

Charles T. Munger on the Economic Crisis  
A Profile of D.C. Power Couple Jeff '68 and Anne '68 (BA '65) Bingaman

# STANFORD LAWYER

**WEATHERING  
THE  
STORM**

The Future of Legal Practice

80

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# From the Dean

BY LARRY KRAMER

Richard E. Lang Professor of Law and Dean



CAN YOU IMAGINE COMPLETING MEDICAL SCHOOL WITHOUT HAVING EVER BEEN ASKED SERIOUSLY TO CONSIDER WHAT KIND OF DOCTOR YOU WANT TO BECOME? And not just medical school. You could not do this at a school of psychology or education or engineering. You could not do it at any professional school. Except for law. Robust career advising has never been part of the law school culture. Why? Because historically we have not needed to help our students choose. Law students could begin that process after graduating, by going to private firms that let them wander among practice areas for three or four years before finally settling down. • This system was collapsing even before the current financial crisis, which can probably be counted on to lay it permanently to rest. Clients are increasingly unwilling to pay for recent graduates to spend time just trying things out. Graduates arriving at their first job today find themselves assigned to whatever area in the firm needs their help most—and clients and firms want them prepared to hit the ground running. All of which means law schools can no longer ignore their responsibility to help students make intelligent choices about the kind of lawyer they want to be, and to prepare for it, while they are still in school. • One way in which Stanford is addressing this problem is with SLSCConnect, an innovative, interactive social and professional networking site built exclusively for Stanford Law alumni and students. I initiated the project because, during my five years here, I have been so impressed by how close our graduates stay to one another (something easily seen by leafing through the magazine’s rich “Classmates” section). This is not the case at every law school. Our alumni care deeply about the school, about its fortunes, and about its students’ prospects. There is, we realized, enormous untapped potential in this tight-knit community: potential not only to strengthen ties among alumni but also to innovate in delivering the best possible advice to students. SLSCConnect can help in this effort. SLSCConnect contains three interrelated components that benefit from your participation. First is a sort of “Wikipedia” for law students about different practice areas. The Career Wikis section describes what lawyers in different practice areas do day to day: what the work is like, what skills lawyers need, what they wish they had studied in law school, and so on. These are available for law students to browse, so they can begin the process of discovering what career paths might interest them. Each wiki was started from a description prepared by alumni who work in the practice area. Like all wikis, however, to succeed we need others who practice to revise and update.

The Career Wikis section works with SLSCConnect’s second component, the social networking feature, that serves as a kind of “Facebook” for students and alumni. Students intrigued by a particular practice can reach out directly to alumni who work in the area—ask questions, make contacts, and learn more of what they need to do in school and after.

Social networking through SLSCConnect benefits alumni as well, making it easier to keep in touch with friends. SLSCConnect also functions as a private portal for the law school: the place to go to learn about reunions, updates on classmates, and other exclusive content—lectures, online conversations, and more.

We don’t expect SLSCConnect to substitute for Facebook or LinkedIn. The social media landscape is a busy place. But with this in mind, we’ve kept offerings inside SLSCConnect unique and exclusive to the SLS community. We ask only that you register, use the network as you see fit, and make yourselves available to students who seek the benefit of your wisdom and experience.

The third component of SLSCConnect rolling out next year consists of an interactive course guide. Based on extensive interviews with faculty and alumni, the guide will be a connected tool offering guidance about where to go in the law school and university to find the skills students need. The guide will link directly to the Career Wikis within SLSCConnect. The addition of the course guide will help students make use of what they learned from these wikis and their networks within SLSCConnect.

With your help, SLSCConnect could revolutionize the process of law school career advising. Everything we’ve done in the past few years to enhance our curriculum—offering students more and better course opportunities, making greater use of the whole university—will matter only if students can use the new curriculum intelligently. SLSCConnect is thus an easy but important way for everyone who went to Stanford Law School to help students get the best possible education and, hopefully, make our connections to one another even stronger.

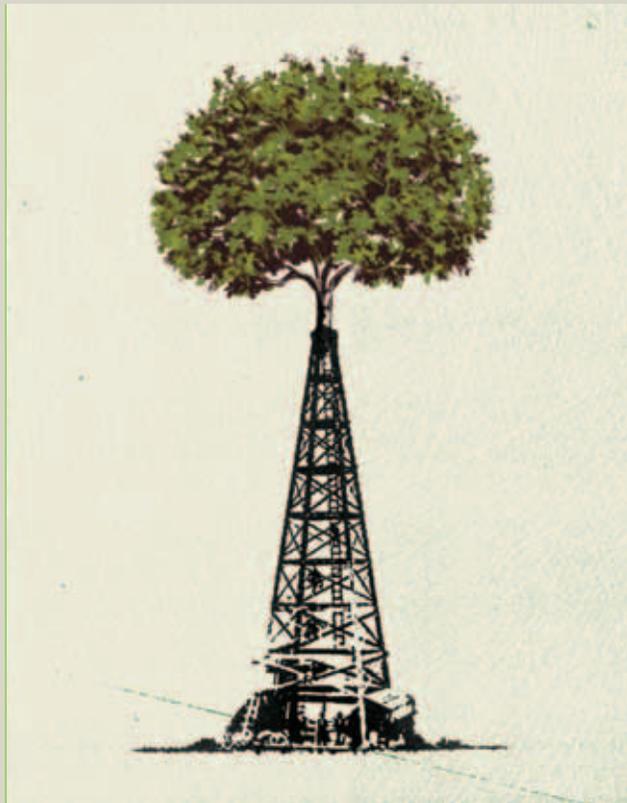
## STANFORD LAWYER SPRING '09

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THE FUTURE  
OF LEGAL  
PRACTICE

How will legal practice weather the economic storm? Will the fall of established firms such as Heller Ehrman force a re-think of the firm business model? In this article, leaders and innovators in legal practice tell us what they think the future holds for the profession.



