

Faculty Focus

Cleveland State
University
Cleveland-Marshall College of Law

Summer 2007



Viktor Schreckengost

FACULTY PUBLICATIONS

Kathleen Engel and Pat McCoy wrote a solicited article, *From Credit Denial to Predatory Lending: the Challenge of Sustainable Minority Homeownership*, for a book FAIR HOUSING: ACCESS TO OPPORTUNITIES AND AMERICA'S FUTURE edited by Jim Carr. Routledge will be publishing the book in January 2008.

An article written by **Kathleen Engel**, Raphael Bostic, Pat McCoy, Anthony Pennington-Cross, and Susan M. Wachter, *State and Local Anti-Predatory Lending Laws: The Effect of Legal Enforcement Mechanism*, was accepted for publication in the Journal of Economics and Business.

In May, **Joan Flynn** and her co-authors Michael C. Harper (Boston University) and Samuel Estreicher (New York University) published a new edition of their textbook: LABOR LAW: CASES, MATERIALS, AND PROBLEMS (Aspen, 6th ed., May 2007).

Joan Flynn, LABOR LAW: SELECTED STATUTES, FORMS, AND AGREEMENTS (Revised) (Aspen, forthcoming August 2007) (with Michael C. Harper and Samuel Estreicher).

Lolita Buckner Inniss, *Toward a Sui Generis View of Black Rights in Canada? Overcoming the Difference-Denial Model of Countering Anti-Black Racism*, 7 BERKELEY J. AFRICAN-AMERICAN L. & POL'Y (forthcoming Fall 2007).

Lolita Buckner Inniss, *Back to the Future: Is Form-Based Code an Efficacious Tool for Shaping Modern Civic Life?*, 10 U. PA. J. L. & SOCIAL CHANGE (forthcoming Fall 2007).

Dennis Keating's book review essay, entitled *Lessons from a Chicago Saga*, appears in the Spring 2007 issue of *Shelterforce: the Journal of Affordable Housing and Community Building*.

Reginald Oh, *Regulating White Desire: Anti-miscegenation, Racial Segregation and the Protection of White Supremacy* (forthcoming WIS. L. REV.)

Kevin Francis O'Neill, *Privatizing Public Forums to Eliminate Dissent*, 5 FIRST AMENDMENT L. REV. 201 (2007).

Adam Thurschwell, *Writing and Terror: Don DeLillo on the Task of Literature After 9/11*, 19 LAW & LITERATURE 277 (2007).

Adam Thurschwell, *Law and Literature and the Right to Death*, in Gert Hofmann, ed., FIGURES OF LAW: STUDIES IN THE INTERFERENCE OF LAW AND LITERATURE (Narr Francke Attempto Verlag GmbH, 2007).

A revised version of **Adam Thurschwell's** article *Specters and Scholars: Derrida and the Tragedy of Political Thought* (previously published in the German Law Journal) will be published in P. Goodrich, F. Hoffman, M. Rosenfeld, & C. Vismann, eds., DERRIDA BEFORE THE LAW: DECONSTRUCTION AND LEGAL THEORY (Macmillan Palgrave, forthcoming 2007.)

This summer, **Barbara Tyler** and **Karin Mika** are working on a book chapter entitled "Cybermedicine, Telemedicine, and Data Protection in the United States." The chapter is part of a text put together by Professor Adam Fadlalla of CSU's undergraduate school and Professor Kuanchin Chen of Western Michigan University. The book is a series of informational essays dealing with international issues related to privacy and data protection when using electronic sources of communication and data transfer.

An article by **Lisa Webley** (our Westminster visitor) and Liz Duff, *Women Solicitors as a Barometer for Problems within the Legal Profession - Time to Put Values before Profits?*, was accepted for publication in the Journal of Law & Society (the leading socio-legal journal in the United Kingdom.) The article is based on an empirical study that the authors undertook for the Law Society of England and Wales in 2003-2004.

SPEAKING ENGAGEMENTS

Dena Davis gave a paper on "Non-Therapeutic Genital Surgery: Exploring Gender Differences," at the University College of London Interdisciplinary Colloquium, on July 3. The theme of the Colloquium was Law and Bioethics.

On May 21, the Domestic Policy Subcommittee of the U.S. Congress's Oversight and Government Reform Committee held a hearing in the Carl Stokes Court House, focusing on Federal Reserve Bank oversight of bank mergers and enforcement of the Community Reinvestment Act over the last three decades. The Huntington Bancshares/Sky Financial group merger in Cleveland was the subject of Subcommittee Chairman Dennis Kucinich's call for a public hearing. **Kathleen Engel** was called as a witness to speak on the city's crises in housing foreclosures and participated in one of the panels along with Cleveland-Marshall alumnus, Housing Court Judge Raymond Pianka.

