

Faculty Focus

August 2007



Mary Deutschman, *Bridge in Metroparks*

FACULTY PUBLICATIONS

Dena Davis published a brief Open Peer Commentary: "Help! My Body Is Being Invaded by an Alien!" in the April 2007 issue of the AMERICAN JOURNAL OF BIOETHICS.

Dena Davis has just published [Davis, D. S. \(2007\). "The Changing Face of "Misidentified Paternity" Journal of Medicine and Philosophy 32\(4\): 359 - 373.](#) Click to read the article.

MICHAEL DAVIS, INTELLECTUAL PROPERTY: PATENTS, TRADEMARKS, & COPYRIGHT IN A NUTSHELL (4th ed., West Group 2007) (with A. Miller).

David Forte, *A Sign of Contradiction*, UNIVERSITY OF ST. THOMAS JOURNAL OF LAW & PUBLIC POLICY (Spring 2007).

Lolita Buckner Inniss, *A Domestic Right of Return?: Race, Rights, and Residency in New Orleans in the Aftermath of Hurricane Katrina*, 27 BOSTON COLLEGE THIRD WORLD

LAW JOURNAL 325 (2007).

Heidi Gorovitz Robertson posted the following working paper on the Legal Scholarship Network: *Seeking a Seat at the Table: Has Law Left Environmental Ethics Behind, as it Embraces Bioethics?*

Barbara Tyler and **Karin Mika** are peer review editors for the textbook, ONLINE CONSUMER PROTECTION: THEORIES OF HUMAN RELATIVISM.

Alan Weinstein wrote a chapter titled "Avoiding RLUIPA Challenges," that will be included in a forthcoming (still untitled) book on RLUIPA (the federal Religious Land Use and Institutionalized Persons Act) to be published jointly by the American Bar Association and the American Planning Association in the spring of 2008.

Alan Weinstein and Richard McCleary, Professor of Criminology at UC-Irvine, have submitted an article, *Do "Off-Site" Adult Businesses Have Secondary Effects? Legal Doctrine, Social Theory, and Empirical Results*, to the journal CRIMINOLOGY for peer review. In November, Alan and his co-author will present a paper based on their article's findings at the annual meeting of the American Society of Criminology in Atlanta. The authors have also posted their working paper on the Legal Scholarship Network.

SPEAKING ENGAGEMENTS

David Barnhizer will be a faculty member for the upcoming conference *Bridging the Cultural Divide: Strategies and Tactics for Sino-American Business Relationships*, from September 19-21, 2007, at the Grand Traverse Resort in Michigan. David is also one of the organizers of the conference along with his son Daniel, a professor at Michigan State University College of Law.

Kathleen Engel has the following speaking engagements:

- October 2, Capital University, "An Empirical Study of the Impact of Anti-Predatory Lending Laws on the Home Mortgage Market"
- October 3, American Constitution Society Panel on Sub-Prime Mortgage Lending and Foreclosures in NEOhio (at the Federal Reserve Bank)
- November 9, National Consumer Law Center Consumer Rights Litigation Conference HMDA-Based Credit Discriminational Litigation Panel (Wash, DC)

David Forte, *Homer Plessy and the Living Constitution*, Constitution Day celebration, Monday, September 17, noon to 1:00, CSU Library, 1st Floor. President Michael Schwartz will introduce David.

On August 6, **Candice Hoke** delivered a peer-reviewed paper to the Electronic Voting Technology/USENIX Conference in Boston, MA, entitled "GEMS Tabulation Database Design Issues in Relation to Voting System Certification Standards." The paper is electronically published and was co-authored with

Thomas P. Ryan, a graduating law student. You may read the paper at the links below:

pdf: http://www.usenix.org/events/evt07/tech/full_papers/ryan/ryan.pdf

html: http://www.usenix.org/events/evt07/tech/full_papers/ryan/ryan.html

In July 2007, **Steve Lazarus** lectured on "Objections and Offers of Proof" at the law school's annual Trial Advocacy course.

In August, **Steve Lazarus** was a Lecturer and Lead Trainer for the Legal Services Corporation's Trial Advocacy and Skills program held in Ann Arbor, Michigan.

Heidi Gorovitz Robertson will present "Seeking a Seat at the Table: Has Law Left Environmental Ethics Behind, as it Embraces Bioethics?," at the 2007 Conference on Law, Ethics and Life Sciences in Louisville in late October.

