



UC DAVIS

SCHOOL OF LAW

FACULTY NEWS

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AFRA AFSHARIPOUR presented her paper, "Rising Multinationals: Exploring Outbound Acquisitions by Indian Corporations" at the AALS Conference on Business Associations, in Long Beach, California in June 2009. She presented another paper, "Paying to Break Up: The Rise of Reverse Termination Fees" at the AALS Workshop on Transactional Law in Long Beach. Her essay, "Integrating the Financial Crisis in the Business Associations Course: Benefits and Pitfalls" will be published this fall in the **Journal of Business and Technology Law**. She contributed a series of blogs during the month of September to **The Conglomerate**.

DIANE MARIE AMANN gave a keynote lecture at the Third Annual International Humanitarian Law Dialogs in Jamestown, New York, presented a workshop at the "Teaching IHL" event cosponsored by the International Committee of the Red Cross in Washington DC, and gave a talk entitled "International Human Rights and International Criminal Law in Courts in the United States," at a training of New York state judges on international law, co-



sponsored by the New York State Judicial Institute and the American Society of International Law, in Tarrytown. Her observations from her December 2008 visit to military commission proceedings at Guantánamo Bay, Cuba, were published in the **NIMJ Reports from Guantánamo** (National Institute of Military Justice, 2009), available at <http://www.nimj.org/documents/Publication1.pdf>, and quoted in Andy Worthington, 9/11 Trial At Guantanamo Delayed Again: Can We Have Federal Court Trials Now, Please? **Huffington Post**, Sept. 22, 2009. Diane contributed to discussions on **The New York Times'** Room for Debate blog, and was quoted in the **San Francisco Chronicle**, **Congressional Quarterly Today** and **Le Monde**.

ASSOCIATE DEAN FOR ACADEMIC

AFFIARS VIKRAM AMAR published the 13th edition of his co-authored casebook, **Constitutional Law: Cases and Materials** (Thompson, 2009) (with Jonathan Varat and William Cohen), and also published an article, "When Avoiding Federal Questions Shouldn't Evade Federal Review: Michigan v. Long meets, and Trumps, *Ashwander v. TVA*," in the **Green Bag 2d Journal** (with **ALAN BROWNSTEIN**). In addition, he wrote several columns for **Findlaw.com**. He was interviewed by and quoted in **National Public Radio, KQED, Minnesota Public Radio, the New York Times, the Wall Street Journal** and the **L.A. Times**, among many other media outlets. He spoke at an event in San Francisco sponsored by the American Constitution Society, and another one put on by the California Political Attorneys Association. He was named as a Contributing Editor to the ABA's **Preview of the U.S. Supreme Court Cases** magazine. Along with **CHRIS ELMENDORF**, he has been serving as a legal and policy advisor to organizations leading the push for a California constitutional convention.

ANDREA BJORKLUND published "The Emerging Civilization of Investment Arbitration" in the **Pennsylvania State Law Review**. She also contributed an essay, "State Immunity and the Enforcement of Investor-State Arbitral Awards" in *International Investment Law for the 21st Century: Essays in Honour of Christoph Schreuer*. She was named to the editorial boards of the **Journal of International Dispute Settlement**, in Geneva, and the **Yearbook of International Investment Law and Policy**, published by Oxford University Press. In September Andrea gave a talk on "NAFTA and the Environment" in Montreal at a conference sponsored by McGill University and the International Arbitration Institute to mark the 15th anniversary of the NAFTA.

ALAN BROWNSTEIN published three articles: (1) "The Constitutionalization of Self-Defense in Tort and Criminal Law, Grammatically Correct Originalism, and Other Second Amendment Musings," **Hastings Law Journal**; (2) "The Reasons Why Originalism Provides a Weak Foundation for Interpreting Constitutional Provisions Relating to Religion," in Cardozo's new on line journal "**De Novo**"; and (3) "When Avoiding Federal Questions Shouldn't Evade Federal Review (with **VIK AMAR**) in **Green Bag 2d**. Alan also wrote a short piece, "Same-Sex Marriage and Religious Liberty: Coexistent Rights" in **Liberty Magazine**. He gave his 19th Annual Supreme Court Review talk to the Sacramento Federal Bar Association.

