way, he set a precedent by using the then-nascent civil RICO statute in the context of a class action lawsuit to prosecute a certified public accountant and lawyer who had defrauded 200 families in a Ponzi-style investment scheme. Since then the firm has remained on the cutting edge of the civil prosecution of business fraud. The firm now has a core staff of nine, including six lawyers, among them his wife, who joined in 1998.

About her, he says unabashedly: “We are walking on a path together that we started when we first met at Law School. She is beautiful in every sense of the word, and working with her is wonderful.”

And he muses about the arc of his career path: “I started out as a student trustee seeking to make Cornell more accountable for its investments. I asked myself back then, ‘How am I going to do work that matters like that for the rest of my life and have a successful career and family?’ Now I look back and see how fortunate I’ve been.”

—LINDA BRANDT MYERS
K. Robert Hahn ’48

As a boy growing up in Saco, Maine, population 5,000, retired Lear executive Robert Hahn ’48 was “enchanted with aviator Charles Lindbergh’s flights,” he recalls. “I spent eighth and ninth grade making model airplanes out of balsa wood and very thin parchment paper.”

But he didn’t get to fly his first airplane until after college, as a cadet in the Army Air Corps during World War II. The memory of that experience remains vivid. “It was a PT-17 with twin wings, a biplane, and I was thrilled with being able to do loops, barrel rolls, and spins,” he says.

He graduated from flight school at Craig Field in Selma, Alabama, in July 1943 with his pilot’s wings and second lieutenant’s commission. He was selected to be a wartime flight and aerial gunnery instructor with the Army Air Corps at Eglin Field in Florida. “We were geared up to turn out 100,000 pilots. It was intense work. We only had Sunday off,” he remembers.

But he managed to get a week’s leave that September to wed his Oberlin College girlfriend, Mary “Mickie” Crawford. The pair met at a college mixer where a Glenn Miller-style band was playing, and Hahn, an economics major, got up his nerve and asked the attractive history major across the room to dance. “Mickie and I became really good partners,” he says. “To save money Mickie and I had a garden where we raised our own vegetables.” They supplemented the stipend with her salary as secretary and concert manager of Cornell’s music department and his part-time job in the accounting department of Robinson Airlines. The start-up company, which initially flew twin-engine, six-passenger planes, became Mohawk, then Allegheny Airlines, and eventually part of U.S. Airways.

At the Law School, Hahn remembers taking part in a pro-and-con debate about the 1945 establishment of the United Nations as well as courses in contracts and constitutional law. Following graduation, he became an associate at Elmore, Moss, and Moore in Washington, D.C., representing aviation clients before the Civil Aeronautics Board (CAB), which controlled all operating rights for new airline routes throughout the United States.

At the same time the company’s annual revenues were at about $7 million, but “it was in the vanguard for producing automatic pilots and other flight instruments,” says Hahn. “My task was to find out what the government and military needed and build the systems.” He successfully competed with such avionics manufacturers as Bendix, Honeywell, Sperry, and Texas Instruments by doing a better job of anticipating the growing number of airplanes the U.S. military would need and the quality and kind of electronic instruments they would require.

Some successes: “We won the first major auto pilot contract—all tubes, no transistors—on the Boeing KC-135 tanker. We put auto pilots in F16s using a ‘fly by wire’ system, instead of having hydraulics systems. And we were able to meet Navy requirements for the mission role of Douglas Skyhawks by developing an all-attitude, two-gyro platform for flight instruments that allowed pilots to conduct maneuvers safely even in inverted flying.”

The skills in negotiations and problem solving that he gained through his law school training helped, Hahn says. “I absorbed engineering by osmosis and learned long-range planning on the job.” His abilities gained him new marketing responsibilities, a promotion in 1959 to executive vice president in charge of operations in all six divisions of Lear, Inc., and a move to corporate headquarters in Santa Monica, California.

“The majority of the class were returning World War II veterans, and most were scrimping to get by,” he recalls. “To save money Mickie and I had a garden where we raised our own vegetables.” They supplemented the stipend with her salary as secretary and concert manager of Cornell’s music department and his part-time job in the accounting department of Robinson Airlines. The start-up company, which initially flew twin-engine, six-passenger planes, became Mohawk, then Allegheny Airlines, and eventually part of U.S. Airways.

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The times were intensely competitive for players in the burgeoning airline industry, and Hahn soon left the firm to become general counsel and secretary of Lake Central Airlines in Indianapolis. “After the war, the CAB authorized several new feeder airline operations to provide passenger and airmail service to small cities throughout the United States,” he explains. “Lake Central was approved to offer connecting flights between eleven cities in five Midwest states: Indiana, Ohio, Michigan, Illinois, and Kentucky.”

Although Lake Central went on to become part of U.S. Airways nearly two decades later, problems with succession back then at the family-owned airline prompted Hahn to begin looking for other opportunities. In 1951 he read a story in Aviation Week about a company called Lear, Inc., in Grand Rapids, Michigan, that made aviation products and was looking to expand into military markets.

“At the time the company’s annual revenues were at about $7 million, but “it was in the vanguard for producing automatic pilots and other flight instruments,” says Hahn. “My task was to find out what the government and military needed and build the systems.” He successfully competed with such avionics manufacturers as Bendix, Honeywell, Sperry, and Texas Instruments by doing a better job of anticipating the growing number of airplanes the U.S. military would need and the quality and kind of electronic instruments they would require.

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That same year the company’s founder moved to Zürich, Switzerland, to design what became the corporate Lear jet. To finance the venture, Lear sold the company in 1962 to a firm that merged to become Lear Siegler, Inc. (LSI).

“Bill Lear was a fabulous inventor who risked everything he had to get the Lear jet business off the ground,” comments Hahn.

Following the merger, Hahn accepted an offer to become division manager of LSI’s power equipment group in Cleveland, Ohio. “I liked the new opportunity for hands-on management, such as negotiating with labor unions and rewarding workers for innovative ideas that improved productivity,” he says.

The Vietnam War was escalating in 1965 when Hahn returned to LSI’s corporate headquarters as senior vice president. “We sent 1,000 contractors to Vietnam to maintain aircraft,” he recalls. But the company already was beginning to move away from its dependence on military-oriented sales, and toward growth through friendly acquisitions in such new commercial markets as automotive, agriculture, and housing.

In 1971 Hahn was named executive vice president for operations, and in 1984 he became vice chair of the board. By the time LSI was bought by a venture capital firm in 1986, the firm had 31,000 employees, 193 operating facilities in eleven countries, and annual sales were $2.4 billion. “I was sixty-five, an age when statutory senility sets in,” quips Hahn, explaining his decision to retire then.

Hahn’s wife died in 2007 after a seven-year battle with Alzheimer’s disease, during which time he was her primary caregiver. He currently manages his own investments from his home in Rolling Hills Estates, California, and spends time with his three daughters and six grandchildren, one of them a lawyer and Cornell alumna, Alice Guy.