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Cover Photograph by  
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## BROOKSLEY BORN TO RECEIVE

### John F. Kennedy Profile in Courage Award

**I** FELT IT WAS MY PUBLIC DUTY TO LET CONGRESS, THE ADMINISTRATION, AND THE PUBLIC KNOW ABOUT THE POTENTIAL DANGERS IN THE MARKET. On the other hand, I am very sorry that it turned out I was right, because it has been a disaster for a lot of people who have lost a lot of money. I think there are still other disasters like that waiting to happen until Congress reforms the law and allows some federal oversight of this market.”

From “Legends in the Law: A Conversation With Brooksley Born,” *Washington Lawyer*, October 2003, in which she discussed Enron’s reliance on derivatives as a factor in the company’s collapse.

Brooksley E. Born ’64 (BA ’61) was the right woman, in the right place, at the right time when she was head of the Commodity Futures Trading Commission (CFTC) from 1996 to 1999. It was still early days for recently legalized over-the-counter (OTC) derivatives when she proposed more oversight of the highly leveraged market. She pressed her case to some of the most powerful people in Washington, going toe-to-toe with Alan Greenspan, Robert Rubin, and Congress. But her recommendations were rebuked and a bill was passed that further restricted her office from taking any regulatory steps on OTC derivatives. Even the fall of Enron just after she left the CFTC wasn’t enough to make the powers that be listen. Today, the wisdom of her recommendations is clear.

“I certainly am not pleased with the results,” Born said in a recent *Stanford* magazine article of her efforts to regulate OTC derivatives, the failure of which has been blamed for much of the current economic crisis. “I think the markets grew so enormously, with so little oversight and regulation, that it made the financial crisis much deeper and more pervasive than it otherwise would have been.”

In recognition of her foresight and resolve while heading the CFTC, the John F. Kennedy Library Foundation has named Born a recipient of a 2009 Profile in Courage Award; she will be honored at a May ceremony at the John F. Kennedy Presidential Library and Museum in Boston.

Considered a trailblazer for women, Born entered law school when there were still quotas limiting the number of women allowed in each class and very few of them made it to graduation. Despite the odds, she was elected the first woman president of the *Stanford Law Review* and received the Outstanding Senior Award. She graduated at a time when women comprised approximately 3 percent of the legal profession. Again she excelled, landing a coveted clerkship on the United States Court of Appeals for the District of Columbia Circuit with Judge Henry W. Edgerton. She then joined Arnold & Porter LLP as an associate in 1965 and went on to head its derivatives practice. She retired in 2003.



STANFORD LAW REVIEW, 1964.  
BACK ROW, FROM LEFT: BRUCE GITELSON ’64 (BA ’62),  
ROBERT JOHNSON ’64, PAUL ULRICH ’64,  
FRONT ROW: RICHARD ROTH ’64 (BA ’61), BROOKSLEY BORN  
’64 (BA ’61), JAMES GAITHER ’64

### Munger Graduate Residence Opens

Graduate student Emily Rains (PhD ’11) recently moved into a studio apartment in one of the two buildings now completed as part of the Munger Graduate Residence. Made possible with a generous gift from Charles T. Munger, vice chairman of Berkshire Hathaway, and his wife, Nancy B. Munger (BA ’45), the Munger Graduate Residence is a new concept in interdisciplinary living and learning at Stanford University. Designed specifically for Stanford Law and Stanford University graduate students, the 358 residential units will provide housing for approximately 600 students. Two of the five buildings have been completed and construction on the remaining three will continue through the spring, with all expected to be open for occupancy by summer-time. To view a video and photo slideshow of the new Munger Residence, go to [www.law.stanford.edu/experience/beyond/housing/munger/](http://www.law.stanford.edu/experience/beyond/housing/munger/).