Kathleen Engel spent the day at a Federal Reserve Bank Academic Advisory Council Meeting. The Fed invited three academics and an economist from the Board of Governors to describe to the President of the Bank and other senior folks the issues in the sub-prime market, how the Fed could help, and what types of research are needed. On June 20, **Kathleen Engel** gave a talk entitled "The Subprime Crisis: Loan Modifications and the Potential Role of the FRB," to the Community Advisory Council of the Federal Reserve Board.

On June 21-22, **Kathleen Engel** was a moderator at the Federal Reserve Bank's 2007 Community Development Policy Summit.

On June 22, **David Forte** spoke at the Puget Sound Lawyers' Federalist Society on "The Ten Commandments and the Constitution."

On June 23, **David Forte** addressed a conference of the Intercollegiate Studies Institute on "Islam and the West."

On April 24, **Carole Heyward** participated on a panel entitled "Key to Making Your Fair Housing Ordinance More Effective" at a conference at the law school. The conference, entitled "We Are All Keepers of the Dream: Celebrating Fair Housing Month," was sponsored by Cuyahoga County, Cleveland-Marshall, and others.

A paper co-authored by **Candice Hoke** and Tom Ryan (a software engineer working with the Center for Election Integrity and a 2007 graduate of the law school) has been accepted for the Electronic Voting Technology Workshop in Boston in August. The paper, "GEMS Tabulation Database Design Issues in Relation to Voting System Certification Standards," concerns election database design problems that lead to inaccuracies and instability.

Ken Kowalski made a presentation, "Current Employment Issues Arising from Pregnancy and Family Obligation," at the Ohio Association of Magistrates Spring

Conference.

On May 23 and June 6, **Ken Kowalski** facilitated workshops on Employment Law for the Ohio Certified Public Manager Program of Levin College's Center for Leadership Development.

On June 9, **Arthur Landever** held another highly successful Great Stories Discussion with more than 20 attendees. The program consisted of the following stories: "When the Emperor was Divine" "In a Stranger's Backyard," and "The Porcelain Monkey" and cases: Yick Wo v. Hopkins, Chae Chan Ping v. United States, Plyer v. Doe, and Korematsu v. United States.

On May 2, **Kermit Lind** gave testimony regarding SB 119 before the Ohio Senate Ways and Means Committee. SB 119 would amend Ohio's Land Reutilization Statute to allow municipalities to bring tax foreclosure and forfeiture actions on tax delinquent property and would also streamline the management of land banks established by Ohio local governments.

Heidi Robertson was the luncheon speaker for the Air and Waste Management Association, Northern Ohio Chapter Annual Meeting at Cuyahoga Community College on May 24. The title of her address was "Massachusetts v. EPA: A Law Professor's Thoughts Going Forward."

In June, **Mark Sundahl** attended a meeting of the UNIDROIT Space Working Group in New York where he led the discussion regarding the application of the Cape Town Convention to satellite components.

Adam Thurschwell gave a paper in July at a conference in England, "Benjamin between Agamben and Derrida: Some *Plumpes Denken* about Political Messianism," at the symposium *The Messianic Now: Philosophy, Religion, Politics*, Lancaster University, Lancaster, UK, July 3-5, 2007.

CONFERENCES ATTENDED

Janice Aitken, Workshop for Legal Writers, Washington, DC

Susan Becker, ABA Professional Responsibility Conference, Chicago, IL

Gordon Beggs, AALS Clinical Workshop, New Orleans, LA

Veronica Dougherty, Workshop on Thriving and Surviving the Academy: Concrete Steps for People of Color & Their Law School, Washington, DC

Deborah Geier, ABA Section of Taxation Meeting, Washington, DC

Lolita Buckner Inniss, AALS Midyear Meeting—Teaching International Law, Vancouver, BC

Kermit Lind, ABA Forum on Affordable Housing and Community Development, Washington, DC

Claire Robinson May, Back to the Future of Legal Research, Chicago, IL

Brian Ray, Current Trends in Japanese Law Conference, Omaha, NE

Steve Steinglass, Pepperdine School of Law Mediation Seminar, Malibu, CA

Mark Sundahl, Northeast Ohio's Global Challenge Symposium, Cleveland, OH

Alan Weinstein, Conducting Empirical Legal Scholarship, St. Louis, MO

IN THE NEWS

Susan J. Becker is quoted in an article by Jodi Andes and Mark Niquette in the June 15 issue of THE COLUMBUS DISPATCH. You may read the article "Coleman case made sticky by politics" on the link below.

http://www.columbusdispatch.com/dispatch/content/local_news/stories/2007/06/15/frankiefolo.ART_ART_06-15-07_B1_NA71A8P.html?print=yes

Dena S. Davis published a letter in the May 28 issue of the NEW YORK TIMES. Five letters appear under the heading, "The Abortion Issue. Who Decides?." Dena's letter is the fifth, which you may read on the link below.