Grateful to Amos Miller, a Chicago lawyer who paid for his college tuition as well as those of nine others, Hahn now supports the K. Robert and Mary Hahn Scholarship at Cornell Law School and has made a planned gift for scholarships and a speakers series on ethics. He also sponsors scholarships at Oberlin and the University of Southern California School of Pharmacy, has served on the California Council on Economic Education and the boards of other nonprofits. He was honored by the California Association of School Economics Teachers for his “passion for economic literacy for students.” Says Hahn, “It’s a real joy to be able to help these young people.”

~LINDA BRANDT MYERS

Skills in negotiations and problem solving that he gained through his law school training helped him in his career at Lear, Hahn says. “I absorbed engineering by osmosis and learned long-range planning on the job.” His abilities gained him new marketing responsibilities, and a promotion in 1959 to executive vice president in charge of operations in all six divisions of Lear, Inc.
Living conditions also were harsh. “The Chinese economy was in bad shape, and everything was rationed: food, vegetables, sugar, soap,” Zhu recalls.

Few schools were functioning then, but Zhu’s father, a civil engineer, and his mother, a schoolteacher, wanted him to succeed so they arranged for him to start learning English when he was ten. By his third year of middle school in 1977, the Chinese college admissions exam was reinstituted after a ten-year gap. He took it and did well but initially was denied admission to college because his grandfather, a Nationalist official, had been executed as an “enemy of the people” long before Zhu was born. “I finally won the right to higher education after appealing to the central government,” Zhu recounts. “In many ways I was a beneficiary of the new reform implemented by Deng Xiaoping.”

In 2005 the International Herald Tribune called Law School alumnus Jia Jonathan Zhu ’92 one of China’s “powerful deal makers,” a savvy group of business leaders raised under communism but schooled in capitalism in the United States “who are helping to transform China’s economy.”

But Zhu, who was an investment banker at Morgan Stanley, then chief executive officer of its China business sector before becoming managing director of Bain Capital Asia, calls himself an “accidental banker.”

“I started out wanting to be an academic,” he says. “In a traditional Chinese environment, scholars are held in high esteem. I had no concept of business or business people when I first arrived in the United States in 1985.”

Indeed, he came to Cornell to study Wordsworth in a Ph.D. program that year, after having majored in English as an undergraduate and master’s degree student in China. But a trip through China in 1988, with other young Chinese studying abroad at the behest of the Chinese government, opened his eyes to the rapid economic growth and changes in his native country. “I wanted to be involved,” he says. That prompted him to shift to a more business-oriented subject but also one that a former English major might do well in. “I chose law, in part because I thought it was interesting. Cornell Law School helpfully offered me a financial aid package,” he notes.

The China of Zhu’s childhood in Shanghai and Zhengzhou was marked by poverty and the excesses of the Cultural Revolution. “My country was a very repressive place then,” he says. “There was no freedom of thought, information, or movement. I remember vividly how frightened my grandparents were when Red Guards came to search our house in Shanghai. After they found a crumpled, stained piece of newspaper with Mao’s photo, they made my grandmother kneel and ‘reflect on her crime.’”
Overall, his Law School training “helped me invaluably with critical thinking and clear communication, and many of the legal concepts I learned continue to be useful to me in my business career,” he says.

To make up for that, I did a lot of reading on my own,” he says. But access to books and periodicals, particularly foreign ones, was limited. “I often befriended librarians to gain access.”

Living conditions at Zhengzhou also were poor, he recalls. “During winter we brought our own stoves to heat the classroom, and hot water was simply unavailable. The school dining halls had no furniture, so students squatted on the cement floor to eat their meals. Food was so bad that fights broke out on the rare occasion that something tasty was served.”

The teaching and research resources were substantially better at Nanjing University, where he went to get a master’s degree in English. “My thesis adviser, Professor Jia Chen, who often tutored me at his home one-on-one, was educated at Harvard and Yale. I also had a number of foreign professors,” he remembers. One of them spurred his interest in English romantic poetry, which led to his enrolling in the Ph.D. program at Cornell, his subsequent shift to the Law School in 1989, and the start of a new direction in his life.

Schwab introduced him to the concepts of torts and legal obligations, “which were completely foreign to me at the time,” he recalls. He also learned a lot about business-related law from Professors Jonathan R. Macey; George A. Hay, the Edward Cornell Professor of Law and Professor of Economics; and Summers, and he found Professor David Williams’s class in constitutional law “inspirational.”

Overall, “the training helped me invaluably with critical thinking and clear communication, and many of the legal concepts I learned continue to be useful to me in my business career,” he says.

After graduation he practiced law with Shearman and Sterling for several years, leaving to join Morgan Stanley in 1995 as an associate in its investment banking division. He moved to Hong Kong with the firm in March 1996 and was promoted to vice president at the end of that year. He rose to become executive director in 1998, managing director in 2000, and chief executive officer of Morgan Stanley China in 2004.

Zhu was one of the first Wall Street bankers to recognize the potential of private enterprises in China. In 2000 he took public two privately owned Chinese companies, Sina and AsialInfo, and soon followed with others, making Morgan Stanley a leader in that area. His significant deals also included the privatizations of China Unicom in 2000 and China Telecom in 2002, and the recapitalization and initial public offering (IPO) of China Construction Bank in 2005. He also advised Anheuser Busch when it acquired Harbin Brewery and interests in Tsingtao Brewery. And he counseled TCL, China’s largest television maker, when it acquired Thomson’s global TV business, and Huawei Technologies when it sold its power equipment business to Emerson Electric.

Although he found the work fulfilling, he wanted to try his hand at growing enterprises, not just financing them, so he left in 2006 to become managing director of Bain Capital, a Boston-based private equity firm. He was responsible for its investment activities in Asia with a focus on China, and under his leadership, his unit made eight investments, five in China, most of which have done well.

But when the global financial crisis hit in 2008, the business climate in Asia changed radically. “We are now faced with dramatically lower asset prices on the one hand but virtually closed debt financing markets on the other,” Zhu reports. Deal making in this environment is both challenging and potentially rewarding, he says.

While the global financial crisis has had an impact, China still has a significant trade surplus and large foreign exchange reserves, he notes. “Personal savings are high, around 40 percent, and debt to personal income is low, under 20 percent, compared to 130 to 140 percent in the United States.” Recently recapitalized, Chinese banks also are in good shape, he says.

“Nevertheless, China has a significant demand issue and will need to find a more balanced growth strategy than the one it has been using,” comments Zhu, who says he often finds himself explaining China to westerners.

“The biggest difference in doing business in China is, unlike governments in the U.S. and Western Europe, the Chinese government is regulator, business owner, public service provider, capital provider, and potential partner,” he says, “so it’s important to understand what the government’s objectives are.”

Westerners also need to remember that China has only had a market-based economy for the last fifteen years or so. “In Deng Xiaoping’s words, China has been ‘crossing the river by feeling the stones,’” says Zhu.

But the Chinese have been eager students, and many government officials and senior executives at Chinese companies have learned fast about how markets work. Considering the weight of its past, Zhu comments, “It is truly amazing how much has changed in China, and how rapid that change has been.”