STUDENTS MOVE  
INTO MUNGER RESIDENCE

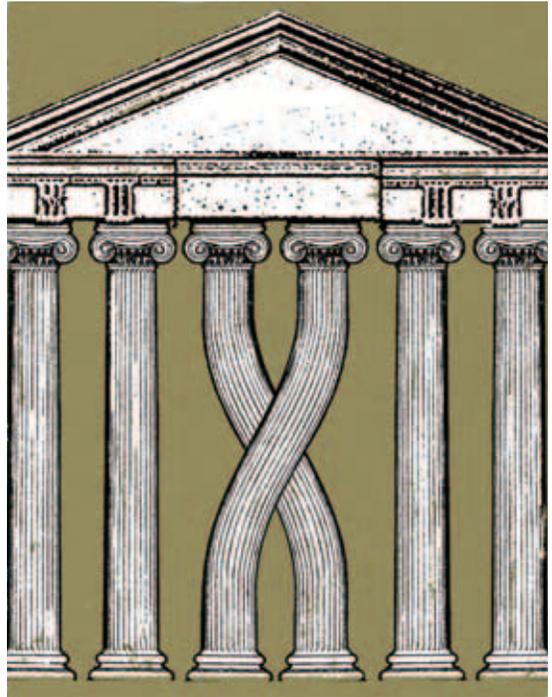
# R I E F

## SLS Launches FOREIGN STUDY AND STUDENT EXCHANGE PROGRAM

VIRTUALLY ALL STANFORD LAW GRADUATES WILL, AT SOME POINT IN THEIR CAREERS, encounter foreign legal systems, work with lawyers from different cultures, or represent clients from other countries. To help students prepare for work in a more global world, Stanford Law has launched an exchange program, the Foreign Legal Study Program, as part of the curriculum. Partner schools, through which students will earn credit toward their JD while abroad, include Bucerius Law School in Hamburg, Germany; European University Institute in Florence, Italy; and Waseda University in Tokyo, Japan. Other partners will be added in the future.

“Studying at a foreign law school will give our students a unique perspective on foreign legal systems,” says Allen S. Weiner '89, senior lecturer in law and co-director of the Stanford Program in International Law and the Stanford Center on International Conflict and Negotiation. “Integrating into another culture to gain an insight not only into foreign law and legal institutions but also into how future lawyers from other countries reason, argue, and solve legal problems will be invaluable to our graduates as they begin their careers.”

Additionally, a select number of visiting students from our partner schools will be accepted to study at Stanford Law School. Participation in the Foreign Legal Study Program is scheduled to begin this fall. To learn more about the program, visit [www.law.stanford.edu/program/centers/spil/foreign\\_study](http://www.law.stanford.edu/program/centers/spil/foreign_study).



### JOHN ATTA MILLS ELECTED PRESIDENT OF GHANA

John Evans Atta Mills '71 has long been referred to as “The Prof” by his students, colleagues, and friends. Now, the Fulbright Scholar, teacher, and tax expert will be referred to by a more formal title: Mr. President. Mills was sworn in as the fifth democratically elected president of Ghana in January after emerging victorious from a very close race. • His narrow win came after initially losing the race. But when none of the contestants earned the 50 percent of the vote required to seal the bid, a run-off election was held in December 2008 with Mills winning by a small margin. Then the results of the run-off were hotly contested, which prompted a revote in early January that ultimately decided the election in Mills's favor. • A swift and peaceful resolution to the controversy surrounding the election results spurred pundits to categorize the race as a substantial boon for the fledgling democracy, which didn't select its own leader until 1992. Many hope it will help spread democracy throughout other parts of Africa. And many hope too that Mills will repair the country's ailing economy and devalued currency. • “Over the last few months, the cedi has lost substantial value with respect to the U.S. dollar attributable to the delayed effect of excessive spending and trade imbalances that we have experienced in 2006,” Mills told the *Ghanaian Chronicle* in a recent interview. “We intend to build on the multi-sectoral strategic framework for the development of the private sector which should provide the vehicle for driving and delivering the changes so urgently required in making Ghana's private sector locally and globally competitive.” • Described as a social democrat, Mills campaigned on a platform of social welfare and public interest. A candidate of the National Democratic Congress party, he made two previous unsuccessful runs for the presidency of the African nation in 2000 and 2004. • Mills came to Stanford Law School as a Fulbright Scholar. A highly regarded professor at the University of Ghana's law school, he spent nearly 25 years as an educator before breaking into politics in 1992 with an appointment as Ghana's national tax commissioner. He was named the country's vice president in 1997 under then-president Jerry Rawlings. • Prior to attending Stanford Law School, Mills earned a bachelor's degree and a professional certificate in law from the University of Ghana. He also holds a PhD in law from the Oriental and African Studies Institute in London. •

## Alumna Helps to Launch STANFORD ENERGY RESEARCH CENTER

**T**HE GLOBAL FINANCIAL CRISIS IS LEAVING MORE THAN FORECLOSED HOMES and depleted 401Ks in its wake. Once the darling of venture capitalists and investment banks, green energy development is facing steep challenges in the current credit-leery environment. But Kat Taylor, JD/MBA '86, and her husband Thomas Steyer (MBA '83) are determined to ensure this shortsightedness doesn't stall advancements in green technology. Taylor and Steyer together donated \$40 million to help fund a renewable energy research venture at Stanford.

The gift will establish the TomKat Center for Sustainable Energy, which will be a key part of a larger university initiative, the newly launched Precourt Institute for Energy. The TomKat Center will focus specifically on development of affordable renewable energy technologies and promotion of public policies that make renewable energy more accessible.

