

Faculty Focus

October 2008



Elmer Brown (1909-1977)

This social realist painter was commissioned through the WPA by The City Club of Cleveland to create this work to represent its essence of justice, freedom, honor, and the free exchange of ideas. Looking carefully, one finds "icons" representing these ideals: the Magna Carta, Bill of Rights, Declaration of Independence, Constitution, scale of justices.

On October 14, at the CSU Annual Convocation, President Michael Schwartz presented **David Forte** with the Distinguished Faculty Award for Teaching and presented **Sheldon Gelman** with the Distinguished Faculty Award for Service. Congratulations!

FACULTY PUBLICATIONS

Lolita Buckner Inniss has accepted an offer of publication for her article "*A Critical Legal Rhetoric Approach to 'In Re African-American Slave Descendants Litigation'.*" The article will be published in the ST. JOHN'S JOURNAL OF LEGAL COMMENTARY'S 24.3/2009 issue.

Kevin O'Neill reports that a recent book—the two-volume *ENCYCLOPEDIA OF THE FIRST AMENDMENT* (Congressional Quarterly Press)—features four articles that he contributed: *Time, Place, and Manner Restrictions; Viewpoint Discrimination; Prisons; and True Threats.*

Oxford Journals has published **Brian Ray's** article, *Occupiers of 51 Olivia Road v City of Johannesburg: Enforcing the Right to Adequate Housing through "Engagement,"* in *HUMAN RIGHTS LAW REVIEW*. You may access the online article on the link below.

<http://hrlr.oxfordjournals.org/cgi/content/full/ngn025?ijkey=WhA0qNJYpLLZZAp&keytype=ref>

Lloyd Snyder wrote an article, entitled *Where to Get Answers to a Question About Legal Ethics*, that appeared in the September issue of the CLEVELAND METROPOLITAN BAR JOURNAL.

Alan Weinstein will publish an essay, *Current and Future Challenges to Local Government Posed by the Housing and Credit Crisis*, in the ALBANY GOVERNMENT LAW REVIEW in a symposium issue on the subprime mortgage crisis (forthcoming 2009). Alan has also posted his article on the Legal Scholarship Network.

SPEAKING ENGAGEMENTS

On October 25, **Michael Borden** gave a presentation, “The Promissory Character of Adequate Assurances of Performance,” at the Central States Law Schools Association 2008 Conference at Southern Illinois University Law School.

David Forte’s recent speaking engagements:

“After Iraq,” Cleveland Skating Club, October 14, 2008.

“Public Virtue and the Court,” The Presidency and the Courts, The Cincinnati Lawyers Chapter of The Federalist Society and The Ashbrook Center for Public Affairs, Cincinnati, Ohio, October 6, 2008 (<http://fedsoc.ashbrook.org/>). The event included an address by President Bush. David’s contribution can be found streamed at: <http://mediasite.ashland.edu/mediasite/Viewer/?peid=fd228f147be54da79f2e00ae1328e515>

“The Ten Commandments and the Constitution,” University of Missouri School of Law, Columbia, Missouri, October 1, 2008.

“Islam and Democracy,” St. Louis University Law School, St. Louis, Missouri, October 1, 2008.

“Islam and Democracy,” Intercollegiate Studies Institute Seminar, Rancho Santa Fe, California, June 7, 2008

“Originalism,” Keynote Address, Medina County Bar Association Law Day Observance, Lorain, Ohio, May 2, 2008.

“The Pope and the Muslims,” Keynote Address, Lorain County Bar Association Law Day Observance, Lorain, Ohio, April 25, 2008.

Matthew Green attended the 13th Annual LatCrit Conference from October 2-4 at Seattle University School of Law. He presented a paper for a Works-In-Progress session. The paper's working title is “Eliminating Vestiges, Ensuring Continued Educational Access: The Inverse Relationship between Dismantling HBCUs (historically black colleges and universities) and Adopting Affirmative Action Programs at TWIs

(traditionally white institutions).” The paper responds to arguments that historically black colleges and universities may be unconstitutional under *United States v. Fordice* and that if HBCUs must be eliminated under the Equal Protection Clause, states should be allowed to implement affirmative action programs at traditionally white institutions, if necessary, to ensure continued educational access for any students displaced by the HBCU elimination.

