

FACULTY NEWS

Spring 2009

Vol. 10, No. 2

Scholarship, Honors, and Professional Activities

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PUBLICATIONS

Paul Butler's book *Let's Get Free: A Hip-Hop Theory of Justice* was published in May. He discussed the book at Busboy and Poets in May. Paul's work on jury nullification is excerpted, and replied to by six legal scholars, in *Criminal Law Conversations*, a new book from Oxford University Press which presents popular versions of seminal criminal law scholarship.

Steve Charnovitz coauthored the book *Global Warming and the World Trading System* and spoke at a book launch at the Peterson Institute for International Economics in March. In addition, he wrote an essay on US protectionism for a volume of essays released at a side event to the G20 London Summit and an essay titled "An Introduction to the Trade and Environment Debate," published in the *Handbook on Trade and the Environment* (Edward Elgar, 2009).

Bradford R. Clark published "Process-Based Preemption" as a chapter in *Preemption Choice: The Theory, Law, and Reality of Federalism's Core Question* (Cambridge University Press 2009).

Charles B. Craver's article "Negotiation Ethics for Real World Interactions" has been accepted for publication in the *Ohio State Journal on Dispute Resolution* and his article "How to Make the Much Needed Employee Free Choice Act Politically Acceptable" has been accepted for publication this summer in the *Labor Law Journal*.

Lawrence A. Cunningham published an op-ed piece in The New York Times in March entitled "AIG's Bonus Blackmail." He has two forthcoming scholarly articles, "Treatment Differences and Political Realities in the GAAP-IFRS Debate," at 95 *Virginia Law Review* (with William Bratton) and "The New Federal Corporate Law?" at 77 *George Washington Law Review*.

Roger Fairfax's edited volume, *Grand Jury 2.0: Modern Perspectives on the Grand Jury*, will be published by Carolina Academic Press in 2009.

Phyllis Goldfarb's book review, *American Ways of Death*, will be published in 27 *Law and History Review* (Fall 2009). She also wrote a book review of Charles J. Ogletree, Jr. and Austin Sarat's, *From Lynch Mobs to the Killing State: Race and the Death Penalty in America* (2006).

The fourth edition of **Laird Kirkpatrick's** hornbook on *Evidence* (with Prof. C. Mueller) was published in April by Aspen Legal Publishers in a hardbound edition for lawyers and libraries and a softbound edition for students. His article "Nontestimonial Hearsay After Crawford, Davis and Bockting" has been reprinted as a book chapter in *Hearsay Evidence: Limits and Limitations* (A. Sabitha, ed. 2008).

Cynthia Lee published "The Gay Panic Defense" at 42 *UC Davis Law Review*. The second edition of her casebook (with Angela Harris) *Criminal Law: Cases and Materials* was published in April by Thomson/West Publishing Company. Her work entitled "Reasonable Provocation and Self-Defense: Recognizing the Distinction Between Act Reasonableness and Emotion Reasonableness" was selected for publication as a chapter in the forthcoming book, *Criminal Law Conversations* (Oxford University Press), edited by Paul Robinson, Kim Ferzan and Stephen Garvey. Her work entitled, "Hate Crimes and the War on Terror," will be published this year by Greenwood Publishing Company as a chapter in a 5 volume treatise, *Hate Crimes: Perspectives and Approaches*, edited by Barbara Perry.

Ira C. Lupu and Robert W. Tuttle co-authored "Courts, Clergy, and Congregations: Disputes between Religious Institutions and Their Leaders" forthcoming in *Georgetown Journal of Law & Public Policy* (2009).

Gregory E. Maggs and Peter J. Smith published a new casebook, *Constitutional Law: A Contemporary Approach* (West 2009).

Gregory E. Maggs published "A Concise Guide to the Records of the State Ratifying Conventions as a Source of the Original Meaning of the United States Constitution," at 3 *University of Illinois Law Review* 457 (2009).