"We really need a new paradigm about energy," says Taylor, a philanthropist who is an active member of several local foundation boards and also helped found OneCalifornia Bank, a community development bank that helps low-income clients to navigate through the banking system and to realize their personal and entrepreneurial goals. Part of that paradigm, she says, is finding a way to change energy policy while avoiding political distortion. "If the real cost of gas were included in our market—for example, environmental damage, foreign policy implications, foreign wars—if all of those things were fully included into the price of a gallon of gas, it would have already made alternative fuels more attractive."

While still in its infancy (the initiative only officially launched in January) the TomKat Center is expected to tackle vital renewable energy projects such as the creation of lighter, less toxic, and more durable batteries that would be used to power cars and the analysis of the current power grid's ability to support future renewable energy technologies.

In addition to opening doors for sustainable energy development, the Precourt Institute for Energy, and by extension the TomKat Center, is expected to create avenues for new multidisciplinary collaborations at Stanford. Already the Precourt Institute for Energy is partnering with the Program on Energy and Sustainable Development at the Freeman Spogli Institute for International Studies (of which Thomas Heller, Lewis Talbot and Nadine Hearn Shelton Professor of International Legal Studies, is a senior fellow and David Victor, professor of law, is director) to develop alternatives to coal.



### Former Tuskegee Airman Attends Inauguration

"I never thought I'd see this day," says former Tuskegee Airman Leslie Williams '74 (BA '49), of the January inauguration of the nation's first African-American president, Barack Obama. "It was very, very emotional."

Williams witnessed the historic ceremony along with some of his fellow airmen, veterans of the WWII Army Air Corps African-American pilots group, all at the special invitation of the president. "It was such an honor. We even had seating, with a good view too," says Williams, who will celebrate his 90th birthday this year.

To read more about Williams and his service with the Tuskegee Airmen, go to [www.law.stanford.edu/publications/stanford\\_lawyer/issues/78/](http://www.law.stanford.edu/publications/stanford_lawyer/issues/78/).



TUSKEGEE AIRMAN LES  
WILLIAMS '74 (BA '49)

## Chief Justice Rehnquist's Papers Donated to Stanford

The papers of the late William H. Rehnquist '52 (BA/MA '48), chief justice of the United States Supreme Court from 1986 to 2005, have returned to the institution where his extraordinary legal career began. Donated to Stanford's Hoover Institution Archives in October, the collection includes case-related materials, speeches, personal correspondence, notes on books Rehnquist wrote, and in-chambers correspondence among the justices. • "We are pleased to donate our father's papers to Stanford University's Hoover Institution. Stanford is where our parents met as college students, and though they spent their last decades in Washington, their hearts were always in the West," said members of the Rehnquist family in a statement. • Rehnquist was nominated to the Supreme Court by President Richard Nixon and took his seat as an associate justice on January 7, 1972. President Ronald Reagan nominated Rehnquist to be chief justice in 1986, a position he held until his death in 2005. • "One of Chief Justice Rehnquist's favorite aphorisms was Justice Holmes's comment that 'a page of history is worth a volume of logic,'" says Barton H. "Buzz" Thompson Jr., JD/MBA '76 (BA '72), Robert E. Paradise Professor of Natural Resources Law and Perry L. McCarty Director, Woods Institute for the Environment, who served as Rehnquist's law clerk in 1977-78. "Working in the Chief's chambers, you quickly realized that he expected you to be as knowledgeable on history as on the law; daily quizzes on history were common. It is thus particularly meaningful that his papers will now be at Stanford where historians can use them to help inform the resolution of future challenges." • Currently, the papers from the 1972 and 1973 Supreme Court terms and Rehnquist's correspondence files from 1972 through 2005 are available to researchers. Other portions of the collection will remain closed until processed by Hoover archivists.

## LEVIN CENTER RENAMES PUBLIC SERVICE ALUMNI AWARD FOR MILES RUBIN

The John and Terry Levin Center for Public Service and Public Interest Law has renamed its annual Alumni Public Service Award in honor of alumnus Miles L. Rubin '52 (BA '50). Thanks to a gift from Rubin's children Jon, Kim, Richard, and Todd, the award is now the Miles L. Rubin Public Interest Award. It recognizes an alumnus who has demonstrated courage in challenging social inequity and promoting positive solutions for social change. • "These awards reflect Stanford Law's fundamental values—that public service should be a central part of students' lives, whatever their career paths, and an essential part of the school's culture," says Larry Kramer, Richard E. Lang Professor of Law and Dean. "We are especially grateful to the Rubin family for its continued support of these goals." • Announced during the Levin Center's annual Public Service Awards ceremony held in November, the renaming acknowledges Rubin's long-standing support of efforts in the public interest, including the Miles and Nancy Rubin Loan Repayment Assistance Program for law graduates entering public service. • Julia R. Wilson '98, executive director of the Legal Aid Association of California and the Public Interest Clearinghouse, was the recipient of the inaugural Miles L. Rubin Public Interest Award. Wilson was recognized for her efforts to improve access to legal services for low-income residents of California. • The



MILES '52 (BA '50) AND NANCY RUBIN AT STANFORD'S PUBLIC SERVICE AWARDS DINNER

Levin Center also honored Shannon Price Minter of the National Center for Lesbian Rights with its National Public Service Award. Minter was recognized for his historic advocacy as lead counsel for same-sex couples in *In re Marriage Cases*, which declared marriage a constitutional right for everyone in the state of California, regardless of sexual orientation.