<http://www.nytimes.com/2007/05/28/opinion/128abortion.html>

Dena Davis published a letter in the May 4 issue of THE CHRONICLE OF HIGHER EDUCATION. Dena's letter is the second appearing under the heading, "What Students Need to Be Taught About Religion." You may read it on the link below:

<http://chronicle.com/weekly/v53/i35/35b01701.htm>

The cover article in the July 11 issue of the *Free Times* by Charu Gupta, "Sue the Bastards! What To Do About Mortgage Brokers And Lenders Who Don't Play Fair?" quotes **Kathleen C. Engel**. You may read the article at:

<http://www.freetimes.com/stories/15/10/sue-the-bastards>

James Ewinger, *Judge OKs Lie Detector Tests in Sex Case*, PLAIN DEALER, May 16, 2007 (quoting adjunct professor **Gordon Friedman**.)

Mark Niquette, *Voting Machines will be Retested; Brunner Wants Studies by Fall to Reassure Voters*, THE COLUMBUS DISPATCH, May 7, 2007 (quoting **Candice Hoke**.)

Kenneth Kowlaski was interviewed on July 2, during the 9:00 a.m. call-in program on WCPN (90.3 FM). Ken spoke about the Cleveland Clinic's recent announcement that the Clinic would no longer hire persons who smoke.

Geoffrey Mearns was quoted in an article by John Mangels in the June 10 issue of the PLAIN DEALER, "*Claim may retrigger criminal probe: FirstEnergy's insurance case contradicts NRC on Davis-Besse.*" You may read the article on the link below.
<http://www.cleveland.com/search/index.ssf?/base/news/1181292240247310.xml?bxbiz&coll=2>

In a 20-minute radio interview that aired on July 4, **Kevin O'Neill** discussed the just-completed term of the U.S. Supreme Court and efforts by the Bush Administration to expand the powers of the Executive Branch. The interview aired on two Cleveland radio stations: WKTX-AM and WELW-AM.

Frank Bentayou, *Experts Divided on Effect of Price-fixing Decision*, PLAIN DEALER, June 30, 2007, at C1. ("Taking a legal and historic view, **Chris Sagers**, associate professor at Cleveland-Marshall College of Law at Cleveland State University, said the Leegin decision is only the latest of three Supreme Court decisions that have shifted law regarding distribution-related restraint-of-trade issues over the last 30 years....")

Barbara J. Tyler was featured in the June 29 issue of the PLAIN DEALER in the "Honored" column: "*Legal writing prof is Most Outstanding.*" The column acknowledges Professor Tyler's receipt of the "Delta Theta Phi Law Fraternity International Award as the Most Outstanding Professor of the Fraternity for the past year." You may read the article at:
<http://www.cleveland.com/search/index.ssf?/base/news-0/1183106521269070.xml?nohon&coll=2>

DID YOU KNOW?

Gordon Beggs accepted the Outstanding Member of the Center for Families and Children Family Award on behalf of Community ReEntry at the CFC Annual Luncheon on May 22. His remarks addressed the challenges to families and children posed by society's efforts to fight crime.

Dena Davis was at Linkoping University in Sweden for two weeks, as a Fulbright Senior Specialist. She gave three presentations, met with graduate students, and also traveled to the University of Uppsala.

Dena Davis has been elected to the Board of Directors of the American Society of Bioethics and Humanities.

Patricia J. Falk received the Wilson G. Stapleton Award for Faculty Excellence at the Cleveland-Marshall Law Alumni Association Annual Recognition Luncheon on May 24, 2007.

In April, **Sheldon Gelman** became the first CSU faculty member to receive an award for sustained contributions to the undergraduate honors program.

Carole Heyward and Peter Lawson Jones were honored by the Housing Research and Advocacy Center for their commitment to fair housing at a reception on April 12, 2007.

The California Secretary of State has announced its voting systems performance research team. **Candice Hoke**, the Director of CSU's Center for Election Integrity, and two of Center's student staff members (who are law students and also software engineers) have been named to the team. Press releases may be found below.

http://ss.ca.gov/elections/voting_systems/ttbr/press_release_050907.pdf

http://ss.ca.gov/elections/voting_systems/ttbr/summary.pdf

http://ss.ca.gov/elections/voting_systems/ttbr/qa.pdf

Candice Hoke is currently working on the project for the California Secretary of State evaluating the voting systems currently in use in California. Reports will be released in late July with the Cal-SOS using them to decide which voting systems will be allowed in 2008. This is the first independent, comprehensive assessment of voting systems by leading computer scientists.