— LINDA BRANDT MYERS
Profiles

STUDENT PROFILE

Quinton D. Lucas ’09

Since his elementary school days, Quinton D. Lucas ’09 has been fascinated by politics and current events. He recalls watching “This Week” with David Brinkley regularly as a child, and looking up to political figures in his native Midwest, including the first female governor of Kansas, Joan Finney, and former Kansas Senator Nancy Kassebaum Baker. Admiration of his state’s leading female political figures was not surprising for Lucas, who grew up with his single mother and two older sisters. However, it also signified a passion for politics and home that would stay with Lucas as life took him beyond the Midwest.

When he was eight, Lucas and his family moved back to Kansas City after five years in the small city of Hutchinson, Kansas. “At that point, Kansas City seemed like the biggest place in the world,” Lucas recalled. His family returned at the high point of the Kansas City School District’s desegregation litigation, when the city public schools were hemorrhaging students. Concerned with the state of the schools and wanting her son to go to a small school like those in Hutchinson, Lucas’s mother decided to look for another option. She settled on the Barstow School, which awarded Lucas a generous partial scholarship. Although the family had little money, his mother supplemented the rest to secure Lucas’s education. Reflecting upon his early years, Lucas said that “my mother’s work is a large part of why I’m in front of you today.”

Initially the only Black student in his class, Lucas admitted that Barstow “was quite an adjustment. Where I lived and where I went to school seemed like completely different worlds.” But the adjustment didn’t take long. His mother dropped him off for school an hour early every day and during this time he developed a love for reading the daily news and discussing sports, both of which he still enjoys. He also formed lifelong friendships with people ranging from janitors to principals, as well as students both inside and outside of his classes. These relationships proved to be so enduring that by the time he was in high school, he was elected student body president—twice. Although he hadn’t considered leaving the Kansas City area for college, a guidance counselor pushed him to look further. Ultimately, he did not venture too far, choosing to attend Washington University in St. Louis which was four hours away from Kansas City.

After a short foray into the sciences in college, Lucas returned to his first love—politics. He decided to major in political science, appreciating both the statistical and historical aspects of the discipline. He also adapted to yet another cultural environment. “I had never gone to school with anyone who was from outside the Midwest prior to college,” Lucas remembered. “So, I was accustomed to certain regional manners and customs, such as always saying hello, even to complete strangers.”

During his sophomore year, Lucas applied for a position on the university’s Committee on Academic Integrity. He was interviewed for the job by a dean and a fellow student “who had a 4.0 GPA and was a concert violinist. I thought, ‘No way I’m ever gonna get this,’” Lucas joked. But he did. “It brought me a new test—making difficult decisions within a group of very thoughtful and intelligent people,” he said. His experience on that committee started him thinking about law school.

Before undertaking law school, Lucas had other avenues to explore. In his senior year, he spent a semester in Cape Town, South Africa. There, he met students who experienced the pain of apartheid firsthand. Through conversations and interactions with the people of South Africa, Lucas found himself reconsidering and reconfiguring things he thought he knew, particularly his opinions regarding the similarities between Blacks in the United States and South Africa.

While in college, Lucas remained committed to home, and continued to pursue his passion for local politics. In addition to being awarded a public affairs internship in the Kansas City Mayor’s office, Lucas wrote a paper about values politics, which was based on a congressional primary in Kansas City.

The encouragement of a politics professor convinced Lucas to try to have the article published. It appeared in the Columbia University Journal of Politics and Society. “I thought how amazing it was that I could write about home and other people actually liked it,” said Lucas.

Before undertaking law school, Lucas had other avenues to explore. In his senior year, he spent a semester in Cape Town, South Africa. There, he met students who experienced the pain of apartheid firsthand. Through conversations and interactions with the people of South Africa, Lucas found himself reconsidering and reconfiguring things he thought he knew, particularly his opinions regarding the similarities between Blacks in the United States and South Africa.
Expanding his political experience statewide, Lucas worked on a Missouri state senate race in St. Louis, during his postgraduation summer. Although it was an exciting, yet intense, experience, Lucas found himself wanting some time away from politics and looked forward to his next adventure—law school.

When applying to law school, Lucas wanted to try something beyond the Midwest. Cornell was close to New York City, but as a Midwesterner, he felt comfortable in Ithaca. "Cornell was relaxing and refreshing after campaigning," he said. "I had a chance to get to know my fellow students, and it was comforting to know that we were all going through the same experience. I had an absolutely fantastic group of people to share law school with."

Lucas also had a wonderful group of first year professors, who, he said "made the puzzle fit together." They included Sheri Lynn Johnson, Michael Heise, Jeffrey J. Rachlinski, and Winnie Taylor. "You learn how to read efficiently and how to express yourself effectively," recalled Lucas. "You also learn that you’re smart, and that you’re really here for a reason.” The Law School also provides close relationships with both faculty and students that Lucas will value for the rest of his life.

During law school, Lucas participated in a number of the school’s clinical offerings. In his third year, he was an extern in the Office of the United States Attorney for the Northern District of New York in Syracuse. While there, Lucas worked on matters in the civil and criminal divisions, and enjoyed seeing federal prosecutors at work. Lucas recalled that “Before my work there, I can’t say I had a full appreciation of the breadth of work done each day in a United States Attorney’s Office, and the level of devotion shown to our local communities by every Assistant United States Attorney.”

Prior to this, Lucas enrolled in the Death Penalty Clinic and had the opportunity to experience the defense side of the criminal justice system. For this clinic, Lucas’s efforts were concentrated on developing and preparing clemency materials relating to a Georgia murder case. The basis for clemency centered on the defendant’s claim that his attorney had made racist comments which ultimately compromised the integrity of his trial and defense. Lucas, working for and along with the Cornell Death Penalty Project, labored on the condemned man’s final appeals to the U.S. Supreme Court and the Georgia State Board of Pardons and Paroles. While their efforts were ultimately unsuccessful, Lucas said, reflectively, “The case has stuck with me. I think it demonstrates that there continues to be a problem with race in parts of our criminal justice system that we’re simply ignoring—to our detriment.”

Despite his experience on both sides of the criminal justice system, Lucas plans to start his legal career with the law firm WilmerHale. Lucas recalled, “I didn’t know what to expect from a firm as large as WilmerHale, where I was a summer associate, but I ended up loving the practice and both Boston and Washington, D.C.” During the time he worked at WilmerHale, Lucas found corporate law intellectually stimulating and enjoyed having the resources needed to develop and prepare cases. After graduation, he plans to join WilmerHale in its Washington, D.C., office.

Politics may still be in his future as well, Lucas says. “I’d like to get a few years under my belt as a practicing attorney first. Returning to politics is still a possibility at some point in life.” After all, he concludes, “This life has already taken me many places where I didn’t think I’d ever be.”

~JUDITH PRATT
In May 2009, Magdalena Hale Spencer ’09 expects to receive both her J.D. and her D.V.M. from Cornell. Although she still identifies with her friends in the Law School’s 2006 class, she has combined her work on the two degrees and completed them in six years instead of the seven it would have taken if she had done them seriatim.