## Inaugural International Junior Faculty Forum

Ten of the world's top young scholars converged on the Stanford campus last October to present their work at the inaugural Harvard-Stanford International Junior Faculty Forum. Established by Stanford Law and Harvard Law as a yearly event, the conference highlights innovative scholarship from new academics who hail from outside the United States. • "From an intellectual standpoint it was a huge success," says Lawrence M. Friedman, Marion Rice Kirkwood Professor of Law, who, along with Harvard Law Professor William P. Alford, organized and directed the forum. "There were vigorous discussions and debates among paper presenters, judges, and the audience, on topics ranging from scholastic medieval jurisprudence to adjudicating Islamic divorce law in Western courts." • The forum also brought together a distinguished panel of U.S. and foreign judges, including senior law faculty from Australia, China, Colombia, Italy, Mexico, South Korea, and the U.K. Stanford Law faculty serving as judges included Friedman, Mariano-Florentino Cuéllar (MA '96, PhD '00), professor of law and Deane F. Johnson Faculty Scholar; Richard Thompson Ford (BA '88), George E. Osborne Professor of Law; and Deborah R. Hensler, Judge John W. Ford Professor of Dispute Resolution and associate dean for graduate studies. Prior to the conference, judges read and rated 50 papers drawn from a pool of more than 200 abstracts submitted for consideration. From the 50 papers, 10 were selected to be presented at Stanford.

## THE PROLIFIC PROFESSOR: LAWRENCE M. FRIEDMAN

By Sharon Driscoll

**D**eep in the basement

of Stanford's Robert Crown Law Library is a large conference table, one among many covered with dozens of boxes, all crammed with fraying files and papers—the forgotten evidence of legal battles long since lost and won. But they are historical treasures to Lawrence M. Friedman, Marion Rice Kirkwood Professor of Law, who rescues them from recycling bins across California whenever he can. • “Legal records are amazing social documents if you know how to read them,” says Friedman, one of the nation's leading legal history scholars. “County courthouses run out of space and just get rid of them, unless they're very old. But history doesn't stop. It marches on. So what's not so very old today *is* tomorrow.” • Boxes of Alameda County civil records from the 1950s and 1960s. Criminal files from the Santa Clara County District Attorney's Office, dated 1922. Last wills and testaments from San Bernardino County, circa 1964. The list goes on of the many files kept in the library and in Friedman's office. These documents fascinate Friedman. Providing stories of both the legal system and the seemingly inconsequential individuals involved in it, they represent a snapshot of the legal process at various periods of time. • Part lawyer, part historian, part sociologist, Friedman is a Pulitzer Prize finalist for his seminal work *Crime and Punishment in American History* (1993), a fellow in the American Academy of Arts and Sciences, and the recipient of enough awards and honors to fill several pages. He is one of the most frequently cited legal historians in the world. A quintessential scholar and teacher who this year will celebrate 40 years on Stanford Law School's faculty, Friedman is still going strong and his research is as relevant as ever.

**Friedman's start in the legal academy came by chance.** After graduating from the University of Chicago with a liberal arts degree, he stayed on for a law degree because, he says, he couldn't think of anything else to do.

“Nobody in my family had been to college. So the idea of going for a PhD in ancient Middle Eastern languages, something I was very interested in, just wasn't in my range of experience,” he says. “So I thought law school—why not?”

He became interested in legal history while pursuing his LLM, studying with Max Rheinstein at Chicago. “He was a wonderful man—very