Sean D. Murphy published *International Law: Cases and Materials* (5th ed., 2009) (with Damrosch, Henkin, & Smit).

Peter Raven-Hansen submitted the manuscript for *Understanding Civil Procedure* (LexisNexis 4th ed.).

Steven L. Schooner's article, "Why Contractor Fatalities Matter," appeared in the Autumn 2008 issue of *Parameters, U.S. Army War College Quarterly*. He co-authored two pieces with Chris Yukins: "Feature Comment: Tempering 'Buy American' In The Recovery Act—Steering Clear Of A Trade War," in the a March issue of the *Government Contractor*, and "Public Procurement: Focus on People, Value for Money and Systemic Integrity, Not Protectionism," as a chapter in the VoxEU publication, *The Collapse of Global Trade, Murky Protectionism, and the Crisis: Recommendations for the G20*. He also co-authored a commentary piece, "Achieving Effective Reform," in an April issue of *Federal Times*.

Michael Selmi recently published "The 2007-2008 Term: The Government Changes Its Tune and the Supreme Court Takes a Pragmatic Turn" in the *Employee Rights and Employment Policy Journal*, and his article "The Price of Discrimination: The Nature

of Class Action Employment Discrimination Litigation and Its Effects,” was reprinted in *Employment Class and Collective Actions* (Kluwer 2009). His remarks on the future of low-wage workers made at a conference held at the University of North Carolina were published in the *Georgetown Journal on Poverty Law and Policy*.

Peter J. Smith's book with Gregory Maggs *Constitutional Law: A Contemporary Approach* was released by West Publishing. An online version of the book is also available. Professor Smith's article with Tom Colby “Living Originalism” will appear at 59 *Duke Law Journal*.

In early 2009, **Daniel J. Solove** published new editions of his casebooks, *Information Privacy Law* (with Paul Schwartz) and *Privacy, Information, And Technology* (with Paul Schwartz). He published a new casebook, *Privacy and the Media* (with Paul Schwartz). All casebooks are published by Aspen Publishers. Professor Solove's article “Rethinking Free Speech and Civil Liability” (with Neil Richards) will be published in the *Columbia Law Review* in November. His book, *Understanding Privacy*, with Harvard University Press will be coming out in paperback in fall 2009. His book chapter, “The New Vulnerability: Personal Information and Data Security” was published in *Securing Privacy In The Information Age* (Stanford University Press: Anupam Chander, Lauren Gelman, & Margaret Jane Radin eds. 2008) he also wrote the preface to William J. Cuddihy's book, *The Fourth Amendment: Origins and Original Meaning: 602-1791* (Oxford University Press, 2008).

West has published new editions of two Nutshells by **John Andrew Spanogle, Jr.** In October, they published the 8th edition of *International Business Transactions in a Nutshell*, and in December the 4th edition of *International Trade and Economic Relations in a Nutshell*.

Amanda L. Tyler published “Suspension as an Emergency Power” at 118 *Yale Law Journal*.

Arthur E. Wilmarth, Jr.'s article, “The Dark Side of Universal Banking: Financial Conglomerates and the Origins of the Subprime Financial Crisis,” will be published in the May 2009 issue of the *Connecticut Law Review*.

Christopher R. Yukins, together with student Sandeep Verma, published an article on anti-corruption strategies in U.S. procurement in *International Public Procurement: A Guide to Best Practices*. He presented a paper on cooperative procurement policy in the face of the economic crisis at the Thomson West Government Contracts Year in Review conference, and, with Steve Schooner, he co-authored two pieces arguing against protectionism in procurement in the current economic storm. ★

AWARDS & HONORS

Michael J. Matheson was elected to the Editorial Board of the American Journal of International Law.

Christopher R. Yukins was named to the ABA Public Contract Law Section's governing council. ★

ACTIVITIES

In April, **Paul Butler** gave a talk on hip-hop and criminal law at Emory Law School and presented a paper on “Terry, Sex, and Punishment” for Austin Sarat's “Law and Culture” series at Amherst College. In February, he lectured state appellate judges on *Terry v. Ohio* at the University of Mississippi.