This summer, **ANUPAM CHANDER** presented "Youthful Indiscretion in the Internet Age" at the Privacy Law Scholars Conference at the University of California, Berkeley and at the "In the Age of Digital Convergence" conference at the University of Hong Kong. He traveled to China to participate in a conference on "The Copyright Industries and Intellectual Property" at the South China University of Technology Law School. In September, he presented a paper, "Googling Freedom," to the Northern California International Law Scholars, and a paper, "The Cosmopolitan President" at the UC Davis School of Law faculty workshop. The **Yale Journal of International Law** published his article, "Trade 2.0," and his paper, "Youthful Indiscretion in the Internet Age," will appear in a Harvard University Press book, **The Offensive Internet**, edited by Saul Levmore and Martha Nussbaum.

CHRIS ELMENDORF's article, "Refining the Democracy Canon," is forthcoming in the **Cornell Law Review**. A second paper, "Empirical Legitimacy and Election Law," is forthcoming in **Race, Reform, and Regulatory Institutions: Recurring Puzzles in American Democracy**

(Cambridge University Press), edited by Heather Gerken, Guy Charles, and Michael Kang. His op-ed with Ethan Leib proposing a fallback procedure for solving budgetary deadlocks under divided government-- "Budgets by the People, for the People"-- appeared in the **New York Times** in July. In September, Chris gave a presentation at a Harvard Law School conference on National Human Rights Institutions. He is also serving as a legal and policy advisor to the Bay Area Council, which is leading the push for a California constitutional convention. He will be speaking on legal issues relating to constitutional revision at an upcoming conference in Sacramento, jointly sponsored by the Institute for Governmental Studies at UC Berkeley, the Center for the American West at Stanford University, and Sacramento State.

FLOYD FEENEY, in connection with the development of regulations by the State Auditor for creating the Citizens Redistricting Commission called for by last fall's Proposition 11, developed a definition of "impartial" and wrote a supporting paper entitled "The Concept of 'Impartiality' as Used in Proposition 11." He spoke at the September meeting of the Yolo County Bar Association on "Recent Developments in Election Law" and at the Humphrey School of Law on "Justice Black and Gideon v. Wainwright." He was interviewed by **Oregon Public Radio** concerning the Multnomah County prosecutor's decision not to prosecute the mayor of Portland for allegedly having sex with an underage boy. He was quoted by **Fox Business News** and **Agence Presse France** concerning California budget issues and was interviewed by the **Washington Post** concerning California prison issues.

KATHERINE FLOREY will be presenting a paper entitled "Indian Country's Borders: Territoriality, Immunity, and the Construction of Tribal Sovereignty" at the Junior Federal Courts Scholars Conference in October. She will be giving a talk on

"Rule 19 as an Abstention Doctrine: Pimentel and Beyond" at the Bay Area Civil Procedure Forum in November.

ROBERT HILLMAN published a new edition of his book on **RUPA** (co-authored with Don Weidner and Allan Vestal) and spoke at the ABA National Conference on Professional Responsibility, the University of Louisville Law School's annual conference on employment law, and the Rocky Mountain Mineral Law Foundation's annual meeting. He was also quoted by **Bloomberg Press** in various articles dealing with the Securities and Exchange Commission and market regulation.

In August, **BILL HING** participated in a community forum in San Jose on "A Dialogue on Immigration Reform". His article "NAFTA, Globalization, and Mexican Migration," was published in **Law, Economics & Policy**. Bill took part in national, telephonic press conference, concerning San Francisco's sanctuary ordinance and Supervisor Campos's proposal to bar referral of arrested juveniles to ICE, prior to any conviction. Other speakers were from ACLU, Immigrant Legal Resource Center, Asian Law Caucus, Legal Services for Children, and Lawyers Committee for Civil Rights.