Our conversation took place in the veterinary clinic over coffee. “When I started law school I didn’t drink coffee, but by the time I started vet school, I did,” Spencer admitted. Her days at the clinic usually begin around 7 a.m., and end more than twelve hours later.

With an undergraduate degree in biology from Cornell, Spencer originally planned to go into research. “I’m the only science-oriented person in my family except for my grandmother,” she noted. Both her parents are journalists, as are her grandfather and her sister. Her father worked for the New York Law Journal in Albany. “He was really disappointed when I went to law school, but he’s adapted well,” quipped Spencer.

After receiving her undergraduate degree, Spencer worked for over two years as a research assistant in a neurology lab at Harvard Medical School. The Health Insurance Portability and Accountability Act (HIPAA), was fairly new at the time, and, Spencer recalled, needed three databases to implement at the medical school. Intrigued with the way law affected so many areas of life, she began taking law classes. She loved them. “Law is how we work together as a society, how we interact with each other as a community,” she said. “How can you not like it?”

A professor at Harvard encouraged her to combine both interests. “Science talks one language, with dialects, and then there’s legal language,” explained Spencer. Knowing both languages would, among other things, help to make laws such as HIPAA easier to implement. To learn both languages, Spencer first considered combining an M.D. with her J.D., which is the more usual option. However, as an undergraduate she had done animal research and also ridden for the varsity equestrian team, and she loves horses and dogs. “You get more experience with a D.V.M. without having to do a residency,” she added.

And, because researchers at Cornell’s College of Veterinary Medicine study all areas of medicine, from cardiology to genomics, Spencer is getting a solid medical education.

With outstanding schools in both areas, Cornell was among her top choices. Spencer also liked the idea of a small law school, because her undergraduate class was so large. Neither Cornell school had ever done this particular dual degree, and she had to be admitted to each one separately. “Nan Colvin, the Law School registrar, has been great,” Spencer says. “And Associate Dean Lukingbeal has been a godsend. She checks in with
Intrigued with the way law affected so many areas of life, she began taking law classes. She loved them. “Law is how we work together as a society, how we interact with each other as a community,” she said. “How can you not like it?”

me regularly to be sure I’m managing.” Paige Frey, registrar at the Veterinary College, also helped Spencer put together her challenging schedule. “You should see my spreadsheet,” Spencer joked.

Since her main focus will be law, Spencer spent her first two years solely at the Law School. With Hay teaching her torts class, she said, “you had to be completely prepared, so I developed great study habits. I probably did well in law school because of him.” In fact, she is now doing an independent study with Hay.

In her third year, she began veterinary school. There, material is organized into “blocks” rather than classes. A “block” is one large class of six to twenty credits, in which students study cases rather than attend traditional classes. Although it’s difficult scheduling law classes around that, Spencer wanted to take a law class every semester. “As a lawyer, you have to see every aspect of a case,” she explained, “while a veterinarian narrows every-

thing down to a treatment plan. I didn’t want to lose all the rewiring that was knocked into me in my first year at the Law School!”

In the spring of 2006, she took a full load at both schools for a total of thirty-seven credits. The understanding and support of professors in both schools made it possible, said Spencer, adding “I’ve never had a professor that I didn’t enjoy.”

Just to round out her education, Spencer spent a summer in the Law School’s program at the Université de Paris, and will also receive an LL.M. degree. “I ended up really enjoying international law,” she noted. “Cornell is a great place for that.” She has also found time to serve as a tour guide for both the Law School and the Veterinary College, a bench editor on the Moot Court Board, editor of the Cornell International Law Journal, vice president of the Intellectual Property and Technology Association, and join the milking crew at the Veterinary College. All vet students have to put in a stint milking, but Spencer continued after that. “Most of my Law School friends don’t want to hear about things like that,” she laughs. “But one friend asked to come along and learn to milk.”

Her veterinary friends like to tease her about being a lawyer, but once they began getting employment contracts, they asked Spencer to look at them. “I don’t give legal advice,” she assured me. “I just tell them what questions to ask.”

The combined degree will open many doors for Spencer. She knows of one other person interested her the most. After graduation, Spencer will join that firm, working in intellectual property areas that involve biotechnology companies.

She has had to give up riding and backpacking while completing her dual degree, although she still finds time to ski with her grandfather, a Telemark instructor, and to go for long walks with her dog. She also likes to knit, getting together with Law School friends to knit and watch movies. “I’ve been halfway through a sweater for a year now,” said Spencer. Perhaps she will find time to finish it once she has completed her three degrees.

~JUDITH PRATT
STUDENT PROFILE

Erin Kathleen Mawson Wiley ’09

Beginning with an early interest in the arts, including a stint as a child actor, through several years in her college’s international medical outreach program, Erin Kathleen Mawson Wiley ’09, has now opted for a career in corporate law. Her interest in the discipline, she recalled, also began in her youth. “When I was fifteen, I heard a speech by international prosecutor Louise Arbour,” Wiley remembered. “I was so inspired by her work and the importance of her practice as a lawyer, that it never really left me. Law was a natural choice.”

Her parents are both teachers and made sure that she was exposed to the arts, current events, and even a summer engineering camp. But the best decision her parents made, Wiley said, was to put her in a French immersion program when she was five years old. Growing up on the prairies of Alberta, Canada, Wiley took most of her pre-college schooling in French. Her skill in that language is important to her success at the Université de Paris I and Institute d’Études Politiques de Paris, where she is a candidate for a Master of Global Business Law to add to her upcoming Law School J.D.

As an undergraduate at Queen’s University in Kingston, Ontario, Canada, studying English and history, Wiley spent two summers in Ottawa using her bilingual skills as an interpreter-guide for Parliament and the residence of Canada’s governor-general. “It was phenomenal,” she said. “You were right in the heart of Canadian politics with other young people. I made lasting friendships.”

Wiley also joined Queen’s Medical Outreach, a student-run project that develops health-related programs in Kenya, Guyana, Belize, and Northern Canada. For two months, Wiley taught in a school in Belize and partnered with governmental and nongovernmental agencies to facilitate sustainable education projects. Upon her return, she became codirector of the Belize Project, and then co-director of the Medical Outreach program as a whole. “The experience strongly influenced me in my formative years,” Wiley recalled. She then used her skills to work as an intern for conference at the United Nations with ATHGO, the Alliance Toward Harnessing Global Opportunities. The group runs conferences for students from around the world who are interested in international affairs.

Wiley decided that law was the way to nurture her interests in international public policy. “You get a great skill set to bring to those areas, as well as respect from other fields,” she noted. Although she plans to live and work in New York City, Cornell’s strong program in international law and wonderful reputation—as well as the Paris program—drew Wiley to Ithaca.

At the Law School, Wiley emphasizes that Professor Joel Atlas “taught me many of the skills that made my summer associate experience a success. He has been incredibly supportive, and has a true commitment to his students.” Wiley also particularly enjoyed her classes in international law with Professor Muna B. Ndulo, and torts and products liability with Professor James A. Henderson Jr., the Frank B. Ingersoll Professor of Law.