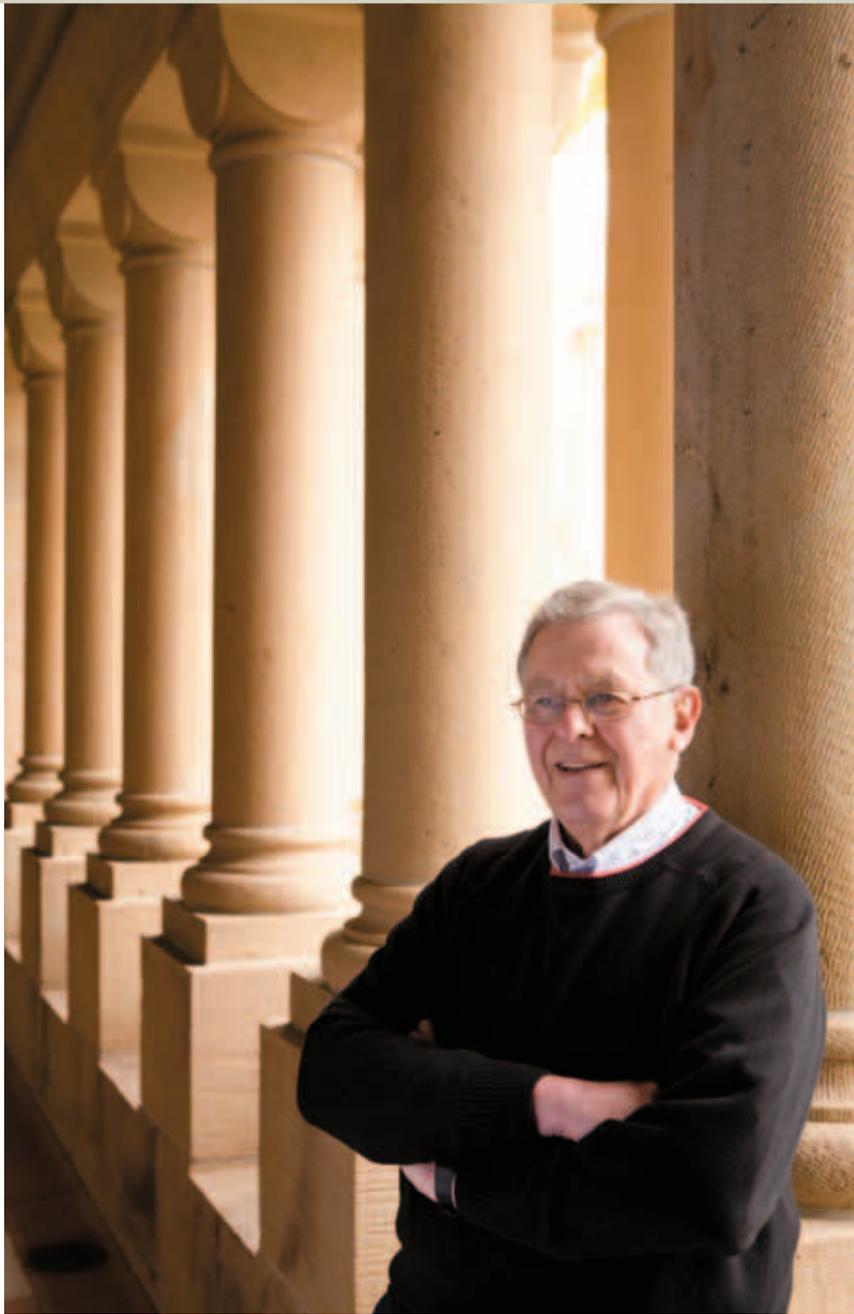
learned, very sweet. We studied British legal history because back then that was the only thing historical that was ever studied,” he says. Friedman later abandoned study of the British system for reasons he now calls “quaint and dated.”

“When I was growing up only the very wealthy traveled and I thought how can I study the British legal system when I'll never be in Britain,” he says. “As it turns out I've since been to Britain maybe a hundred times—the first, courtesy of the U.S. Army. But that was before jet planes, and the idea of overseas travel was really quite foreign.”

After law school and a stint in the Army, he joined a Chicago law firm where he specialized in trusts and estates. But he aspired to teaching and was thrilled when, after two years, a friend approached him with an opportunity. The friend had been teaching at St. Louis University School of Law and wanted to go on a leave of absence, which would only be granted if he found a replacement. He asked Friedman to be his replacement. “I said ‘I'm the guy for you!’” recalls Friedman. “I wound up staying there for four years teaching commercial law, about which I knew absolutely nothing.” He and his wife, Leah, settled into life in St. Louis and both of their children were born there. But when the University of Wisconsin made him an offer in 1961, he knew he had to accept.

“It was a once-in-a-lifetime opportunity to not only teach at a great law school but also to work under the sheltering wings of J. Willard Hurst, who was and is the greatest American legal historian that's ever lived,” says Friedman. “In fact, he created the field. And he was a very wise, selfless, and thoughtful mentor to many, many people, including myself.”

Then following a year at Stanford Law School as a visiting professor, Friedman and his family decided on one more move—this time westward to Palo Alto, where the warm climate and up-and-coming law school drew him. He joined the faculty in 1968 and soon



any scholarship in years. And while the students have always been bright, today many more are interested in scholarship and go into the academy. It's more international, more interdisciplinary. It's just a completely different place now," he says.

Adding to what he calls today's "cosmopolitan" atmosphere at the law school is the growing number of advanced legal degree programs for foreign students, one of which he co-founded with Tom Heller, Lewis Talbot and Nadine Hearn Shelton Professor of International Legal Studies, in 1996: the Stanford Program in International Legal Studies (SPILS). Today, Friedman is the director of the program, co-teaches a seminar for all SPILS students, and is actively involved in the students' research and education. "I guess I'm more proud of that program than I am of anything else I do," he says.

While his scholarship focuses on American law, his keen interest in the world outside this country's borders has made him something of an ambassador for his discipline. He travels widely, regularly delivering lectures at universities abroad. Of the six honorary degrees he holds, three are from foreign universities. And many of his publications have been translated into various languages which include Chinese, French, German, Italian, Japanese, Korean, Polish, Russian, and Spanish. Friedman encourages

**"People said that you couldn't write a general history of American law. I was young and foolish and I thought, why can't you? I've done projects like that a few times now." LAWRENCE M. FRIEDMAN**

started research on *A History of American Law*, first published in 1973 and now in its third edition.

"It was a case of fools rushing in," he says, of the monumental task he took on with his first text. "People said that you couldn't write a general history of American law. I was young and foolish and I thought, why can't you? I've done projects like that a few times now."

His *Crime and Punishment in American History* is likewise an example of a book

that he couldn't believe hadn't been written before. "You'd think with all the interest in crime and a dozen books on Lizzie Borden's case alone that someone would have written it before me. But no," he says.

