

Publications, & Presentations, Honors

The School of Law's faculty has a well-deserved reputation for producing outstanding legal scholarship, as evidenced by the rich array of books, articles, working papers, and conference presentations they complete each year. The entries on the following pages represent only a sampling of the diverse scholarly activities of our academic community. For a more complete listing and actual links to articles, visit www.law.umaryland.edu/scholarship.

Taunya Lovell Banks published the articles "Trampling Whose Rights? Democratic Majority Rule and Racial Minorities: A Response to Chin and Wagner" in 43 *Harvard Civil Rights–Civil Liberties Law Review* 127 (2008), "Dangerous Woman: Elizabeth Key's Freedom Suit - Subjecthood and Racialized Identity in Seventeenth Century Colonial Virginia," 41 *Akron Law Review* 799 (2008), and "Book Review: Courthouse at Indian Creek," 32 *Criminal Justice Review* 173 (2007).

Brenda Bratton Blom presented "Directing? You Must be Kidding: Leading a Clinic in Academia," Concurrent Session by Mid-Atlantic Clinic Director's Roundtable at the AALS Clinical Legal Educators' Conference (May 7, 2008) and "Conversations on 'Community

Lawyering': the Newest (Oldest) Wave in Clinical Education" (with Susan Brooks, Nancy Cook, and Karen Tokarz) at the New England Clinician's Conference, Harvard Law School (April, 2008) (Paper to be published in the Fall 2008 *Washington University Journal of Law and Policy*).

David Bogen published the articles "Garrett Power: Baltimore and the Bay" in 66 *Maryland Law Review* 849 (2008) and "Why the Supreme Court Lied in *Plessy*" in 52 *Villanova Law Review* 411 (2007).

Richard Boldt published the chapter "A Circumspect Look at Problem-Solving Courts" in *PROBLEM-SOLVING COURTS: JUSTICE FOR THE TWENTY-FIRST CENTURY?* (P. Higgins & M. Mackinem, eds) (Praeger, 2008).

Danielle Citron published the articles "Technological Due Process" in 85 *Washington University Law Review* (2008), "Open Code Governance," *University of Chicago Legal Forum* (2008), "Reservoirs of Danger" in 80 *Southern California Law Review* 241 (2007), and "Minimum Contacts in a Borderless World: Voice over Internet Protocol and the Coming Implosion of Personal Jurisdiction Theory," in 39 *University of California Davis Law Review* 101 (2006).

Doug Colbert published the article "Professional Responsibility in Crisis" in 51 *Howard Law Journal* 675 (2008). In August 2008, the Maryland Court of Appeals granted *certiorari* in *Richmond v. District Court of Maryland*, a class action lawsuit in support of indigents' right to



Danielle Citron

counsel at initial appearance. The case was originally filed by Prof. Colbert's Access to Justice Clinic working with pro bono attorneys from Venable, LLP. The clinic is now working on the appeal and an *amicus* brief to which more than half of the law school faculty have agreed to add their names.

Robert Condlin published the articles "Every Day and in Every Way, We are All Becoming Meta and Meta: Or How Communitarian Bargaining Theory Conquered the World (of Bargaining Theory)," 23 *Ohio State Journal of Dispute Resolution* 231 (2008), and "Bargaining with a Huger: The Weaknesses and Limits of a Communitarian Conception of Legal Dispute Bargaining, or Why We Can't All Just Get Along," 9 *Cardozo Journal of Conflict Resolution* 301 (2008).

Karen Czapanskiy published the articles "To Protect and Defend: Assigning Parental Rights When Parents Are Living in Poverty" in 14 *William & Mary Bill of Rights Journal* 943 (2006) and "The Right of Public Participation in the Law-Making Process and the Role of the Legislature in the Promotion of this Right" *Duke Journal of Comparative and International Law* (forthcoming) (with Rashida Manjoo), and co-authored the Fifth Edition of ELLMAN, KURTZ, SCOTT, WEITHORN & BIX, *FAMILY LAW: CASES, TEXT, PROBLEMS* (forthcoming 2009).