On October 18, **Lolita Buckner Inniss** gave the opening address at the Property Rights Foundation of America's 12th Annual National Conference on Private Property Rights in Albany, New York. The title of her talk was “The Façade of New Urbanism and the Form-Based Code.”

On October 6, in a program on recent Supreme Court decisions, **Steve Lazarus** discussed *Boumediene v. Bush*, **Steve Steinglass** talked about *Danforth v. Minnesota*, and **Milena Sterio** reported on *Medellin v. Texas*.

On October 8, **Reginald Oh** participated in a panel discussion on the future of the United States Supreme Court following the presidential election. Joining him on the panel was Robert Alt, deputy director for legal and judicial affairs at the Heritage Foundation. Cleveland-Marshall’s chapter of The Federalist Society sponsored the event.

Brian Ray has been invited to present his paper, *Extending the Shadow of the Law: Using Hybrid Mechanisms to Develop Constitutional Meaning in Socioeconomic Rights Cases*, at the AALS International Law Section's “New Voices in Human Rights” panel at the AALS annual meeting in San Diego.

Heidi Gorovitz Robertson has been invited to teach a class and give a faculty luncheon presentation at the University of Minnesota Law School on November 11 concerning her work comparing public access to private lands in Britain, the United States, and Scandinavia.

On October 2, **Alan Weinstein** spoke on “Growth Management Regulations and Wetlands Protection” at the CLE International Ohio Wetlands Conference in Cleveland.

On September 8, **Alan Weinstein** presented on “Responding to the Foreclosure Crisis in Cuyahoga County” at the National Association of County Community and Economic Development Officials’ 33rd Annual Conference in Atlanta.

On September 26, **Steven Werber** spoke on “Litigation and How to Avoid It” at the Beachwood Business Development Center in Beachwood. The program is part of The 2008 Global Gateway Series, co-sponsored by the Nance College of Business Administration and the Cleveland-Marshall College of Law.

James Wilson organized a program entitled *Chaos and Crisis: The Ongoing Financial Crisis* for October 8. The program featured several Cleveland-Marshall colleagues and Federal Reserve Bank Economist James Thomson, Ph.D. **Thomas Buckley** discussed

the ideological foundations of our current problems. **Michael Borden** considered current efforts to prevent the financial crisis from spiraling out of control, including the bail-out proposal. **Kathleen Engel** described how very low-grade mortgages were transformed into seemingly valuable assets that were then used to create trillions of dollars of complicated financial products, like derivatives. Economist James Thomson focused on the lack of equity capital in the mortgage financing system. Finally, **James Wilson** explored longer-term changes that may reduce the likelihood of such problems from recurring.

IN THE NEWS

“Road to growth; Euclid Corridor transit line has rebuilt a proud thoroughfare and given Cleveland a welcome shot of adrenaline,” the PLAIN DEALER, October 26 (“**Cleveland State University** at last has begun to embrace Euclid Avenue, not turn its back. Look at what a difference the new **law school** façade alone has made.”) You may read the article on the link below:

http://blog.cleveland.com/pdopinion/2008/10/euclid_corridor_transit_lines.html

Reporter Alison Grant quoted **Michael Davis** in an October 2 PLAIN DEALER article, “Small Cleveland law firm awarded millions because courtroom rivals didn't play fair,” which you may read on the link below:

http://blog.cleveland.com/business/2008/10/cleveland_law_firm_awarded_mil.html

On October 30, **Candice Hoke** appeared on CNN's Situation Room at 6:00 p.m.; her interview will likely be repeated throughout election week, especially if there are problems in Cuyahoga County voting precincts.