Since coming to Stanford Law, Friedman has witnessed the school's steady rise up the ranks to its current top-tier position. "When I got here, there were faculty members who hadn't produced

scholars from around the world through SPILS, and he was a key organizer of the inaugural International Junior Faculty Forum, held at Stanford Law School in October 2008.

The large auditorium fills with sleepy undergrads taking their seats—computers at the ready as they wait for the professor. Friedman approaches the lectern and begins.

PLEASE SEE PAGE 33

## THE BINGAMANS: THE POWER COUPLE TWO-STEP

By Rande Fenner (BA '75)

**F**

or Jeff '68 and Anne K. Bingham '68 (BA '65), life since meeting at Stanford Law School has been one heck of a ride. From small-town beginnings to the nation's capital, this uniquely southwestern power couple has been successfully navigating the D.C. establishment for nearly three decades. Juggling family and work from the center of our national government, they provide a model not only for those who seek to influence public policy but also for those who seek to thrive in a high-powered, two-career marriage.

Jeff and Anne both were born in small towns in the southwest—she in Arizona and he in New Mexico—in liberal, Democratic households.

Anne's interest in lawyering dates back to Adlai Stevenson's failed presidential bid in 1952, when she was just 9 years old. "I cried for days and I decided right then that I would be a lawyer because that's what Adlai Stevenson was. I had no idea what being a lawyer even meant," she says.

Jeff, on the other hand, grew up with lawyers in his family. "An uncle was very active in New Mexico politics and gave me the idea that politics and law might make a good career," he recalls.

Jeff and Anne entered Stanford Law School in the same class, though their paths didn't cross until their second year when a seating chart set the course for their life together.

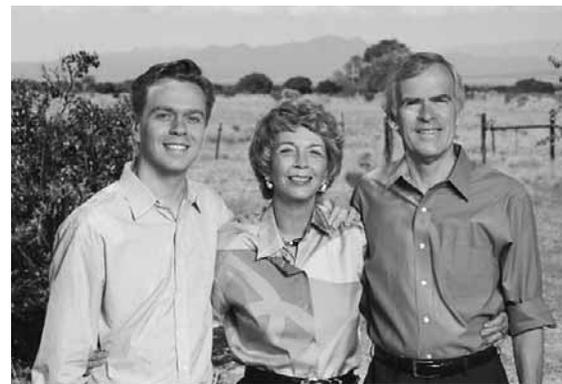
"We were assigned seats next to each other in John Henry Merryman's class on law and development and spent the semester getting to know each other," says Anne.

Anne recalls that the law school was a "phenomenal place," especially for women. "We had an unusually large number of women in our class—14—compared with five or six the years before and after," she says. "You heard terrible stories about the treatment women received at other law schools. But I never experienced any sex discrimination, and it never occurred to me that I would."

They were married shortly after their law school graduation and moved to New Mexico. Neither Anne nor Jeff recalls any discussion about whether both would work outside the home. "It was just assumed we would," says Jeff. They both had strong role models: His parents were teachers and hers ran the family wholesale food business.

Anne initially encountered some difficulty finding a job in Albuquerque in 1970. "The law firms in New Mexico at that time didn't have women lawyers." But one firm took a chance, making her the state's first female associate, and her legal career was officially launched.

Meanwhile, Jeff was working in and out of government. One of his earliest positions was with the New Mexico Attorney General's Office, which gave him the unique opportunity of serving as counsel for the state's constitutional convention. This was followed by private practice in both Albuquerque and Santa Fe and eventually the formation of his own firm with New Mexico's former governor, Jack Campbell.



JEFF '68 AND ANNE K. BINGAMAN '68 (BA '65)  
WITH THEIR SON JOHN

As Jeff's Santa Fe practice grew, Anne worked briefly for the attorney general's office before being asked to join the law faculty of the University of New Mexico in 1972. She was the law school's first female professor, and although she enjoyed teaching and was granted tenure, she knew it wasn't her life's calling. "I quit without knowing what I'd do next, but it all worked out fine."

Anne's dad encouraged her to start her own firm. She did and three days later was hired as antitrust counsel in a large ongoing case against Gulf Oil Corp. Although she had taken former Stanford Law professor William Baxter's '56

Jeff says that if he hadn't been prevented by term limits, he probably would have run again. Instead, he ran for the United States Senate in 1982, winning an upset victory against the Republican incumbent, a popular former astronaut.

Moving to Washington, D.C., with their young son, John, was a difficult transition for the Bingamans, especially Anne. "Was it easy? No. Was it the right thing to do? Absolutely," she says. "It was sort of part of the deal. And I was so proud of him."

Anne soon jumped into Washington life, joining the D.C. office of an Atlanta firm as an antitrust litigator. Eventually, she too moved into public service, when

tee on Energy and Natural Resources. As President Obama enters office, Jeff's committee is poised to act on a number of critical issues including energy efficiency, renewable energy, and the reduction of carbon emissions.