Her main activity, however, was Ms.JD, a blog created by women in law schools across the country to discuss issues relevant to women in law. As their Web site says, they were “concerned by the rates at which women opt out of the legal profession, the lack of representation of women in the highest courts and echelons of the legal community, and the role of gender in the progression of many women’s legal careers.” The blog was created in March of 2006.

In her first year at the Law School, Wiley attended Ms.JD’s launch at Yale, met the founders, and eventually became copresident of the Cornell chapter. Professor Bernadette A. Meyler, who served as their faculty advisor, “provided incredible support,” Wiley said. Then Associate Dean Lukingbeal helped Wiley get an interview with Sandra Day O’Connor. “Justice O’Connor agreed to have it published
in Ms.JD, and that brought us a lot of exposure!” said Wiley. From Paris, Wiley now serves on the group’s board of directors as national content coeditor, updating posts and soliciting content. The site can be found at ms-jd.org.

Her experience as a summer associate for Weil, Gotshal, and Manges changed her focus from international development to corporate law. “Friends, and friends of my parents, told me to go into law school with an open mind,” Wiley recalled. “I never thought I’d say I’m going to be a corporate attorney, but now I can see working there for many years. I had a fantastic time. I was so lucky to have a great many learning experiences with attorneys and partners who took the time to talk to me and answer my questions.” Her time in New York City also allowed her to go to theatre and ballet performances, as well as to take classes at the Alvin Ailey dance company.

In Paris, Wiley has used her free time to visit friends in Europe, and to spend three weeks in Weil’s Paris office. Her classes, Wiley noted, have required an adjustment in how she learns. “In America we study cases,” she explained. “This is theoretical, looking at where the law comes from. We’re also considering communitarian law, the law of the European Union. It’s a different approach to law and a different way of learning.”

Wiley still has many friends in international development, but, she says, “for where I am right now, I think the corporate route is best for me.” She hopes to use her development experience in her pro bono work.

As she completes her semester in Paris, Wiley is training for the annual 10K race in which she and her father compete every New Year’s. “It’s nice to run in Paris,” she says. “There are beautiful gardens.” She also goes to the many galleries available, keeping her interest in the arts strong even while she focuses on the law.

—Judith Pratt
Curia Society Celebrates Its Seventy-eighth Annual Dinner

October 28th marked the seventy-eighth annual Curia Society dinner in New York City. One hundred and three alumni and guests gathered at the Harmonie Club to network and hear from the distinguished guest speaker Robert M. Morgenthau, district attorney of New York County.

The evening began with a cocktail reception that provided the thirty-six young alumni in attendance (members from the classes of 1998-2008) an opportunity to network with the more seasoned alumni in the room. After exchanging thought provoking ideas, sharing challenges in the profession, pontificating over the current economic crisis, and exchanging business cards, guests settled into their seats and enjoyed a delightful three course dinner in one of the finest clubs in town.

Hon. Stephen G. Crane ’63 gave welcoming remarks after which Neil V. Getnick ’78 offered a brief history of the Curia Society and introduced Stewart J. Schwab, the Allan R. Tessler Dean and Professor of Law. Schwab gave an update on the Law School, emphasizing its stability in these dynamic economic times.

After dinner, Getnick returned to the podium and introduced Morgenthau as a true leader in law enforcement, a man who is highly distinguished among his peers and the citizens of New York City. Morgenthau shared his insight regarding the current economic state of affairs and the challenges that we, as a society, face. His comments were enlightening and left his audience with great respect for a man who has dedicated his life’s work to the betterment of society.

As always, the event was successful because of the strong support of its volunteer committee, which was cochaired by Crane and

During the most recent Curia dinner, Morgenthau shared his insight regarding the current economic state of affairs and the challenges that we, as a society, face. His comments were enlightening and left his audience with a great respect for a man who has dedicated his life’s work to the betterment of society.
Regulating the Regulators: Kotz ’90 Investigates SEC’s Handling of Madoff

Just a few days after celebrating his first anniversary as inspector general of the U.S. Securities and Exchange Commission (SEC), H. David Kotz ’90 was awakened by a latenight telephone call from SEC Commissioner Christopher Cox. The alleged Madoff Ponzi scheme, which bilked charities and individuals of as much as $50 billion, had just been discovered by the Federal Bureau of Investigation. Kotz, as the agency watchdog, was given the very difficult task of investigating why the SEC had missed it, despite having received complaints about Madoff since 1999. Heidi L. Steiber ’02 is assisting Kotz with the investigation.

On January 5, 2009, Kotz testified before the U.S. House of Representatives Committee on Financial Services, assuring the committee that “our investigation and review will be independent and as hard-hitting as necessary.” Facing strident bipartisan criticism from the committee, he indicated that he would not only investigate this particular matter, but would also examine the SEC’s structure for handling such issues. “It is my view,” he said, “that at the end of these investigative efforts, there needs to be more than just the potential identification of individuals who may have engaged in inappropriate behavior or potentially failed to follow up appropriately on complaints, but rather an attempt to provide the Commission with concrete and specific recommendations. . . . to ensure that the SEC has sufficient systems and resources to enable it to respond appropriately and effectively to complaints and detect fraud through its examinations and inspections.”

Kotz has already had a busy year at the SEC, examining in depth the Commission’s oversight
of Bear Stearns and the factors that led to its collapse, among many other issues. Previously, Kotz was inspector general of the Peace Corps. He also held positions at the U.S. Agency for International Development and private firms Graham & James in New York City and Pepper Hamilton LLP in Washington, DC.

Peter J. Kiernan ’68 Appointed Counsel to NY Governor

New York governor David A. Paterson has appointed Cornell Law School alumnus Peter J. Kiernan ’68 to serve as counsel to the governor. The governor cited Kiernan’s “breadth of experience and sage advice” among the qualifications he brings to the post. “Mr. Kiernan’s wide experience in public financial matters will prove helpful in advising the governor during the present difficult economic climate in New York State,” said Stewart J. Schwab, the Allan R. Tessler Dean of Cornell Law School.

As chief counsel, Kiernan becomes a top adviser to Paterson and one of the most powerful figures in the executive chamber, which faces an unprecedented budget deficit this year. The counsel’s office plays a critical role in the executive branch of New York state government, vetting potential bills, among other duties.

During the New York City fiscal crisis of the mid-1970s, Kiernan served as counsel to the deputy mayor for finance of the City of New York. During this time Kiernan authored what is known as the Shinn Committee Pension Reform Legislation, which completely restructured New York City’s five actuarially funded pension systems.

In 1978, Kiernan was appointed chief counsel to the New York State Senate Minority. Later, as a Littauer fellow at the Kennedy School of Government at Harvard University, he wrote an analysis of the New York City fiscal crisis, which was published by Harvard.

In 1984, Kiernan was retained by the administration of then-governor Mario Cuomo to coordinate the proposed Westway State Park Project. In 2003, he authored the Report of the Association of the Bar of the City of New York on the New York City Charter Revision Commission and its controversial proposal to eliminate partisan elections in New York City. Most recently he worked in the public-finance department of the law firm Edwards Angell Palmer & Dodge LLP.