ED IMWINKELRIED published: (1) "Bloodstain Pattern Evidence Revisited," and "Bloodstain Pattern Evidence Revisited" in the **Criminal Law Bulletin**; (2) "Evidence Code Section 802: The Neglected Key to Rationalizing the California Law of Expert Testimony" in **Loyola Law Review**; (3) 2009 Cumulative Supplement **Modern Litigation and Responsibility Handbook** (2nd Ed.); (4) "Ruling on Lab Reports has Broad Implications Decision that they are Testimonial and that Analysts Should be Cross-Examined is Relevant to Civil Cases," and "Questioning Forensic Evidence: A Recently Released Expert Scientific Report raises several issues," in the **National Law**

Journal. He presented at the NACDL's 2009 Fall Meeting & Seminar, in Portland, Oregon.

In late May, **LISA IKEMOTO** presented a paper on the commercial expansion of informed consent at the Annual Law & Society Conference in Denver, Colorado. She has been participating in the University of California Multi-campus Research Project on Asian American Pacific Islander Issues to examine health disparities in the API communities. Two of Lisa's articles have been published; "Eggs as Capital: Human Egg Procurement in the Fertility Industry and the Stem Cell Research Enterprise" was published in **Signs: Journal of Women in Culture and Society**, and "Reproductive Tourism: Equality Concerns in the Global Market for Fertility Services" was published in the **Journal of Law & Inequality**.

KRYSTAL CALLAWAY JAIME appeared in a recent news broadcast on Sacramento station KCRA-3 to comment on the legal status of Jaycee Lee Dugard, who was found recently after being kidnapped 18 years ago at age 11.

MARGARET JOHNS & HOLLIS KULWIN conducted an on-line survey of law school administrators to determine how they handle incidents of academic dishonesty and whether they report findings to bar examiners in connection with moral character disclosures. Their paper, "Serious Academic Dishonesty in Law School and the Moral Character Requirement for Admission to the Bar," was presented at the Annual Meeting of the Law and Society Association in Denver, in May 2009.

KEVIN JOHNSON published **Understanding Immigration Law**, LexisNexis (2009) (with Bill Hing and others), an article in the **Harvard Latino Law Review**, an op/ed in the **Sacramento Bee** on immigration, a

Findlaw.com column on the Justice Sonia Sotomayor confirmation hearings, a book review for **Law and Politics Book Review**, and a guest commentary for the **National Institute for Latino Policy**. This summer, he worked on an article on the confirmation of Justice Sotomayor and articles to be published in the **Georgetown Law Journal** and **Law & Contemporary Problems** (both forthcoming 2010). He was named to the National Advisory Board of the Fred T. Korematsu Center for Law and Equality of Seattle University School of Law. Kevin was a guest blogger for the popular legal blog **Concurring Opinions** (<http://www.concurringopinions.com/>) in July and blogged on the Sotomayor confirmation hearing for the Spanish language daily **La Opinión**. Kevin was a keynote speaker at a recent Bar Association of San Francisco event and also gave the keynote speech at the La Raza Lawyers Association of Solano's 9th Annual Scholarship Dinner in June, with several King Hall alumni in attendance. Kevin was recently quoted by **National Public Radio**, the **National Law Journal**, **Wall Street Journal**, **L.A. Times**, **La Opinión**, **KCBS Radio**, the **Sacramento Bee**, **San Francisco Chronicle**, **Washington Independent**, **Forbes.com**, **RaceWire**, **Belfast Telegraph**, and many other news outlets. Kevin contributed an essay to "Following Souter," a set of pieces on potential replacements for retiring Supreme Court Justice David Souter published in **The Nation**, in which he was joined by a distinguished panel of legal experts including scholars from Harvard, Yale, Georgetown, and UC Berkeley. He also participated in a media call organized by Hispanics for a Fair Judiciary to support the nomination of Judge Sotomayor. The event was covered in the BLT: The Blog of Legal Times. Kevin was the master of ceremonies at the UC Davis Convocation on September 23.

In September, **TOM JOO** presented a paper, "Corporate Legal Theory as Myth and Narrative," at a symposium on Business Law and Narrative at the Michigan State University School of Law. His article, "The Law of Marriage and the Discourse of Contract" was published in **Law & Economics** in June. He served on the planning committee for AALS Midyear Meeting on Business Associations. In July, he taught Business Associations in the summer International Commercial Law LLM program.