IN THE NEWS

In May, **Candice Hoke** submitted written reports to the Pew Charitable Trust's entity "electionline.org" after the organization selected the Center for Election Integrity to be profiled as an unusually innovative university-governmental partnership for election reform. The Pew publication (distributed in print and electronically) can be found at: <http://www.electionline.org/Portals/1/Publications/EB18.pdf>

Arthur Landever had an Op Ed in the August 14 issue of *Crain's Cleveland Business*, "Regionalism an alternative in higher ed, too." You may read the piece on this link <http://www.crainscleveland.com/article/20070813/SUB1/70810027>

John Caniglia & Mike Tobin, *DEA roundup shattered lives Informant claims accusations false, and agent knew*, CLEVELAND PLAIN DEALER, August 5, 2007 (quoting **Geoffrey Mearns**.)

Mike Tobin, Amanda Garrett & John Caniglia, *Probe puts DEA agent's work under scrutiny Career has been marred by several investigations*, CLEVELAND PLAIN DEALER, July 29, 2007 (quoting **Geoffrey Mearns**.)

On August 27, during a brief interview on WCPN with David C. Barnett, **Geoffrey Mearns** commented on legal issues surrounding charges that the Cleveland Catholic Diocese's chief financial officer had been involved in accounting fraud. You may read and hear the remarks on the link below: <http://www.wcpn.org/index.php/WCPN/news/7120/>

On July 26, **Kevin O'Neill** was interviewed on Ohio Public Radio regarding a recent child pornography decision by the Ohio Supreme Court.

Daniel Solove, *Law Professor Blogger Census (2007 Version)*, CONCURRING OPINIONS, August 6, 2007 (including **Adam Thurschwell's** blog—Before the Law).

In a recent email, Adam made the following comments about his blog. "It was originally intended as both a place for me to try out some of my philosophical ideas in a form that was less formal than actual papers but more formal (because written) than conversation, and to float more random and personal reflections as they came upon me. In practice it's turned out to be much more of the former than the latter, and also pretty intermittent—I did it pretty intensely for the first few months, actually got a bit of an audience from the (small but interesting) on-line Continental philosophy crowd; and then didn't blog a thing for a year—began to feel that my time was better spent on my actual articles, etc. Anyway, I recently (couple of months ago) went back to it again, albeit sporadically. I've also recently joined a group blog ([Long Sunday](#)) that covers somewhat similar, but broader, politics-and-Continental-philosophy territory, although I haven't yet posted anything on it. You can read all about the blog—in fact, read all of it—at [Before the Law](#)."

DID YOU KNOW?

Susan Becker has been the chair of the Civil Rules Committee of the Ohio Rules Commission for the past 18 months. Under Susan's leadership, the Committee has been very active this spring and summer, researching and drafting a proposal to amend the Ohio civil rules to accommodate discovery of electronically stored information (ESI) and working on a number of other substantial projects. The Rules Commission approved the Committee's proposals on August 10 and Susan will present the proposed amendments to the Supreme Court of Ohio on September 18th. If the Court approves the amendments they will be published for public comment in October. The Committee will review all comments received and make recommendations for final rule changes to the Commission and the Court. Rule amendments approved by the Court will become effective in July 2008.

In July, **Phyllis Crocker** attended the 175th Anniversary Dinner for the Law Library of Congress in Washington, D.C.

Dena Davis has been elected President of the Marlboro College Alumni Council and (ex officio) a member of the Marlboro Board of Trustees.

In August, **Dena Davis** participated in an NIH review session of (CEER) Center for Excellence in ELSI Research applications. ELSI stands for "Ethical, Legal, Social Issues of the Human Genome Project."

Reflect/Radiate/Accumulate, a three-part installation by public artists Andrea Myklebust and Stanton Sears, was commissioned by a university committee that included **Brian Glassman**, and funded by Ohio's One Percent for Art Program. The two large rocks were mined in Canada, both are gneiss, and weigh many tons; the vertical steel installation and the surfaces of the two boulders were hand carved by the sculptors. The Myklebust and Sears couple has created large public sculptures in Iowa, Florida, Arizona, North Carolina, Minnesota and elsewhere in Ohio.

Candice Hoke has been appointed to the ABA's Standing Committee on Election Law, which recommends regulatory changes in federal election law--both legislative and administrative. She will serve on the Advisory Commission on Election Law. Only ten people in the country are appointed to this committee.

Candice Hoke served as a member of the blue-ribbon panel of election experts who participated in the creation and editing of "Post-Election Audits: Restoring Trust in Elections," published on August 1, 2007 that was jointly produced by the Brennan Center for Justice at New York University and University of California Boalt Hall's Samuelson Law & Technology Clinic. Candice wrote text, reviewed and edited drafts, and participated in teleconferences to improve the Report.

