

Faculty Focus

March/April 2011



Freighter Fred White
Munroe Copper



FACULTY PUBLICATIONS



Matthew Green's article, *Express Yourself: Striking a Balance Between Silence and Active, Purposive Opposition under Title VII's Anti-Retaliation Provision*, was published in the HOFSTRA LABOR AND EMPLOYMENT JOURNAL.

Candice Hoke will be writing a chapter in AMERICA VOTES, the ABA anthology on emerging election law issues. Her chapter will focus on the challenges ahead for election technologies and Internet voting in 2012 and beyond.

Mark Sundahl signed a book contract with the Brill publishing house in the Netherlands to write a book about the new Space Assets Protocol to the Convention on International Interests in Mobile Equipment. The book is tentatively titled: *The Convention on International Interests in Mobile Equipment: Its Application to Space Assets and Relation to the Law of Outer Space*.

John Plecnik accepted an offer from the QUINNIPIAC LAW REVIEW to publish his article, *Abolish the Inflation Tax on the Poor & Middle Class*.

Dennis Keating co-authored a paper entitled *Defending Progressive State Housing and Land Use Reforms*, which was presented in March at the annual conference of the Urban Affairs Association in New Orleans.

Jonathan Witmer-Rich accepted an offer from the FLORIDA LAW REVIEW to publish his article, *Interrogation and the Roberts Court*. The article will be published in the September or December 2011 issue of the current volume (63).

Dena Davis published a Letter to the Editor in the NEW YORK TIMES concerning Afghan Violence Over the Koran Burning in Florida. Her letter highlighted cultural distinctions that make it difficult for people in the Muslim world to understand that a political administration may not support an outrageous act, even though it chooses not to intervene to stop it.

David Forte published *The Morality of Positive Law*, in F. J. Beckwith, R. P. George, and Susan McWilliams, *A SECOND LOOK AT FIRST THINGS: A CASE FOR CONSERVATIVE POLITICS* (2011).

David also had an op-ed published, *Free Speech for Plutocrats—One Year Later*, editorial, Ashbrook Institute, Ashland, Ohio (Ashbrook.org), January 2011.

Jim Wilson accepted an offer from the journal JURISPRUDENCE to publish his article, *Taking Stare Decisis Seriously*.

The following C|M|LAW faculty members were offered summer research grants. Congratulations! We look forward to seeing their published work noted in this space in the near future!

1. **Susan Becker**: “The Changing Legal Landscape for *Pro Hac Vice* Admissions.”
2. **Michael Borden**: “The Recent History of Corporate Compliance Litigation under the *Caremark* Standard.”
3. **David Forte**: “Three Soldiers and the Negro: The Civil War Experiences of Oliver Wendell Holmes, Jr., Albion Tourgee, and John Marshall Harlan.”
4. **Matthew Green**: “Is Racially Disparate Treatment of Employees’ Use of the ‘N’ Word Permissible?”
5. **Browne Lewis**: “Until Health Do Us Part: Regulating Suicide, Assisted Suicide, and Euthanasia.”
6. **Gwen Majette**: “Coherency within the Patient Protection and Affordable Care Act: A Framework to Create a Health Care System that Protects the Human Right to Health.”
7. **Karin Mika**: “Do Unions Provide the Only Opportunity for Protecting Privacy Rights in the Workplace?”
8. **John Plecnik**: “Hail to the Chief Judge: The Implications of Extending Authority to Call for *En Banc* Review.”
9. **Brian Ray**: “Comparative Sources in Constitutional Interpretation: Lessons from South Africa’s Comparative Experiment.”
10. **Chris Sagers**: Third Revised Edition of THE LAW OF ANTITRUST (Thomson/West).
11. **Milena Sterio**: THE RIGHT TO SELF-DETERMINATION UNDER INTERNATIONAL LAW: SELFISTANS, SECESSION, AND THE GREAT POWERS’ RULE.
12. **James Wilson**: REPUBLICAN VIRTUES, OLIGARCHIC VICES.
13. **Jonathan Witmer-Rich**: “Delayed Notice Search Warrants.”



SPEAKING ENGAGEMENTS



Lolita Buckner Inniss will participate in Harvard Law School’s Institute for Global Law and Policy summer workshop for doctoral and post-doctoral scholars.

Brian Ray was a commentator and presented *Comparative Sources in Constitutional Interpretation: Lessons from South Africa’s Comparative Experiment* at the Junior International Law Scholars/Yale Journal of International Law conference at Yale University in late February.

Heidi Gorovitz Robertson's abstract *Regional Influence of Scandinavian Immigrants on Public Access for Responsible Recreation on Private Land in the U.S.* was accepted for presentation at the International Academic Association for Planning, Law, and Property Rights Annual Meeting in Edmonton, Canada, in May.