Kathleen Dachille presented "Beyond Cigarettes: Policy Responses to Other Tobacco Products" at the Tobacco Public Policy Center, Columbus, Ohio (April 2008), "Interventions to Protect Children from SHS in Private Places" to Access Seattle, Seattle, Washington (March 2008),



Lisa Fairfax

and a Q-&-A Session (with simultaneous translation) to a delegation of Russian Doctors and Public Health Advocates on Federal, State and Local Tobacco Control Policy in the U.S. at the University of Maryland Medical School (February 2008).

Peter Danchin published the article "Suspect Symbols: Value Pluralism as a Theory of Religious Freedom in International Law," 33 *Yale Journal of International Law* 2 (2008), and will publish "Of Prophets and Proselytes: Freedom of Religion and the Conflict of Rights in International Law," 49 *Harvard International Law Journal* (forthcoming 2008), and "The Emergence and Structure of Religious Freedom in International Law Reconsidered," 23 *Journal of Law and Religion* 101 (forthcoming 2008).

Martha Ertman published the chapter "The Story of Reynolds: Federal 'Hell Hounds' Punishing Mormon Treason" in *FAMILY LAW STORIES* 51 (ed. Carol Sanger 2007), and published the articles "Mapping the New Frontiers of Private Ordering" in 49 *Arizona Law Review* 695 (2007) and "Accepting the Court's Invitation," 57 *Journal of Legal Education* 159 (2007).

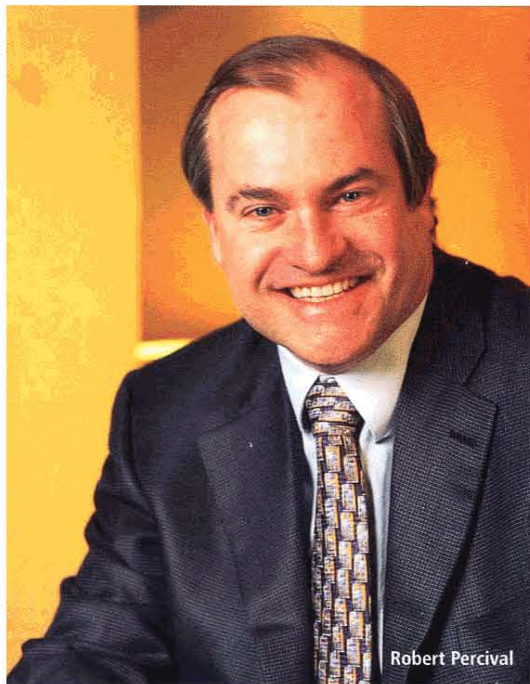
Lisa Fairfax published the articles "Easier Said Than Done? A Corporate Law Theory for Actualizing Social Responsibility Rhetoric" in 59 *Florida Law Review* 771 (2007), "Making the Corporation Safe for Shareholder Democracy" in 69 *Ohio State Law Journal* 53 (2008), "Shareholder Democracy on Trial: Some International

Perspective on the Effectiveness of Increased Shareholder Power" in 3 *Virginia Law & Business Review* 1 (2008) and will publish "The Impact of the Sarbanes-Oxley Act on Non-Shareholder Constituents: A Silver Lining, but Will It Endure?" in the *Journal of Business and Technology Law* (forthcoming 2008).

Don Gifford published the books *LEGAL NEGOTIATION: THEORY AND PRACTICE* (2d ed, Thomson-West, 2007) and *TEACHER'S MANUAL TO ACCOMPANY GIFFORD'S LEGAL NEGOTIATION* (Thomson-West, 2007), will publish the book *SNUFFED-OUT HOPES AND LEAD BALLOONS: THE FAILED PROMISE OF PUBLIC HEALTH/TORT ACTIONS AGAINST PRODUCT MANUFACTURERS* (University of Michigan Press forthcoming) and will publish the article "Impersonating the Legislature: State Attorneys General and *Parens Patriae*," 49 *Boston College Law Review* (forthcoming).