RAHA JORJANI was invited to address Ambassadors of CARICOM countries at the headquarters of the Organization of American States in Washington D.C. regarding issues of Detention and Deportation affecting their Citizens. She was invited to join the Board of Directors of the California Reentry Program which provides reentry services to California inmates at San Quentin State Prison and also conducted an office-wide Crimes & Immigration Training for the Alameda County Public Defender's Office. She participated in a meeting of criminal justice and immigration advocates sponsored by the Soros Open Society Institute to discuss the expansion of collaboration in criminal and immigration enforcement and conducted a legal training on Bond Hearings for ICE Detainees sponsored by O'Melveny & Myers, LLP in an effort to encourage firms to take on pro bono detained cases. Raha also filed an Opening Brief before the Ninth Circuit Court of Appeals on an issue of first impression for the Court.

COURTNEY JOSLIN presented her work-in-progress, "Assisted Reproductive Technology and the Marriage Requirement: Harming the Well-Being of Children Through Exclusionary Parentage Rules," at a number of different conferences including: the Emerging Family Law Scholars and Teachers Annual Conference, the Law and Society Association Annual

Conference, and the Washington & Lee Children and the Law Junior Faculty Workshop. I presented a workshop on Assisted Reproductive Technology at the Future of Family Law Education Conference (St. Paul, MN, June 2009). She wrote a short article on the **Evolution of the American Family** which will appear in the Fall 2009 issue of the **Human Rights Magazine**. She has an encyclopedia entry on the Legal Regulation of Pregnancy and Childbirth in the newly released book, **The Child: An Encyclopedic Companion** (University of Chicago Press). She was instrumental in getting the ABA to approve a policy recommendation supporting repeal of Section 3 (the federal benefits portion) of the federal Defense of Marriage Act. In August, she took over as Chair of the ABA Commission on Sexual Orientation and Gender Identity. She was quoted in articles appearing in the **Recorder, Law.com, the San Jose Mercury News**, and the **Sacramento News and Review**, and was interviewed for **KRON 4** news. She spoke to the Yolo County Bar Association about marriage and Prop 8.

In July, **HOLLIS KULWIN** made two presentations at the 2009 Summer Institute for New Graduate Admissions Professionals sponsored by the National Association of Graduate Admissions Professionals: "Clash of the Titans: When Law and Ethics Collide" and "Legal Issues in Graduate and Professional School Admissions." She was re-appointed to a two year term of service on the Law School Admission Council's Finance and Legal Affairs Committee.

CARLTON LARSON presented his paper, "Naming Baby: Can Government Limit the Ability of Parents to Name their Children?" at the University of Tulsa College of Law in September. His article on the *Heller* decision, published this summer in a **Hastings Law Journal** symposium, was cited in an opinion by Tenth Circuit Judge

Timothy Tymkovich on the issue of felon disarmament laws.

PETER LEE presented a paper entitled "Toward a Distributive Commons in Patent Law" at the Law and Society Association annual meeting. This article will be published in the **Wisconsin Law Review** in December. In June, he chaired a panel at the Second Summer Institute in Intellectual Property, Biotechnology, and Agricultural Sciences at Drake University Law School. Peter recently presented a work-in-progress entitled "Patent Law and the Two Cultures" at Cardozo School of Law and Santa Clara University School of Law. A piece entitled "Innovating Between and Within Technological Paradigms: A Response to Samuelson" will appear in **Minnesota Law Review Headnotes** later this year.

ALBERT LIN published "Geoengineering Governance" in the electronic journal, **Issues in Legal Scholarship**, and his previously published article on nanotechnology regulation received an Honorable Mention distinction in the **Environmental Law and Policy Annual Review**. He was also quoted in the **Daily Journal** regarding recent Supreme Court decisions in environmental law.

MIGUEL MÉNDEZ published a book and two articles over the summer. The book is the 2009 edition of **Evidence —A Concise Comparison of the Federal Rules with the California Code** (West). His article on the forfeiture of cross-examination rights in California was published in the **Stanford Law & Policy Review**. His article on the need for a hearsay rule in those countries considering switching from the inquisitorial to the adversarial model of trials appears in **Inter Criminis**, a peer reviewed legal journal published in Mexico.