Karin Mika attended the Association of Legal Writing Director's Conference (Denver) in June.

Howard Katz and **Kevin O'Neill's** teaching article is ranked in the top 3,000 in terms of total downloads (now over 800) out of more than 158,000 articles ever posted on SSRN.

In July, **Kunal Parker** and **Brian Ray** attended the Law and Society Association Meeting in Berlin, Germany.

Lloyd Snyder has been a member of the Cleveland Bar Association's Ethics and Professionalism Committee for several years. He will be the vice chair of the Committee this year and will chair the committee next year.

TWO GRANT OPPORTUNITIES

Applications for grants from the Law School Admission Council for projects designed to encourage underrepresented groups to pursue legal education and to increase the enrollment and successful law-school completion of minority students.

Deadline: January 1, 2008

Contact: Angela Ross,

E-mail: aross@LSAC.org <[MAILTO:aross@LSAC.org](mailto:aross@LSAC.org)>

Web: www.lsacnet.org <<http://www.lsacnet.org>>

Here's the link to ACLS grant info. Deadline for the basic research grant is October 3.

<http://www.acls.org/fel-dead.htm>

CITATIONS IN APPELLATE BRIEFS

(compiled with the assistance of Rosa DelVecchio)

As law professors, it is interesting to discover the uses to which our published books and articles are put, not only within the academy but also outside it. Here is a listing of our work cited in briefs from the WestLaw database of appellate briefs.

Neil RANDALL, et al., Petitioners, v. William SORRELL, et al., Respondents. 2005 WL 1429786 (Appellate Petition, Motion and Filing) (U.S. June 15, 2005), Brief Amici Curiae of Current and Former State Court Justices and Judges in Support of Respondents-Conditional Cross Petitioners and Respondents-Intervenors-Conditional Cross Petitioners (citing **David Barnhizer**, “*On the Make*”: *Campaign Funding and the Corrupting of the American Judiciary*, 50 CATHOLIC UNIVERSITY LAW REVIEW 361 (2001)).

In Re: CENDANT CORPORATION SECURITIES LITIGATION ERNST & Young, Llp, Appellant, 2003 WL 24131405 (Appellate Brief) (C.A.3 March 07, 2003), Brief for Appellee Hfs Parties (citing **Susan J. Becker**, *Conducting Informal Discovery of a Party’s Former Employees: Legal and Ethical Concerns and Constraints*, 51 MARYLAND LAW REVIEW 239 (1992)).

SHERWOOD PARTNERS, INC., Assignee for the Benefit of Creditors of International Thinklink Corporation, Petitioner, v. LYCOS, INC., A Delaware Corporation a/k/a Delaware Lycos, Inc., Respondent. No. 04-1607. 2005 WL 1596480 (Appellate Petition, Motion and Filing) (U.S. July 05, 2005), Brief in Opposition (citing **Thomas D. Buckley**, *The Use of Ohio’s Preference Law in Bankruptcy: An Alternative to Section 547 with a Longer “Reach Back” Period*, 20 CAPITAL UNIVERSITY LAW REVIEW 863 (1991)).

Kelly Lynn CRUZ, Appellant, v. State of Maryland, Appellee. 2006 WL 542234 (Appellate Brief) (Md. February 16, 2006), Brief of Amici Curiae National Women’s Law Center, Women’s Law Center of Maryland, and Professor Leigh Goodmark (citing **April Cherry**, *Maternal-Fetal Conflicts, The Social Construction of Maternal Deviance, and Some Thoughts About Love and Justice*, 8 TEXAS JOURNAL OF WOMEN AND LAW 245 (1999)).

Jalil ABDUL-KABIR, Petitioner, v. Nathaniel QUARTERMAN, Director, Texas Department of Criminal Justice, Correctional Institutions Division. 2006 WL 3425123 (Appellate Brief) (U.S. November 27, 2006), Brief of Child Welfare League of America, Juvenile Law Center and National Association of Criminal Defense Lawyers as Amici Curiae in Support of the Petitioners (citing **Phyllis L. Crocker**, *Feminism and Defending Men on Death Row*, 29 ST. MARY’S LAW JOURNAL 981, 986-87 (1998)).

TEXAS BANKERS ASSOCIATION, Finance Commission of Texas, and Credit Union Commission of Texas, Appellants, v. ASSOCIATION OF COMMUNITY ORGANIZATIONS FOR REFORM NOW (ACORN), Valerie Norwood, Elsie Shows, Maryann Robles-Valdez, Bobby Martin, Pamela Cooper, and Carlos Rivas, Appellees. No. 03-06-00273-CV. December 8, 2006. 2006 WL 4070694 (Appellate Brief) (Tex.App.-Austin December 08, 2006), Appellees’ Brief (citing **Kathleen Engel & P. McCoy**, *A Tale of Three Markets: The Economics of Predatory Lending*, 80 TEXAS LAW REVIEW 1255, 1312 (2001)).