Mark Graber will publish the book chapter "Looking off the Ball: Constitutional Law and American Politics" in the *OXFORD HANDBOOK ON PUBLIC LAW* (forthcoming), and the article "False Modesty: Felix Frankfurter and the Tradition of Judicial Restraint" in *Washburn Law Journal* (forthcoming 2008).

Oscar S. Gray completed the Third Edition of the treatise *HARPER, JAMES AND GRAY ON TORTS* (co-authored with the late Fowler V. Harper and Fleming James, Jr. of the Yale Law School) with the publication in 2008 of volumes 5 and 6.



Robert Percival

Michael Greenberger published the MARYLAND PUBLIC HEALTH EMERGENCY BENCHMARK (September 2007), and the articles “Teaching New Dogs Old Tricks: Reshaping the Department of Homeland Security’s Technology Development Infrastructure” in 47 *Jurimetrics Journal* 281 (2007), “Did the Founding Fathers Do ‘A Heckuva Job?’: Authorization for the Use of Federal Troops to Prevent the Loss of a Major American City” in 87 *Boston University Law Review* 397 (2007), and “You Ain’t Seen Nothin’ Yet: The Inevitable Post-*Hamdan* Conflict between the Supreme Court and the Political Branches” in 66 *Maryland Law Review* 805 (2007).

Susan Hankin presented “Personhood for Pets? The Ramifications of Altering Animals’ Status as Property Under Maryland Law” at the Maryland State Bar Association Annual Meeting and “Training Law Students to Work in a Legal Writing Center” at the 2008 Rocky Mountain Legal Writing Conference, SJ Quinney College of Law, University of Utah (March 2008).

Deborah Hellman will publish the book *WHEN IS DISCRIMINATION WRONG?* (Harvard University Press, forthcoming).

Diane Hoffmann published the articles “Achieving Quality and Responding to Consumers—The Medicare Beneficiary

Complaint Process: Who Should Respond?” in 5 *Indiana Health Law Review* 9 (with Virginia Rowthorn) (2008), “Health Care Conflicts all that Different? A Contrarian View” in 29 *Hamline Journal of Public Law & Policy* 235 (2008), and “Judging Genes: Judicial Response to the Second Generation of Genetic Tests” in 66 *Maryland Law Review* 858 (with Karen Rothenberg) (2007), and will publish “Legitimate Prosecution or Unnecessary Persecution? The Investigation, Arrest and Prosecution of Physicians for Opioid Prescribing” in *ST. LOUIS JOURNAL OF HEALTH LAW & POLICY* (forthcoming 2009).

Renée Hutchins published the article “Tied Up in Knotts? GPS and the Fourth Amendment” in 55 *UCLA Law Review* 409 (2007) and wrote the entry “Stop and Frisk” for the *ENCYCLOPEDIA OF THE SUPREME COURT OF THE UNITED STATES* (2007).

Sherrilyn Ifill was a faculty member for “The Constitution in Our Midst: Civil Rights and Civil Liberties” at The Peter Jennings Project at the National Constitution Center, Philadelphia, Pennsylvania and was keynote speaker for the Women’s History Month Convocation at Morgan State University in March 2008. She served as moderator for the discussion “Looking to the Future of Federal Civil Rights Enforcement” at the Commemoration of the 50th Anniversary of the Civil Rights Division, U.S. Department of Justice, Georgetown University Law Center, Washington, D.C. (September 2007), presented “The Minority Vote in the Presidential Primary” at the Mid-Atlantic People of Color Scholarship Conference (January 2008), and “Rebuilding and Strengthening Support for an Independent Judiciary” at the Pound Civil Justice Institute, Chicago, Illinois (July 2007).

Susan Leviton presented “Hot Topics in Special Education Law” at the National Association of Private Special Education Centers, Leadership Conference (January 2008), and “You May Be Disabled But Not Eligible for Special Education Services” to the Maryland Regional Council of Child & Adolescent Psychiatrists, Baltimore, Maryland (January 2008).