Dennis Keating spoke on March 17 on *Cleveland: Preventing Foreclosures, Rebuilding Neighborhoods* in Glasgow, Scotland, at the annual conference of the Chartered Institute of Housing, Scotland.

Dena Davis participated on a panel at Harvard Law School *Female Circumcision: Ethics and Human Rights Considerations* on March 3, on the topic of female genital cutting.

Dena also served on a review panel of the Maryland Stem Cell Research Fund, in Baltimore, March 15-17.

Karin Mika presented at the Capital Area Regional Legal Writing Conference at George Washington Law School, February 26th -- *As We Grow Older: Tips for Enhanced Communication with Students who Seem to be Getting Younger and Younger*.

On December 1st, **Steve Steinglass** participated in a program, *Examining the Legal Implications of the Kent State Shootings 40 Years Later*. The program was sponsored by the Criminal Law Section of the Cleveland Metropolitan Bar Association.

On December 2nd, **Steve** lectured on *The Original and Removal Jurisdiction of the Federal Courts* as part of the Federal Court Training program sponsored by the Cleveland Metropolitan Bar Association.

Incoming Dean **Craig Boise** presented *Optimal Tax Treaty Administrative Guidance*, on April 14th, at Indiana, Bloomington, as part of Indiana's Tax Policy Colloquium series. This article was published at 88 TEXAS L. REV. 175 (2010), and is a response to another TEXAS LAW REVIEW article, Michael S. Kirsch, *The Limits of Administrative Guidance in the Interpretation of Tax Treaties*, 87 TEXAS L. REV. 1063, 1066-67 (2009).

David Forte gave a lecture on natural law at Miami University of Ohio (March 15).

David testified before the Health Committee of the Ohio House of Representatives on March 10.

He spoke on judicial review at William Mitchell Law School in St. Paul (March 14).

David provided a background lecture on Shari'a law to the Southern Leadership Meeting of lawyers of the Federalist Society in New Orleans (March 19).

David debated a representative of the American Service Committee on the question of First Amendment Rights of Corporations at the First Unitarian Church of Cleveland in Shaker Heights (January 23).

David appeared on a panel sponsored by WHK Radio on the issue of school choice in Independence (January 24).



Lolita Buckner Inniss was quoted in NEWSWEEK (April 10, 2011) regarding Henry Louis Gates's views on African American reparations. The NEWSWEEK article referenced Lolita's earlier *Letter to the Editor* in the NEW YORK TIMES. Referring to that letter, NEWSWEEK stated, "[s]he pointed out the obvious. No matter who did the capturing, it was white people who created the market for African slaves and perpetuated the practice even after the import trade was banned. 'My first thought was, he's kidding, right?,' she told me. 'Up until that recent piece, people would have thought of him as someone who took a cautious and nuanced approach to questions like reparations.' Gates has such an eminent reputation, she said, and 'so much gravitas. Many of us were troubled.'"

Lolita also appeared on 90.3 WCPN's *Around Noon* as part of a panel with Professor Rhonda Williams of Case Western Reserve University and Laurel School Head Ann Klotz to discuss a new version of *The Adventures of Huckleberry Finn*. This new edition removed the words "nigger" and "injun" from the text.

Lolita was quoted in a news story on Michigan Public Radio station WBEZ that aired on Friday, March 25. It is titled "Zoning Out: Why Cities are Rewriting their Codes to Transform their Look." A transcript of the story and an audio download are available at <http://www.changinggears.info/2011/03/25/zoning-out-why-cities-are-rewriting-their-codes-to-transform-their-look/>.

April Cherry's 1995 article on sex-selective abortion received high praise on Constitutional Law Prof Blog. It was mentioned in a post by Ruthann Robison (CUNY). Robison said "Professor April Cherry's article on this issue - - - *A Feminist Understanding of Sex-Selective Abortion: Solely A Matter of Choice?*, 10 WIS. WOMEN'S L.J. 161, 164 - - - published in 1995 is still one of the best pieces of scholarship on this issue."



DID YOU KNOW



Chris Sagers has been named a Senior Fellow of the American Antitrust Institute (AAI). Senior Fellows of the AAI are appointed to a term of two years, during which time they constitute an "inner circle" of advisors and undertake specific projects for the AAI. **Chris** has also written another *amicus brief* for the American Antitrust Institute, as lead author. The case was *In re Hawaiian & Guamanian Cabotage Antitrust Litigation*, No. 10-36165 (9th Cir 2011), and the brief was filed on April 8.