In February, **Steve Charnovitz** gave a work in progress presentation at Georgetown Law School on international trade and climate. In March, he moderated a panel on trade and climate change at the Annual Meeting of the American Society of International Law in March and served on a panel at a conference on climate change sponsored by the Embassy of Sweden. He also participated in a roundtable with Australia's climate minister. In April, he participated in a workshop on the WTO Doha Round at the German Marshall Fund and participated in a workshop at the Treasury Department on climate-related taxes.

Bradford R. Clark presented “The Federal Common Law of Nations” at Georgetown University Law Center in April and at the International Law in

Domestic Courts Interest Group of the American Society of International Law at Temple Law School in December.

Jessica L. Clark presented “Role Playing Meets Peer Editing in the Legal Writing Classroom” at the 2009 Rocky Mountain Legal Writing Conference at the Arizona State University Sandra Day O'Connor School of Law.

In March, **Charles B. Craver** moderated two sessions on Lifestyle Behaviors and Relationships in Employment for the 13th Annual Corporate Counsel Institute hosted by the Georgetown Law Center. In April, Professor Craver made a presentation on international negotiation to a group of transnational lawyers in New York City, and in April, he made a presentation entitled “Negotiation Ethics” at a full day conference on negotiation at Harvard.

Lawrence A. Cunningham presented “The Three or Four Approaches to Financial Regulation,” a paper co-authored with David Zaring, for a faculty workshop at the University of Miami Law School in February and for a student workshop at GW sponsored by the Corporate and Business Law Society. Along with several GW colleagues, he co-hosted the Law School's conference, “The Panic of 2008,” in early April, and moderated a panel at the event. He also performed in the Law School's annual “Law Revue” musical production in March and served as an auctioneer in its annual Equal Justice Foundation auction in April.

Roger Fairfax presented a paper on grand jury innovation at the Fordham Law School Criminal Law Workshop. He was a co-presenter on criminal case mediation at the ABA Section of Dispute Resolution Legal Educators Colloquium sponsored by Columbia University Law School. Professor Fairfax served as an advisor to the Obama-Biden transition team Department of Justice agency review.

Phyllis Goldfarb gave a presentation in November 2008 entitled “Intersections of Race and Death” examining the ways that the death penalty, like lynching, is a practice that has participated in giving meaning to the concept of race in America. She is writing an article and preparing a work-in-progress that develops this theme. On April, she gave a presentation entitled

“Student Practice Rules and Transactional Clinics,” and moderated a panel entitled “Ethical Considerations in Intellectual Property and Small Business Clinics” at the 8th Annual Transactional Law Clinic Conference and Workshop, held at the Law School and co-hosted by the Glushko-Samuelson Intellectual Property Clinic of the American University Washington College of Law and GW’s Small Business and Community Economic Development Clinic. Dean Goldfarb designed and implemented an electronic uniform clinic application system for all of the clinics, which was successfully unveiled in March and will continue to be used each semester. She developed the first GW clinical program newsletter *Clinical Perspectives*, which will be published each fall and spring. In May, she gave a presentation entitled “Filmmaking as an Advocacy Tool in Clinical Legal Education,” at the AALS Conference on Clinical Legal Education in Cleveland.

Tanya Kateri Hernandez attended the “Critical Race Theory 20th Anniversary Conference,” at the University of Iowa in April, and was part of a panel presentation “Celebrating the 45th Anniversary of the Civil Rights Act: Where Do We Go From Here?” In March, she participated in the University of Virginia Legal History Faculty Workshop and presented “The Role of the State in the Regulation of Race in Post-Emancipation Latin America: the Brazil Case Study.” In February at the American Bar Association Mid-Year Meeting in Boston, she presented the paper “Employment Discrimination in the Ethnically Diverse Workplace – the Role of Institutional Racism.” In February, she gave the Center for Social Justice and Public Service Spring Diversity Lecture “Employment Discrimination in the Age of Diversity,” at Santa Clara University Law School. In January, she participated in a Columbia University Workshop “President Obama: Is this really the Post-Racial Era?”