In addition to his Cornell law degree, Kiernan is a graduate of John Carroll University and the Kennedy School of Government at Harvard. He is currently a student at Cornell’s Johnson School, expecting to graduate with his M.B.A. in 2009.

Hayley Reynolds ’05 Detailed to Iraq by Department of Justice

Assistant U. S. Attorney Hayley E. Reynolds ’05 is living and working in a place most Americans consider dangerous. In early November, Reynolds traveled to Iraq, to spend six months serving as an attorney advisor in the Office of the Rule of Law Coordinator at the American Embassy in Baghdad. The mission of that office is nothing less than restoring the rule of law throughout Iraq and, with it, the people’s faith in the legal system. It is an ambitious project of terrific scope and obvious importance and is part of the Department of State’s larger reconstruction effort.

The rule of law project includes twenty Justice Department attorneys and more than 200 Justice Department law enforcement officers, including agents from the FBI, ATF, DEA, and the U.S. Marshals. Reynolds joined the Rule of Law Coordinator’s Office from the U.S. Attorney’s Office in Denver, Colorado, where she works in the appellate division. She previously served in Washington, D.C., as counsel on national security issues for the deputy attorney general and clerked for Hon. Timothy M. Tymkovich on the U.S. Court of Appeals for the Tenth Circuit.

Although she will not practice law prosecuting specific cases, Reynolds’s work in Iraq requires individual problem-solving related to judicial security and other macro-level issues essential to establishing a legal system that is equitable, transparent, humane, effective, and efficient—and perceived by Iraqis as such. “Our goal is to help the Iraqis develop a sustainable system in which the law treats everyone in a fair and unbiased manner,” Reynolds says. “The important thing for everyone to understand is that we are not exporting our system to Iraq. They have their own legal system, which is quite different from ours. It’s very much a case of their driving the train, and our role is to help them any way we can.” This practical assistance includes helping to ensure judicial security in a nation where insurgents have assassinated thirty-six judges, court personnel, and family members. “The judiciary, and we on their behalf, want to achieve open court proceedings,” Reynolds explains, “to the end of creating greater transparency and, ultimately, trust. But that is extremely difficult when judges and their families are considered targets. Judicial security is one of the biggest challenges we face.”

With her tour slated to end in spring, Reynolds is both optimistic about the process and realistic about its demands. “The rule of law is the foundation of a civil society, and the Iraqi democracy cannot succeed without a functioning court system. Its importance is evidenced by the government’s opponents, who continue to target the judiciary with
violation, and by the Iraqi judges themselves, who are risking their lives every day just by going to work.” Reynolds calls their bravery and commitment “truly inspiring” and says, “We’ve made a lot of progress together, and we’re working to ensure that progress continues.” In the final analysis, a posting of this sort appeals to the conscientious person’s sense of duty rather than her sense of self: to make a vital contribution to a just cause. Reynolds concludes, “It’s essential that Iraq have a functioning legal system that people trust. This effort is tremendously important to our nation and to theirs.”

Victor J. N. Cummings ’89 Stands and Delivers

Victor J. N. Cummings ’89 is working hard to improve a country that has often been cruel to him. Returning to Jamaica in 1990 to perform the melancholy duty of burying his brother, who had been killed by gang violence, Cummings fell in love with his native land. He decided to make his life there, and to make a difference in the lives of Jamaicans by using his education to remediate chronic deficiencies in education, housing, employment, and governance. His public and private service since then, culminating in his tenure as a member of Parliament from 2002 to 2007, has reduced crime and improved education in inner-city neighborhoods that are some of the nation’s poorest.

The gains he achieved on these and other quality-of-life issues earned Cummings support and respect. “I lived in the community I represented,” he says. “People could always find me. I didn’t have bodyguards and drivers to keep me insulated. The people liked that I told them the truth.” Despite his popularity, Cummings was essentially forced out of politics by urban gang leaders, whom he challenged on important issues and with whom he would not compromise. When he went so far as to denounce openly the connection between gangsters and politicians, he lost the active support of his party and won the animosity of the gangsters, who threatened his life. “These are violent criminal gangs,” Cummings explains, “and I was in direct and open opposition to them. They organized against me and paid people not to vote for me in the primary. I lost by thirty votes.”

Jamaica is well known in the American imagination, as well as to thousands of tourists, as an island paradise, but the island nation is also notorious, alas, for its violence. The eulogy Cummings delivered in 1990 for his brother was not the first he had given, having performed the same rite in 1977 for another brother who had suffered a similar fate.

“I felt it was time for me to return home,” he says. “My brother and I were close, and he had dreams of what Jamaica could become, how great it could be. He encouraged my educational goals and entrepreneurial projects, all of which he saw as ways of eventually benefiting our homeland.” Cummings moved to the United States with part of his family in 1969 and there obtained a valuable education. His undergraduate degree in political science and philosophy from C.W. Post College of Long Island University, his master of public administration from Baruch College of the City University of New York, and his Cornell graduate work in city and regional planning as well as in business, along with his degree from the Law School, were resources he would now put to good use.

Committed to the principle of “education first,” Cummings has devoted his energies since 1990 to teaching and serving the people of Jamaica. He served as vice-chair of the Downtown Kingston Management District, revitalizing the economic base of Jamaica’s capital, and subsequently worked as a senior project manager at the Urban Development Corporation. Concurrently, Cummings was elected parish councilor for the Allman Town Division of Kingston, which he represented in the city’s local government, and became chairman of the parish development committee. When he won election to Parliament in 2002, Cummings became the first person in more than sixty years to serve as a parish councilor and a member of Parliament at the same time. In 2006, he became a Minister of State in the Ministry of Agriculture and Lands.

These efforts and much more community-based, public-sector work earned Cummings such admiration that the residents of Kingston Central wrote to Karen V. Comstock, Cornell Law School’s assistant dean for public service, to nominate Cummings for the Law School’s public service award. Their letter recounted, among other things, how through
contributions and at times the use of his salary, over 400 elderly were fed weekly, computer learning centers were established in every school, and dilapidated houses were repaired. Library facilities of several schools were refurbished through donations Cummings solicited from his friends in the United States. Denied candidacy and a likely return to Parliament by the conspiracy of the gangs, Cummings has since resumed full-time academic work. He complements his teaching of land-use and planning law, urban governance and community development, and intergovernmental relations with pursuit of an M.Phil./Ph.D. dual-degree in governance, local community development, and empowerment. Although he seems content for now at the Sir Arthur Lewis Institute of Social and Economic Studies at the University of the West Indies, Cummings has larger plans than those typically associated with the tranquil life of a career academic. “I am a single parent with a young family—my children are Jonathon, fifteen, Katherine, thirteen, and Victoria, ten—and my focus right now is on them and on my teaching. I’m proudest about my children. People ask me all the time if I’ll go back into politics and I tell them, ‘Maybe. One day.’ My ambition was to become one day the first directly elected mayor of the City of Kingston. I might still pursue it, but right now I have moved on from politics. Who knows what the Lord has planned for the future.”