Candice Hoke initiated and co-authored a joint Center for Election Integrity and Brennan Center for Justice grant proposal to the Pew Charitable Trusts for a pilot program to achieve meaningful election reform. The Ohio Secretary of State and leading Ohio election officials have strongly endorsed the proposal. A decision is due by early August.

On July 1, **Dennis Keating** stepped down as the Chair of the Department of Urban Studies, Associate Dean of the Levin College of Urban Affairs, and Director of the Office of Student Services. He is replacing his successor Wendy Kellogg as the Director of the Master of Urban Planning, Design and Development. This summer he taught an undergraduate course on "Exploring Cleveland's Neighborhoods," focused on the Broadway-Slavic Village and Tremont neighborhoods.

As of July 5, the working paper of the **Kevin O'Neill** and Howard Katz's teaching article has been downloaded 770 times since being posted on SSRN in April. Its current title is: "Strategies and Techniques of Law School Teaching: A Primer for New (and Not So New) Professors."

In May, **Kunal Parker** defended his doctoral dissertation in History at Princeton University and will be awarded his Ph.D. after the meeting of the Board of Trustees in September 2007.

Brian Ray assisted in drafting the final report of the ABA Commission on Civic Education and the Separation of Powers, which was submitted to the ABA's House of Delegates in early June.

Brian Ray served as a pro bono consultant on a brief submitted by the Federal Public Defender to the U.S. Sixth Circuit Court of Appeals in May.

Heidi Gorovitz Robertson has just received a Fulbright Senior Specialist grant. She will be going to Russia for three weeks this fall to help faculty and administrators at Vologda State Pedagogical University create a graduate program in Public Law.

2007 SUMMER RESEARCH GRANTS

Michael Borden, A Theoretical Exploration of the Duty of Disclosure in Contract Law

Dena Davis, Genetic Research, Creation Stories and Communal Narratives

Kathleen Engel, Market Structure and Anti-Predatory Lending Laws

Lolita Buckner Inniss, Problematizing the Search for Black Rights Under Law: The Critical Legal Rhetoric Approach and the Case of *In Re African-American Slave Descendants Litigation*

Reginald Oh, Reading Brown through Loving: Racial Segregation and the Protection of White Supremacy

Kunal Parker, The Uses of Custom: Historical Thought and the Common Law in Nineteenth Century America

Brian Ray, Striking A Balance: The South African Constitutional Court's Socioeconomic Rights Jurisprudence

Heidi Gorovitz Robertson, Property Issues Connected to Britian's New Right of Access

Lloyd Snyder, The Law of Professional Conduct in Ohio

Steve Steinglass, The Ohio Constitution of 1851: Is It Time for a Rewrite, and If So, How Should It Be Done?

Milena Sterio, The Evolution of International Law

Mark Sundahl, The Use of Legislative Intent as a Tool of Statutory Interpretation in Ancient Athens

Adam Thurschwell, Critical Approaches to Law: Capital Punishment

2007 SUMMER TEACHING GRANTS

Susan Becker, Electrifying Legal Professions

Veronica Dougherty, Exploring the Integration of Computer Assisted Instruction into the Corporations Course

Karin Mika, Investigating the Utility of Using Word Processors for Feedback on Projects in Legal Writing Courses

Kevin O'Neill, Illustrating Evidence Rules with Video Clips from Actual Trials

Chris Sagers, Original Course Materials, Antitrust Law

IN MEMORIAM

Carroll Henry Sierk, May 3, 1931 to May 10, 2007, husband to Janet (nee Brooks), father of John (Joanne) and David (Lisa Marie), grandfather of Justin, Jonathan, and Jackson, brother to Valdemar (deceased), Larry (deceased), and Anthony.

Dean Sierk received his J.D. from St. Mary's University, San Antonio, Texas in 1953 at age 22, and his L.L.M. from Southern Methodist University, Dallas, Texas. His first professorship was at St. Mary's University, and he was the head of the Accounting Department in 1957 at age 26, and then Associate Dean. He taught tax law at Mercer University in Macon, Georgia from 1964 to 1968, and then relocated to Lakewood, Ohio to join the John Marshall School of Law in 1968. Dean Sierk was instrumental in the merger with Cleveland State University and the formation of the Cleveland-Marshall School of Law. For most of his 29-year tenure at Cleveland-Marshall, he served as Associate Dean.

Dean Sierk was a local officer of the Delta Theta Phi Law Fraternity and of the William H. Thomas Foundation for most of his tenure at Cleveland-Marshall and all of his retirement. Of his many accomplishments, perhaps his most prestigious is the Carroll H. Sierk Award for the Outstanding Evening Student in Taxation, which was established in his honor at his retirement and whose recipients include prominent Cleveland law firm partners and Harvard Law faculty.