Michael Millemann published the articles “Diversifying the Delivery of Legal Services to the Poor by Adding a Reduced Fee Private Attorney Component to the Predominantly Staff Model, Including Through a Judicare Program” in *University of Maryland Law Journal of Race, Religion, Gender and Class* (forthcoming 2008) and “Using Actual Legal Work to Teach Legal Research and Writing” in 4 *Journal of the Association of Legal Writing Directors* (2007).

Paula Monopoli published the article “Gender and Justice: Parity and the United States Supreme Court” in 8 *The Georgetown Journal of Gender and the Law* 43 (2007), “In a Different Voice: Lessons from *Ledbetter*” in 34 *University of Notre Dame Journal of College and University Law* (2008), “Nonmarital Children and Post-Death Parentage: A Different Path for Inheritance Law?” in 48 *Santa Clara Law Review* (2008) and “Gender and Executive Activism: Will the United States Elect a Female President in 2008,” *Queens University Belfast, Centre for Advancement of Women in Politics Occasional Paper Series*.

Robert Percival published the 2007-2008 edition of his casebook *ENVIRONMENTAL LAW: STATUTORY AND CASE SUPPLEMENT*, and the articles “*Massachusetts v. EPA*: Escaping the Common Law’s Growing Shadow” in 2007 *Supreme Court Review* 111 (2008) and “Environmental Law in the 21st Century,” in *International Environmental Law and Comparative Environmental Law Review* 204 (Wang Xi ed. 2008) (translation into Chinese by Professor Li Yanfang).

Michael Pinard published the article “A Reentry-Centered Vision of Criminal Justice” in 20 *Federal Senate Reporter* 103 (2007), served as a panelist for “Beyond the Bars: A Symposium on Reentry in Maryland” at the Maryland State Bar Association’s Leadership Academy (May 2008) and “Mass Incarceration as the New ‘Jim Crow,’” at the Kirwan Institute for the Study of Race and Ethnicity, Ohio State University (December 2007).

Peter Quint published the book *CIVIL DISOBEDIENCE AND THE GERMAN COURTS: THE PERSHING MISSILE PROTESTS IN COMPARATIVE PERSPECTIVE* (Routledge-

Cavendish 2008), and the article "What is a Twentieth-Century Constitution?" in 67 *Maryland Law Review* 238 (2007).

Shruti Rana published the article "From Making Money Without Doing Evil to Doing Good Without Handouts: The Google.org Experiment in Philanthropy," 3 *Journal of Business & Technology Law* 87 (2008), and will publish "'Streamlining' the Rule of Law: How the Department of Justice is Undermining Judicial Review of Agency Action," *University of Illinois Law Review* (forthcoming 2009).

Bill Reynolds published the articles "Maryland and the Constitution of the United States: An Introductory Essay" in 66 *Maryland Law Review* 923 (2007), "Survey of the Law of Cyberspace: Electronic Contracting Cases 2006-07" in 63 *The Business Lawyer* 433 (2008), "Tribute to Alan Wilner" in 66 *Maryland Law Review* 843 (2008), and "The Story of the Full Faith and Credit Clause" in *Maryland Bar Journal* (forthcoming 2008).

Robert Rhee published the articles "Probability, Policy, and the Problem of Reference Class" in 11 *International Journal of Evidence and Proof* 286 (2007), "The Socratic Method and the Mathematical Heuristic of George Pólya" in 81 *St. John's Law Review* 881 (2007), "Tort Arbitrage" in 60 *Florida Law Review* 125 (2008), and "Corporate Ethics, Agency, and the Theory of the Firm" in 3 *Journal of Business & Technology Law* 309 (2008), and the book chapter "Participation and Disintermediation in a Risk Society" in *LAW, PROPERTY, AND SOCIETY* (Robin Paul Malloy ed.).

Karen Rothenberg published the article "Judging Genes: Judicial Response to the Second Generation of Genetic Tests" in 66 *Maryland Law Review* 858 (with Diane Hoffmann) (2007).