JOHN OAKLEY took Emeritus status in July but continues to teach Civil Procedure, Federal Jurisdiction, and Jurisprudence at

King Hall. He is serving this year as Vice Chair of the Davis Division of the Academic Senate.

REX PERSCHBACHER's comments on the Jennifer Strange/Entercom wrongful death trial (excessive water consumption during a Sacramento radio station contest) appeared in the **Sacramento Bee** and a **KCRA** television news broadcast. He also commented on parallel criminal and civil cases involving an alleged mortgage fraud scheme in Kern County in an article in the **Bakersfield Californian**.

LISA PRUITT published "Migration, Development and the Promise of CEDAW for Rural Women" in the **Michigan Journal of International Law's** symposium on "Territory without Boundaries," and "Spatial Inequality as Constitutional Infirmary: Equal Protection, Child Poverty & Place" in the **Montana Law Review's** symposium issue on "Rural Law." Her paper, "Justice Deserts: Spatial Inequality and Indigent Defense" has been accepted for the Arizona Law Review's symposium on "Funding Justice." Lisa presented papers at the Law and Society Annual Meeting in Denver, and also organized two panels for this year's conference: "Land, Water, Poverty & Community at the Rural-Urban Interface" and "Drugs in the 21st Century: Socio-Legal Perspectives on Substance Abuse." She presented three papers at the Rural Sociological Society's Annual Meeting in July. Lisa presented a paper at LatCrit XIV in Washington, D.C. and was the featured speaker at the Women Lawyers of Sacramento September luncheon. She is Chair-Elect of the AALS Section on Women in Legal Education, and she served on an ad hoc subcommittee of the section to draft a proposal for a mid-year meeting program. Lisa was elected co-chair of the Rural Policy Interest Group of the Rural Sociological Society, and has completed her term as co-chair of the Rural Studies Interest Group.

CRUZ REYNOSO was recently awarded the State Bar of California's Bernard E. Witkin Medal to honor his "significant contributions to the quality of justice and legal scholarship" in the state. Established in 1993, the award honors "those legal giants who have altered the landscape of California jurisprudence." It was presented to Cruz, at the State Bar's annual meeting in San Diego.

DONNA SHESTOWSKY was awarded \$190,000 from the Law and Social Science division of the National Science Foundation (NSF) to fund her research on civil disputants' preferences for dispute resolution procedures. Her project will be the first-ever national longitudinal study of disputants' perceptions of court-connected dispute resolution. She was also quoted in the front-page article in the **Stockton Record** for her views on voir dire in the death penalty case of Melissa Huckaby. Professor Shestowsky also welcomed nearly 30 alums and friends of King Hall as judges of the third annual King Hall Negotiations Tournament in September. The competition offered a record number of student participants the chance to represent King Hall at future ABA competitions.

MADHAVI SUNDER presented a chapter on "Fair Culture" from her forthcoming book, **iP: YouTube, MySpace, Our Culture**, at the recent Access to Knowledge (A2K) Global Academy meeting at the Yale Law School in August. She and Anupam Chander completed the manuscript of a comic book on the life of civil rights hero Fred Korematsu. The comic book will be published by Carolina Academic Press. This summer Professor Sunder appeared on the **Capital Public Radio** program "Insight" to discuss trademark disputes brought by Sutter Home against smaller Amador County wineries that also use the Sutter name.

DENNIS VENTRY was cited by the United States Court of Appeals for the First Circuit Court in a landmark decision involving attorney-client privilege and work product protection as applied to a corporate taxpayer's tax materials. Moreover, the government had relied on two of his recent articles in its briefs and at oral argument. In addition, Dennis presented papers at the annual meeting for the Law and Society Association and the Jr. Tax Scholars Workshop, and will present his research at Duke University School of Law, Loyola Law, and Yokohama National University in Japan. Dennis also provided commentary on federal tax issues to the **Wall Street Journal** and **Tax Notes**, and he wrote an op-ed on California tax issues for the **Sacramento Bee**.

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