Mark Niquette & Joe Hallett quoted **Candice Hoke** in an article, “Election Disputes; Is Ohio doomed to ballot battles; Some laud litigation; others see need for nonpartisan system,” that appeared in THE COLUMBUS DISPATCH on October 26. You may read the article on the link below:

http://www.dispatchpolitics.com/live/content/local_news/stories/2008/10/26/copy/why_elections_explode.ART_ART_10-26-08_A1_8SBMPRH.html?adsec=politics&sid=101

On October 16, **Candice Hoke** was quoted in an article by Reginald Fields in the PLAIN DEALER, “Court decision could threaten voting right: Ohio Secretary of State Jennifer Brunner.” You may read the story on the link below.

<http://www.cleveland.com/plaindealer/stories/index.ssf?/base/isope/1224145823208501.xml&coll=2&thispage=1>

Kermit Lind had an op-ed published in the October 12 issue of the PLAIN DEALER, “Mortgage bailout must focus on homes, neighborhoods and cities, not investors.” You may read the op-ed on the link below.

<http://www.cleveland.com/plaindealer/stories/index.ssf?/base/opinion/122371390190060.xml&coll=2>

Geoffrey Mearns was featured in an article by education columnist Janet Okoben in the October 14 issue of the PLAIN DEALER, “CSU’s law dean Geoffrey Mearns, finds success and satisfaction in academia.” You may read the article on the link below.

http://blog.cleveland.com/metro/2008/10/csus_law_dean_geoffrey_mearns.html

DID YOU KNOW?

Susan Becker has served on the Supreme Court of Ohio’s Commission on Rules of Practice and Procedure for six years, and as chair of the Commission’s Civil Rules Committee for the past three years. On September 30, she presented the Commission’s most recent set of proposed civil rule amendments to the Supreme Court. The Court accepted the recommendations and published them for public comment. The most dramatic proposed rule change would shift the burden for effectuating service of process from Ohio’s clerk of courts to plaintiffs, which is the procedure used in federal courts. The proposed amendments and information about how to submit comments are available at <http://www.sconet.state.oh.us/RuleAmendments/>.

Susan Becker contributed to the making of a recently released documentary titled “Split - A Divided America.” A crew of nonpartisan filmmakers traveled across the U.S. to interview a diverse cast of prominent Americans including Noam Chomsky, Amy Goodman, the Rev. Jesse Jackson, Al Franken, and Tucker Carlson and a host of commoners (the class in which Susan includes herself). The filmmakers explore whether the so-called red state-blue state divide is fact or fiction, talk with people about the sources and the costs of political polarization in this country, and ask people for suggestions for reuniting the country. Information about the documentary is available at www.SplitDoc.com.

In September, **David Forte** began his appointment as Senior Visiting Fellow at the Witherspoon Institute's Center on Religion and the Constitution, in Princeton, New Jersey.

On July 31, **David Forte** provided expert testimony on religious persecution in support of a Petition for Political Asylum in the Federal Immigration Court in Cleveland, Ohio.

Arthur Landever has organized *Great Stories: Justice and National Security*, which will be held on Saturday, November 8. The first portion of the program, *Justice and Government Spying on the Citizenry*, is based on George Orwell’s 1984 and Diffie & Landau, “Brave New World of Wiretapping” (SCIENTIFIC AMERICAN, Sept. 2008). The second segment, *Justice and Detention of “Enemies” of the State*, considers Nathan Englander’s “Twenty-Seventh” Man from FOR THE RELIEF OF UNBEARABLE URGES, *Boumediene v. Bush*, 128 S.Ct. 2229 (2008), and an article from the CHRISTIAN SCIENCE MONITOR—“Hamdan Sentenced in First Terror Tribunal.” The final part of the program, *Justice and “Harsh Methods of Interrogation” for Alleged Enemy Combatant Detainees*, uses Alice Walker’s “Revenge of Hannah Kemhuff,” and several contemporary news sources on torture, such as “Scalia Defends Torture” (thinkprogress.org, Feb. 12, 2008), as the basis for discussion.