Clarke Business Law Institute Defies Economic Downturn

The Law School announced in October the endowment of the inaugural professorship for the Jack G. Clarke Institute for the Study and Practice of Business Law. The Distinguished Professor of Business Law is the first of three named professorships to be associated with the Clarke Business Law Institute, which will provide Cornell Law students with sophisticated courses, workshops, and conferences in such contemporary subjects as comparative corporate governance, venture capital and private equity, global business law, and more. As a timely and growing academic initiative, the Clarke Business Law Institute has been the subject of many conversations between Schwab and alumni particularly interested in how business law is taught and studied at Myron Taylor Hall.

“I am deeply grateful and encouraged that the Law School has been able to attract this endowment for a professorship in the Clarke Business Law Institute,” notes Schwab. “Expansion of the permanent faculty, particularly within this scholarly focus, is among the highest priorities of the Law School in the context of the Far Above campaign.” Although the donor of the Distinguished Professor chair wishes to remain anonymous, this person is hopeful that the new professorship will encourage Law School alumni to support the Clarke Business Law Institute at any level.

“At present, we’re focused on multiple donors to endow a second professorship,” explains Peter Cronin, associate dean for alumni affairs and development. “To date [October 28, 2008], we have commitments for nearly half of the $3 million total needed to endow the chair. Conversations aimed at achieving the balance are ongoing.” Given the likelihood that dozens of individual donors will eventually contribute, it is apt that this position will be named the Cornell Law School Alumni Professorship in Business Law.

Named for Cornell Law School alumnus and foremost benefactor Jack G. Clarke ’52, the Clarke Business Law Institute envisions a third professorship as well as an executive director to oversee an ambitious slate of conferences, lectures, and symposia, as well as at the Institute’s prospective practitioner-oriented events in New York City and other business centers. “The directorship also offers an outstanding and important endowment opportunity,” notes Cronin. In addition to working with Law School faculty to develop Institute programming, the executive director will work closely with affiliated faculty based at Cornell’s Johnson Graduate School of Management, ensuring cooperation between the two schools at all levels.

The Second Economic Law International Lectures Series in Bogotá

On October 16, a significant conference took place in Bogotá, Colombia. Under the auspices of Professor Alfonso Miranda Londoño, LL.M. ’87, Pontificia Universidad Javeriana and its Facultad de Ciencias Jurídicas (Law School), Department of Law and Economics, and Center of Antitrust and Competition Law Studies (CEDEC), the second Economic Law International Lectures Series was convened. Approximately 140 people gathered to hear and discuss the new competition law and antitrust bill currently being debated at the Congress of the Republic of Colombia.

This event, which had two simultaneous interpreters, also featured Cornell Law School’s Edward Cornell Professor of Law and Economics George A. Hay, as the keynote speaker. Hay gave a presentation about the current legal and economic challenges of antitrust law in the United States. Javeriana’s law faculty recognized Hay as a distinguished guest and scholar.

Prominent government officials and legal and economic scholars from Columbia explored
Beginning his career as a legal aid attorney, Getnick then clerked for a U.S. Supreme Court justice before starting his own practice. In 1986 he founded his own firm. He now is a partner in Getnick, Livingston, Atkinson, Gigliotti & Priore, LLP, of Utica, New York, and of counsel to Getnick and Getnick in New York City. Joining the NYSBA organization soon after graduating from the Law School, Getnick has served the group in many capacities, including as secretary and as vice president of the fifth judicial district. Getnick presently serves on the NYSBA’s Committee on Diversity and Leadership and, he writes, “The goals of this committee are at the heart of our Association. Although we have made strides in the diversity of membership and leadership in our Association, we have miles to go.” As examples of these miles, he cites the “glass ceiling” problem for female attorneys, and the adverse effect on minorities of the recent increased passing grade for the state bar examination.

Despite attacks on attorneys and the judiciary, Getnick sees law as an honorable and useful profession. “Lawyers are at their best in the forefront of promoting pro bono representation, access to justice, and equal justice,” he writes. To harness these energies, he plans to work with the NYSBA’s past presidents to ensure that Association membership continues to increase.

Marcia Goldstein ’75 Receives Two Honors

Marcia L. Goldstein ’75 chair of Weil Gotshal & Manges’s Business Finance and Restructuring (BFR) Practice, has been named to the Wall Street Journal’s “50 Women to Watch,” an annual feature listing the most influential women in the country “who are poised to have an impact on the world of business.” Goldstein, the only private practice attorney on this year’s list, was selected for outstanding work advising some of the largest debtors in the country.

Introducing her as leader of what is “arguably the hottest legal practice of the moment,” the Wall Street Journal cites Goldstein’s role in American International Group’s out-of-court restructuring and as lead bankruptcy counsel for Washington Mutual and LandSource. It also notes that the Weil Gotshal team is
handling the bankruptcy of Lehman Brothers Holdings, the largest corporate bankruptcy in U.S. history.

Additionally, Goldstein has been honored as one of this year’s “Women of the Year” by the International Women’s Insolvency & Restructuring Confederation (IWIRC). Goldstein received this recognition at the annual American Bankruptcy Institute’s Winter Leadership conference in December. IWIRC chair Debra Kuptz stated that Goldstein and her fellow honoree, Judge Mary Grace Diehl, “exemplify the best attributes of women in the restructuring field” and have “a deep understanding of the unique nexus between law and business that defines the restructuring process.” She also cited their “strong willingness to support other women in the profession.” Among Goldstein’s numerous credentials, the IWIRC announcement highlighted her role advising American International Group (AIG) in connection with its restructuring, serving as lead counsel to LandSource Communications Development and Washington Mutual in their Chapter 11 cases, as well as her work on previous high profile reorganizations such as WorldCom and Parmalat.

Throughout her more than thirty years with Weil Gotshal, Goldstein has practiced in all areas of domestic and international debt restructuring, including crisis management and corporate governance. Her clients include debtors, bank groups, secured and unsecured creditors, statutory creditors’ committees, trustees, and other parties in other major debt restructurings and Chapter 11 cases. Past notable representations include serving as lead counsel in the restructuring of WorldCom, achieving confirmation of its plan of reorganization in fifteen months, and in the international restructuring of Parmalat.

Goldstein’s legal achievements are particularly impressive as one of few women who have risen to the top of a field still dominated by men. She imparts what she has learned along the way by maintaining a strong commitment to mentoring younger women attorneys at the firm.

“Marcia’s selection to this prestigious list underscores how much of an asset and leader she has been to the Business Finance and Restructuring Practice, our firm and our clients,” said Stephen J. Dannhauser, chair of Weil Gotshal. “In addition to her recognition as a skilled attorney, she is also a much admired mentor and role model to many women at the firm.”

Goldstein’s legal achievements are particularly impressive as one of few women who have risen to the top of a field still dominated by men. She imparts what she has learned along the way by maintaining a strong commitment to mentoring younger women attorneys at the firm. An instrumental force behind Weil Gotshal’s Women@Weil group, she contributes to the firm’s pioneering affinity program that focuses on firm-wide mentoring and networking initiatives.