Carol Izumi gave a presentation on criminal case mediation at the ABA Section of Dispute Resolution conference in NYC on April 18. Professor Izumi also co-facilitated the 3-hour “Shop Talk” forum for mediation teachers as part of the Legal Educators Colloquium at the conference.

Sarah B. Lawsky made the following presentations: “Dynamic Drafting: A Tax Code Case Study,” at the University of Michigan Law School Tax Policy

Workshop, and Indiana University Maurer School of Law-Bloomington Tax Policy Colloquium, both in February; “Baby Tax,” at the George Washington University Law School Baby Markets Roundtable in April; and, in June, she will make the following presentation “On the Edge: Declining Marginal Utility and Tax Policy,” at the Junior Tax Scholars Conference.

In January, **Ira C. Lupu** and **Robert W. Tuttle** made a presentation on the Bush and Obama faith-based partnership plans at the meeting of the Law and Community Section at the Annual Meeting of the AALS in San Diego.

Ira C. Lupu made a presentation on the Obama Administration’s plans for faith-based partnerships in a panel on that subject at Georgetown University in April. Ira Lupu did a web-published Q & A on faith-based hiring by government grantees, available on the website of the Pew Forum on Religion and Public Life.

Gregory E. Maggs presented a paper in March at the New York University Law School entitled “Which Original Meaning of the Constitution Matters to Justice Thomas.” In February, he spoke at the Judge Advocates Association’s American Inn Court on “The Consequences of the Supreme Court’s decision in *Boumediene v. Bush*.” Dean Maggs, a reserve judge on the U.S. Army Court of Criminal Appeals, heard oral argument in a case at the Harvard Law School as part of the court’s public outreach program. An account of the proceeding is here: www.law.harvard.edu/news/spotlight/criminal-law/army-court-.html

Michael J. Matheson testified before the House Foreign Affairs Committee in November 2008 on the agreement with Iraq on the future presence of U.S. forces. He was interviewed on Federal News Radio in November on the U.S.-Iraq agreement. He gave presentations on U.S. cooperation with the International Criminal Court to the Organization of American States in December, and on preemptive self-defense to the Council on Foreign Relations in April. Professor Matheson took part in judging the national semifinals of the National Security Law Moot Court Competition at the law school in February. He led a group of GW law students in a visit to the State Department Legal Adviser’s Office in March.

Sean D. Murphy spoke in March on “The Conception of International Law” at the American Society of International Law annual meeting. At the ABA Section on International Spring Meeting held in April, he spoke on the pending Georgia/Russia case before the International Court of Justice, and chaired a panel on recent amendments to the Foreign Sovereign Immunities Act. In May, he lectured at the University of Göttingen in Germany on U.S. foreign relations law, as well as participated in a Department of Defense one-week peer review of a draft DOD law of war manual, to be held in Charlottesville.

Peter Raven-Hansen briefed and argued an opposition to a motion to dismiss *Julin v. Chiquita Brands Intl.*, a damages action in federal court under the Anti-Terrorism Act against Chiquita for providing material support to FARC, a Columbian terrorist group which kidnapped and murdered the plaintiffs’ missionary spouses. He assisted the Moot Court Board in putting on this year’s National Security Moot Court competition in February, in which 24 schools participated, and moderated a National Security Law Careers Panel for the National Security Law society in March. He helped organize a “Terror Prosecution Workshop” of judges, prosecutors, and defense lawyers held in April by the ABA Standing Committee on Law and National Security, for which he serves as an advisory member.