Eric Michael CLARK, Petitioner, v. STATE OF ARIZONA, Respondent. 2006 WL 542178 (Appellate Brief) (U.S., March 06, 2006), Amicus Curiae Brief of the Citizens Commission on Human Rights In support of Respondent (citing **Patricia J. Falk**, *Novel*

Theories of Criminal Defense Based Upon the Toxicity of the Social Environment: Urban Psychosis, Television Intoxication, and Black Rage, 74 N.C. L. REV. 731 (1996)).

COOPER TIRE & RUBBER COMPANY, Petitioner, v. NATIONAL LABOR RELATIONS BOARD, Respondent. 2006 WL 1287253 (Appellate Petition, Motion and Filing) (U.S. May 08, 2006), Petition for a Writ of Certiorari (citing **Joan Flynn**, *A Quiet Revolution at the Labor Board: The Transformation of the NLRB, 1935-2000*, 61 OHIO STATE LAW JOURNAL 1361 (2000) and **Joan Flynn**, *The Costs and Benefits of "Hiding the Ball": NLRB Policymaking and the Failure of Judicial Review*, 75 BOSTON UNIVERSITY LAW REVIEW 387 (1995)).

PARENTS INVOLVED IN COMMUNITY SCHOOLS, Petitioner, v. SEATTLE SCHOOL DISTRICT, NO. 1, et al., Respondents. No. 05-908. August 21, 2006. 2006 WL 2453610 (Appellate Brief) (U.S. August 21, 2006), Amicus Curiae Brief on the Merits of Mountain States Legal Foundation in Support of Petitioner (citing **David F. Forte**, *The Originalist Perspective*, in THE HERITAGE GUIDE TO THE CONSTITUTION 15-16 (Edwin Meese III et al. eds., Regnery Publishing 2005)).

ALLEN & ROCKS, INC., et al., Appellants, v. James F. DOWELL, Appellee. No. 952208. 1996 WL 33689591 (Appellate Brief) (Va. March 20, 1996), Brief of Appellants (citing **Stephen W. Gard**, *Fighting Words As Free Speech*, 58 WASHINGTON UNIVERSITY LAW QUARTERLY 531 (1980)).

Marrita MURPHY, et al., Plaintiffs-Appellants, v. INTERNAL REVENUE SERVICE, et al., Defendants-Appellees., 2007 WL 628814 (Appellate Brief) (C.A.D.C. February 28, 2007), Brief for the Appellees (citing **Deborah A. Geier**, *Murphy and the Evolution of "Basis,"* 113 TAX NOTES 576 (Nov. 6, 2006)).

GENERAL ELECTRIC COMPANY, et al., Appellant, Charles W. KILGORE, et al., Appellees; Charles W. Kilgore, et al., Appellants, v. Alabama Roofing & Sheet Metal Company, Inc., et al. 2002 WL 34234989 (Appellate Brief) (Ala. January 31, 2002), Response Brief of Appellees in Appeal No. 1002149 Charles W. Kilgore, et al. (citing **S. Candice Hoke**, *Preemption Pathologies and Civic Republican Values*, 71 BOSTON UNIVERSITY LAW REVIEW 685, 747 (1991)).

PARENTS INVOLVED IN COMMUNITY SCHOOLS, Petitioner, v. SEATTLE SCHOOL DISTRICT NO. 1, et al.; Crystal D. MEREDITH, Custodial Parent and Next Friend of Joshua Ryan MCDONALD, Petitioner, v. JEFFERSON COUNTY BOARD OF EDUCATION, et al. 2006 WL 2882694 (Appellate Brief) (U.S. October 10, 2006), Brief for the National Women's Law Center and the National Partnership for Women & Families et al. as Amici Curiae Supporting Respondents (citing **Reginald Oh**, *Interracial Marriage in the Shadows of Jim Crow: Racial Segregation as a System of Racial and Gender Subordination*, 39 UNIVERSITY OF CALIFORNIA DAVIS LAW REVIEW (2006)).

Matthew Charles DEMPSEY, Petitioner, v. PEOPLE OF THE STATE OF COLORADO, Respondent., 2005 WL 226983 (Appellate Brief) (Colo. January 05, 2005), Opening

Brief. (citing **Kevin Francis O'Neill**, *Disentangling the Law of Public Protest*, 45 LOYOLA LAW REVIEW 411 (1999)).