Milena Sterio has been named to the Piracy Working Group by The Public International Law & Policy Group (PILPG). This group is devoted to addressing the challenges posed by modern maritime piracy and comprises two dozen leading experts from academia, government, and PILPG's law firm affiliates. Its mandate is to provide legal and policy advice to domestic, regional, and international counter-piracy mechanisms, with the goal of helping to create effective responses to the growing piracy threat.

Browne Lewis was named a Brocher Foundation Visiting Researcher for the summer of 2012. This prestigious research fellowship provides funding, accommodations, and office space at the Brocher Centre on a large estate on Lake Geneva in Switzerland for selected researchers in the field of bioethics. Browne's project *Until Health Do Us Part: Regulating Euthanasia, Suicide, and Assisted Suicide* was selected from more than 100 applicants.

Kevin O'Neill's (and Howard Katz's) book, *STRATEGIES AND TECHNIQUES OF LAW SCHOOL TEACHING*, has been ordered in large numbers by law schools all over the country. Law schools, including the University of Virginia, University of Connecticut, University of Maryland, University of South Carolina, and UC Berkeley, have placed large orders (100+), and many others have placed smaller orders, in the 30+ range. These orders indicate validation of the work and positive exposure for C|M|LAW!

Jonathan Witmer-Rich's article *Interrogation and the Roberts Court*, (forthcoming in the *FLORIDA LAW REVIEW*) was recently listed on SSRN's Top Ten download list for LSN: Constitutional & Statutory Interpretation (Sub-Topic).

John Plecnik has been appointed to a 3-year term on the Recreation Commission for the City of Willoughby Hills, which governs the recreation budget, youth sports leagues, playgrounds, annual fair, and city events.

Kris Niedringhaus participated in the invitation-only American Association of Law Libraries Colloquium on Creating, Disseminating, Using, and Preserving Legal Information in Challenging Times. The Colloquium of approximately 35 people brought

together legal information vendors, stakeholders, and librarians to discuss the changing landscape of legal information publishing, provision, and use. The Colloquium was held Feb. 28-Mar. 1, 2011 in Oak Brook, IL.

April Cherry was awarded a summer Teaching Enhancement Grant for her project: Reproductive Rights, Technologies, and Ethics — Developing Course Materials for a *Health Law Seminar*.

Steve Steinglass was elected to another term as a member of the Council of Delegates of the Ohio State Bar Association.

Candice Hoke will serve on the Program Committee of EVT/WOTE, a US academic conference on electronic voting technologies, which is a part of the USENIX Security Conference. She will be reviewing papers for acceptance and publication in the on-line proceedings/journal.

Candice was appointed Chair of the Governance of Technology, Information, and Policies Workshop for the 2011 Annual Computer Security Applications Conference (ACSAC). This position allows her to appoint the Program Committee and select keynote speakers. For more information, see <http://www.acsac.org/>.

Karin Mika was a Brief Grader for the Capital Law School Child Advocacy and Adoption Law Moot Court Competition.

Jackie McCloud, of the C|M|LAW law library, was awarded a travel grant by the Research, Instruction, and Patron Services Special Interest Section of the American Association of Law Libraries. The grant was awarded for travel to the AALL Annual Meeting and Conference to be held July 23-26, 2011, in Philadelphia, PA.

Rosa DelVecchio's new novella, *Road Rage – A Love Story*, was published by Cyberwit. It is available online at <http://www.cyberwit.net/publications/253>. Congratulations, **Rosa**!



NOTABLE STUDENTS

C|M|LAW's Frederick Douglas Moot Court team of **Brandon Cox** and **Theopolis Hudson** won the Mid-West BLSA Regional Championship and continued to the Final Four of the BLSA National Frederick Douglas Moot Court Competition, in Houston, TX.

This is only the second time that BLSA has fielded a team, in recent history, in national competition. The C|M team was coached by Admissions Officer and C|M alum, **Sandra English** and C|M alum **Teirra Everette** (Best Oralist FDMCC 2010).

Erika Diehl's published note, *What's All The Headache?: Reform Needed to Cope with the Effects of Concussions in Football*, 23 J.L. & Health 83 (2010), will be provided to all attendees of the 15th Annual Fordham Sports Law Symposium. The Fordham Sports Law Forum in conjunction with the New York State Bar Association will be hosting the Sports Law Symposium on current legal issues in sports on Friday, April 1st. Information about the event can be found at www.law.fordham.edu/sportslaw.

David Emerman's law review note, *An Environmental Law Even Judge Learned Hand Would Violate: Ohio EPA Needs Non-Monetary Penalties to Enforce Construction NPDES Permits*, placed 2nd in the Ohio State Bar Association's 2011 Environmental Law Writing Competition. He received an award, in person, at the OSBA Environmental Law section meeting in Columbus, and his article was published in the conference proceedings. It was selected as Best Note by the C|M|LAW Law Review and will be published there next year.