Jana Singer published the article "Hamdan as an Assertion of Judicial Power" in 66 *Maryland Law Review* 759 (2007), and will publish *RESOLVING FAMILY CONFLICTS* (with Professor Jane Murphy of the University of Baltimore School of Law) (Ashgate Publishing, 2008).

Maxwell Stearns presented "Standing at

the Crossroads: The Roberts Court in Historical Perspective," and "Introduction to the Economic Analysis of Collective Decision-Making," at the Canadian Law and Economics Association Meeting in Toronto, Canada (September 28-29, 2007), published the articles "The New Commerce Clause Doctrine in Game Theoretical Perspective," 67 *Vanderbilt Law Review* 1 (2007) and "Standing at the Crossroads: The Roberts Court in Historical Perspective," 83 *Notre Dame Law Review* 875 (2008), and authored the entries for "Standing," "The Rule of Four," and "Dicta" for the *ENCYCLOPEDIA OF THE SUPREME COURT OF THE UNITED STATES* (2007).

Rena Steinzor published the article "Will Superfund Rise Again?" in 23 *Environmental Forum* 28 (2007).

Lawrence Sung published the books 2007-2008 *PATENT LAW HANDBOOK* (Thomson/West), and the 2007 *CUMULATIVE SUPPLEMENT TO PATENT INFRINGEMENT REMEDIES* (BNA 2008), the article "Strangers in a Strange Land: Specialized Courts Resolving Patent Disputes" in *Business Law Today* (March/April 2008), and "A Book Review of A GUIDE TO BIOTECHNOLOGY LAW AND BUSINESS by Robert A. Bohrer," *Journal of Philosophy, Science & Law* (April 14, 2008).

David Super published the articles "Privatization, Policy Paralysis, and the Poor," 96 *California Law Review* 393 (2008) and "Federal-State Budgetary Interactions" in *Fiscal Challenges: An*



Interdisciplinary Approach to Budget Policy 366 (Elizabeth Garrett et al., eds., 2008), and will publish "Against Flexibility and Toward a Progressive Theory of Family Values: The Problem of Immigration Law as well as Students and the Food Stamp Program" in the *Clearinghouse Review* (forthcoming 2009), and "Laboratories of Destitution" in 157 *University of Pennsylvania Law Review* (forthcoming 2009).

Michael Van Alstine published the article "Taking Care of John Marshall's Political Ghost," 52 *St. Louis University Law Journal* (forthcoming 2008) and contributed the chapter "Summary and Conclusions" in *THE ROLE OF DOMESTIC COURTS IN TREATY ENFORCEMENT: A COMPARATIVE STUDY* (D. Sloss & D. Jinks, eds.) (Cambridge University Press, forthcoming 2008).

Ellen Weber published the article "Child Welfare Interventions for Drug-Dependent Pregnant Women: Limitations of a Non-Public Health Response" in 75 *UMKC Law Review* 789 (2007).

Marley Weiss published the books *INTERNATIONAL LABOR LAW: CASES AND MATERIALS ON WORKERS RIGHTS IN THE GLOBAL ECONOMY* (Co-authors, James Atleson, et al.) (West 2008) and *DOCUMENTARY SUPPLEMENT TO INTERNATIONAL LABOR LAW: CASES AND MATERIALS ON WORKERS RIGHTS IN THE GLOBAL ECONOMY* (Co-authors, James Atleson, et al.) (West 2008), published the article "Ruminations on the Past, Present and Future of International Labor Standards: Empowering Law in the Brave New Economic World" in 16 *Good Society* 73 (2008), and will publish "Commentary: Women's Employment Rights in the Maryland Workplace of 2007 and 2027" in the *University of Maryland Law Journal of Race, Religion, Gender and Class* (forthcoming 2008).

Gordon Young published the article "'Inherent' Emergency Policymaking Powers with *Youngstown* and *Hamdan*" in 66 *Maryland Law Review* 787 (2007) and will publish "Justifying Motive Analysis in Judicial Review" in the *William And Mary Bill of Rights Journal* (forthcoming 2009).