Burlington Northern & Santa Fe Railway Co. v. White, 2006 WL 235013 (Appellate Brief) (U.S. January 26, 2006), Brief Amici Curiae of the Equal Employment Advisory Council and the Chamber of Commerce of the United States of America in Support of Petitioner (citing **Alan Miles Ruben**, Elkouri & Elkouri, eds, HOW ARBITRATION WORKS (BNA Books, 6th ed., 2003)).

BROTHERHOOD OF LOCOMOTIVE ENGINEERS and Trainmen, General Committee of Adjustment, Central Region, Plaintiff-Appellant, v. UNION PACIFIC RAILROAD COMPANY, Defendant-Appellee., 2006 WL 3224005 (Appellate Brief) (C.A.7 October 27, 2006), Brief of the Defendant-Appellee, Union Pacific Railroad Company (citing **Christopher L. Sagers**, Note, *Due Process Review Under the Railway Labor Act*, 94 MICHIGAN LAW REVIEW 466 (1995)).

State of North Carolina, v. Ian Aulden CAMPBELL., 2006 WL 1860434 (Appellate Petition, Motion and Filing) (N.C. June 13, 2006), Petition for Discretionary Review under G.S. 7A-31 (Filed 15 June 2006) (citing **Lloyd B. Snyder**, *Is Attorney-Client Confidentiality Necessary?*, 15 GEORGETOWN JOURNAL OF LEGAL ETHICS 477, at 480 (Spring 2002)).

State of Ohio, Appellee, v. Vincent COLON, Appellant., 2007 WL 1602791 (Appellate Brief) (Ohio May 14, 2007), Brief of Amicus Curiae Ohio Association of Criminal Defense Lawyers in Support of Appellant Vincent Colon (citing **STEVEN H. STEINGLASS** & G. J. SCARSELLI, THE OHIO STATE CONSTITUTION: A REFERENCE GUIDE (Praeger 2004)).

Edward C. HOSTMANN, Trustee of the Bankruptcy Estate of WS, Inc., Plaintiff-Appellant, v. CAPITAL CONSULTANTS, INC., an Oregon corporation; Cascade General, Inc., an Oregon corporation, Defendants-Appellees., 1998 WL 34109413 (Appellate Brief) (C.A.9 1998), Appellant's Brief (citing **William L. Tabac**, *The Unbearable Lightness Of Title Under The Uniform Commercial Code*, 50 MARYLAND LAW REVIEW 408 (1991)).

In re Diet DRUGS (Phentermine/Fenfluramine/Dexfenfluramine) Products Liability Litigation, Tracy Bennett JOHNS, Appellant in 00-2592, Susan ELLIOTT, Maria Maira, Jeffrey Doris, Donna Schwartz, Rose Pearson, Maureen Piersak, Kalihka Miller, Barbara Dinerstein, Leila Hadley Luce, Beth Kanner, Daniel Vider, Irene Watkins, Mary Wolcott, Appellants in 00-2862, Ronda BELK, Martha Gordon and Sabrina Johnson, Appellants in 00-2866., 2001 WL 34354043 (Appellate Brief) (C.A.3 March 12, 2001), Brief of Personal Injury Objector Appellants (citing **Barbara J. Tyler** & Robert A. Cooper, *Blinded by the Hype: Shifting the Burden When Manufacturers Engage in Direct to Consumer Advertising of Prescription Drugs*, 21 VERMONT LAW REVIEW 1073 (1997)).

Charles DUSSEAU, Albert Armada, June Burke, Joseph Burke, Christine Harris and Burton Harris, Petitioners, v. METROPOLITAN DADE COUNTY and University Baptist Church, Inc., Respondents., 2000 WL 33998046 (Appellate Brief) (Fla. May 2000), Brief on Merits of Respondent University Baptist Church, Inc. (citing **Alan Weinstein**, *Conflicts in Regulating Religious Institutions*, LAND USE LAW & ZONING DIGEST, Mar. 2000).

Ronald Allen GASS et al., Plaintiff/Respondent/Cross-Appellant, v. NSK LTD. et al, Defendants/Appellants/Cross-Respondents., 2001 WL 34119144 (Appellate Brief) (Cal.App. 2 Dist. December 04, 2001), Combined Brief of Appellants Nissan North America, Inc., Nissan Motor Co., Ltd. and Nsk Ltd. in Reply and in Response to Cross-Appeal (citing **Stephen J. Werber**, *The Products Liability Legislative Response in the Automotive Industry*, 18 NEW ENGLAND LAW REVIEW (1982)).