Goldstein chairs Cornell’s Law School Advisory Council and has served on its Visiting Committee as well as its Dean’s Special Leadership Committee. She attended Cornell University as an undergrad and received her J.D. from Cornell Law School where she has returned as a frequent lecturer. She has also lectured at Yale Law School and Columbia Law School.

Alum Honored for Pro Bono Work on Behalf of Transgendered Inmates

Matthew W. dos Santos ’06 received an Angel Award from California Lawyer magazine, honoring his pro bono work on behalf of a transgendered prisoner in Idaho. Dos Santos, and three corecipients of the award from Morrison & Foerster in San Francisco, worked with the National Center for Lesbian Rights (NCLR) on the precedent-setting case.

The article announcing dos Santos’s award describes how he and his colleagues filed motions and wrote numerous briefs for the case, which the magazine describes as “desperate.” The article mentions that the Idaho Department of Corrections “denied seventy-five requests by Jennifer Spencer for medical evaluation and treatment for gender identity disorder, which led to Spencer’s self-castration.” A preliminary injunction ordered the prison system to provide Spencer with “female hormone therapy and psychotherapy to address Plaintiff’s gender identity issues.” The case is now in settlement negotiations, with dos Santos and others working to reform the Idaho Department of Corrections policies towards transgendered prisoners.

Dos Santos started working on this case as a third-year student in a full-term externship program taught by Professor JoAnne M. Miner. Dos Santos served as lead attorney on the case with NCLR counsel and fellow alum Shannon Minter ’93. “It was always clear to me that Matt was committed to making use of his legal skills and expertise on the behalf of individuals and groups who have been marginalized by
society, and whose humanity has been denigrated,” Miner said. “Cornell Law School can be very proud that our alumni are doing work that is critical to the pursuit of social justice. This is, indeed, ‘lawyers in the best sense.’”

Inside the Department of Homeland Security

Gus P. Coldebella ’94, when serving as acting general counsel of the U.S. Department of Homeland Security (DHS), returned to the Law School on October 7 to give a brief talk about what goes on behind the scenes at the DHS. He discussed the history of the department and described how, since it was created from numerous other departments, there are various jurisdictional issues with Congress. He went on to explain how the main responsibility for protecting the homeland extends out into the communities. The DHS is not so much into risk elimination as it is involved in a risk reaction mode—working to diminish the nation’s risks most efficiently. It is involved largely in information sharing, knowing who or what is approaching our shores.

Coldebella’s role was to oversee over 1700 lawyers, mainly involved in immigration litigation, and to advise both the president and the Secretary of Homeland Security, especially the latter in his role as “quarterback” during any type of national emergency.

On October 16, 2007, Coldebella was nominated by President George W. Bush to be the third general counsel of the Department of Homeland Security. He joined DHS as deputy general counsel in October 2005 after eleven years in private practice. Until September 2005, Coldebella was a partner at Goodwin Procter LLP in Boston, where he practiced in the firm’s litigation department and specialized in trial and appellate work, complex business and transactional cases, securities class action defense, and Securities and Exchange Commission investigations and enforcement actions. Coldebella also prosecuted crimes as a special assistant district attorney in Cambridge, Massachusetts.

Nine Sworn into the United States Supreme Court Bar

On December 3, the Cornell Law School Alumni Affairs Office hosted its inaugural group admission to the U.S. Supreme Court Bar Association. Eight alumni and one close friend of the Law School raised their right hands to uphold their office as newly sworn-in members of the bar in the courtroom of the U.S. Supreme Court in Washington, D.C. Among those admitted were Rodney A. Brown ’75, Karl J. Ege ’72, Cecelia L. Fanelli ’79, Hon. Margaret J. Finerty ’78, Neil V. Getnick ’78, Cyrus Mehri ’88, Michael I. Wolfson ’67, GuoHua (Annie) Wu ’01, and Norma W. Schwab.

After being sworn in, alumni and their guests were invited to stay and listen to the day’s oral arguments. “Not only was the ceremony special for our alumni, it was exciting to watch our very own Justice Ruth Joan Bader Ginsburg, B.A. ’54 in action,” remarked Kristine S. Hoffmeister, director of alumni affairs. Dean Schwab joined them to witness Jason E. Murtagh ’99 representing the prisoner/petitioner, arguing in the Haywood case before the Court. The group also enjoyed a tour of the Supreme Court building and a private dinner the evening before at the Monocle Restaurant on Capitol Hill.

The Alumni Affairs Office recognizes Sara Beltz Rodriguez ’96 who moved the party forward in Court. Sara was sworn in as a member of the Supreme Court Bar with her family members in 2001. The Beltz family swearing-in is noted as the largest “family swearing-in” in the history of the Supreme Court with eleven members taking the oath.
Alumni Office Announces Promotions

Kristine Hoffmeister has been promoted to director of Alumni Affairs for Cornell Law School. Kristine joined the staff in October of 2007 as associate director and quickly distinguished herself with her professionalism and expertise. She oversaw the completion of one of Cornell Law School’s most successful reunion weekends in anyone’s memory with record attendee turnouts. Kristine holds B.S. and M.B.A. degrees from Canisius College. Prior to joining Cornell Law School, she served in Canisius’s alumni office and as director of Alumni Affairs and interim director of the Erie Community College Foundation. You can continue to reach Kristine through her campus extension (607) 255-3037 or her email address ksh54@cornell.edu.

Dawna Carpenter was promoted to assistant director of Alumni Affairs for Cornell Law School in September 2008. Dawna originally joined the Law School’s team as the Alumni Affairs Office administrative assistant. Prior to joining Cornell, she worked in small business management for over ten years, specializing in business-to-business technology consulting, human resources, and most recently managing operations at an Ithaca area biotechnology company. Dawna has proven herself to be a team player in a dynamic environment and has formed strong bonds with many of our alumni. Dawna holds an associate’s degree and achieved the accomplishment of valedictorian of her major from the South Hills School of Business and Technology in State College, Pennsylvania. She has also completed sixty credits toward her bachelor’s degree at Penn State. Dawna can be reached at djc366@cornell.edu or (607) 255-3408. She is based in the Alumni Affairs office, 382 Myron Taylor Hall.

In Memoriam

Henry C. Estabrook ’40
Irving L. Price ’41
Harold A. Weiss ’42
Constance E. Cook ’43
Betty B. Parkany ’49
Leonard S. Corwin ’50
Stuart McAlles Hirschberg ’51
Harry W. Albright ’52
Lawrence Berman ’53
Albert V. Marchigiani ’53
Edna A. Boorady ’54
C. Addison Keeler ’55
Hon. S. Barrett Hickman ’59
A. Daniel Rooney III ’59
Walter J. Ward ’65
Walter Ronald Bailey ’67
Thomas F. Pasqua ’67
Albert H. Meyerhoff Jr. ’72
Lorraine Power Tharp ’73
Katherine A. Smith ’77
Ralph W. Patrick ’80
Stephen R. Seely ’80