In February, **Steven L. Schooner** presented “Reducing Corruption Risks in Defence Contracts: The Challenges of Offset Agreements” at the NATO Conference on Building Integrity and Defense Institution Building, in Monterey, California. Also in February, he presented “Not Your Father’s Battlefield: Outsourcing Policy and Representative Democracy,” at the Robert S. Strauss Center for International Security and Law, University of Texas, in Austin. He made a presentation regarding Contractors in the Battlespace to the U.S. Commission on Wartime Contracting, in Arlington, Virginia in April and moderated a panel on the topic at the National Contract Management Association (NCMA) World Congress, in Long Beach, California. In January, he discussed “Privatized Military Operations” at the National Defense University’s Industrial College of the Armed Forces, in Washington, D.C. In February, he discussed “Emerging

Policy and Practice Issues” at the West Government Contracts Year In Review Conference in Washington, D.C. In December, he discussed “Procurement Trends and Issues for the New Administration,” at the 2008 Government Contract and Fiscal Law Symposium at the Judge Advocate Generals School in Charlottesville, Virginia.

Peter J. Smith presented the article “Living Originalism” at the USC “Conference on Constitutional Theory” in April.

In April, **Daniel Solove** lectured about his book, *The Future Of Reputation: Gossip, Rumor, and Privacy On The Internet* at Duke University and University of North Carolina. He also spoke about the book at Arizona State University College of Law and New York University (both in March 2009). He spoke about his book *Understanding Privacy* at New York University and at the University of Ottawa Faculty of Law for the Deirdre Martin Lecture. In March, he gave the keynote address at MedStar’s 3rd Annual Privacy and Information Security Roundtable. He was a panelist at a conference entitled “Speech, Privacy, and the Internet” at the University of Chicago Law School, and in connection with the conference, he’ll be publishing a book chapter in a book edited by Martha Nussbaum and Saul Levmore. He was a panelist at the AALS Annual Meeting in San Diego about the topic of interdisciplinary legal scholarship. In December 2008, he work shopped his paper, “Rethinking Free Speech and Civil Liability” at Fordham Law School.

Robert W. Tuttle presented *Courts, Clergy, and Congregations: Disputes between Religious Institutions and Their Leaders*” at a conference at Emory University in March. He did a web-published Q & for the Pew Forum on church-state questions about aid to religiously affiliated and other universities, arising from the recently enacted stimulus package.

Arthur E. Wilmarth, Jr. presented a paper entitled “Financial Conglomerates and the Subprime Lending Crisis” at the University of Connecticut School of Law in November and at a “Hot Topics” panel discussion at the the Annual Meeting of the Association of American Law Schools in January. In April, Professor Wilmarth presented a second paper, entitled “Reforming Financial

Regulation to Control Systemic Risk” at GW Law School’s “Panic of 2008” symposium and at the University of Connecticut School of Law’s conference on “Remaking Financial Services Regulation.” He was the primary drafter of an amicus brief filed in the U.S. Supreme Court in March on behalf of state banking regulators in *Cuomo v. Clearing House, L.L.C.* (No. 08-453).

Earlier this year, **Christopher R. Yukins** moderated panels on international and comparative public procurement law at the Thomson West Government Contracts Year in Review conference in February and at the American Bar Association/Public Contract Law Section quarterly meeting in March. Professor Yukins addressed a D.C. Bar conference on procurement reform in March. On the same day he appeared telephonically before the Illinois Reform Commission, which is studying, among other things, how to reform Illinois’ procurement system in the wake of the Blagojevich scandals. In February, he attended a weeklong working group meeting at UN headquarters in New York, to discuss reform of the UNCITRAL model procurement law; that effort will likely wrap up in July. Professor Yukins briefed a visiting Chinese government delegation on the U.S. procurement system in April, and in June will be addressing conferences on public procurement in Boise, Idaho and Tunis, Tunisia. ★



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Faculty News is published by the
Office of Communications at
The George Washington University
Law School.

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Faculty News is online at:
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