Since leaving public service, Anne has launched yet another career—this time as a telecommunications businesswoman. Following her years at DOJ, Anne joined a leading telecommunications company, and then struck out on her own as founder, chairman, and CEO of Valor Telecom, a company with more than 550,000 land

**"Was it easy? No. Was it the right thing to do? Absolutely. It was sort of part of the deal. And I was so proud of him."**

ANNE K. BINGAMAN '68 (BA '65)

(BA '51) antitrust course, "Never in my wildest dreams did I think I'd ever practice it," she says. But she obtained a default judgment on the antitrust facts against Gulf Oil, valued at \$1 billion when entered in 1978, and other cases followed.

While Anne practiced antitrust law, Jeff looked for opportunities in government. It came in 1978 with his election as state attorney general—something he had thought about doing since his earlier stint as an assistant attorney general.

"It was a great job," he says. "The variety of issues ranged from water rights to liquor licenses."

in 1993 she was appointed to head the antitrust division of the Department of Justice (DOJ) under President Clinton, her professor Bill Baxter's former job, which he held from 1981 to 1983.

During her three-and-a-half-year tenure at DOJ, Anne gained a reputation for "coming down hard on corporate giants" and became committed to bringing competition to the telecommunications industry. Although described by some as "aggressive," she prefers to think of herself as "proactive." "I thought it important to identify specific principles and then choose cases to illustrate those values," she says.

Meanwhile, Jeff was gaining a reputation as an outspoken senator, with frequent editorials on subjects ranging from the excesses of the armed services budget to the necessity of preventing weapons proliferation and the dangers of exporting aerospace technology.

Now the senior senator from New Mexico, Jeff has served on a number of committees, but he is perhaps best known as chair of the Senate Commit-

tee on Energy and Natural Resources. In 2002, she started another company, Soundpath Conferencing Services, which uses specialized software to provide audio-conferencing for major law firms. Having sold that company in August 2008, Anne says she is "just fooling around," looking for her next business opportunity.

Although they rarely discuss politics at home, and they practiced law together only briefly, Jeff says there are "a lot of benefits that result from being married to someone who shares your professional interests." As for what suggestions they would give to couples trying to successfully navigate dual career paths, that's easy: "Develop a high tolerance for chaos and incongruity," they say. **SL**

## JOHN A. HALL: SEEKING TRUTH IN CAMBODIA

By Corinne Purtill (BA '02)



A decade ago, John A. Hall '00 was a history professor on the academic fast track when a life-changing vacation made him reexamine his role in the world. Today, Hall is a human rights legal scholar whose research has improved transparency in the tribunals of the surviving leaders of the Khmer Rouge. During the last several years, Hall has authored several opinion pieces on the subject—most notably one in a September 2007 issue of *The Wall Street Journal* that exposed an internal United Nations investigation detailing kickbacks, unfair hiring practices, and lack of oversight in the court. His publication of the suppressed report spurred reforms in the quest for justice for the Khmer Rouge's victims. • "A tool of human rights lawyers is to shine the light of public scrutiny on poor behavior," Hall says. • His journey to Cambodia started with a backpack. In 1992, the Kent, England, native took off for a trek through Southeast Asia. At the time, Hall was an American history professor at Albion College in Michigan. Cambodia was struggling to recover from the bloody 1975–79 reign of the Khmer Rouge that killed roughly 1.7 million Cambodians. • Hall arrived in Phnom Penh in December, just as a massive two-year reconstruction effort led by the U.N. was ending. He was appalled by the poverty and suffering he saw in the capital city but was intrigued by the international corps of human rights lawyers working to rebuild the country's decimated legal system. • "It wasn't that I didn't know things like that happened," Hall says of the deprivations he witnessed. "It was the realization that there were people in the world doing something about it. I realized that teaching colonial American history wasn't going to have the direct impact those people in Cambodia were having." • Back at Albion, he decided a career shift to law would enable him to more closely affect the injustices he witnessed. He enrolled at Stanford Law in 1997. Though he sometimes felt overwhelmed by the career change—and at times, he recalls, "I seriously questioned my sanity"—he won the Carl Mason Franklin Prize in International Law twice before graduating in 2000. He also returned to Cambodia while at Stanford Law as a legal intern with Legal Aid of Cambodia. His task then was to investigate labor conditions in the burgeoning garment factories—an area of research that continues to be a focus of his scholarship. • He began teaching at Chapman University School of Law in Orange, Calif., after a few years in private practice, and he is now an associate professor of law and research fellow at the law school's

Center for Global Trade & Development. He returned to Cambodia several times for human rights law research, including a trip in 2007 to write an article about the Khmer Rouge tribunals.

Legal watchdog groups had accused the U.N.-backed trials of corruption since before the first public hearings in 2007, but couldn't back up their claims. The U.N. denied the charges publicly but conducted an internal investigation, and immediately sealed the results. When Hall arrived in Phnom Penh, it seemed that every journalist in town was trying in vain to get a copy of the suppressed audit. Hall got one.

"As soon as I read it, I realized how damning it was," he says.

The U.N.'s own investigation found serious problems on the Cambodian side of the court, such as hiring underqualified staff, overpaying salaries, and lack of oversight. Realizing that the information in the audit was too important to keep quiet through the slow process of academic publishing, Hall penned an opinion piece for *The Wall Street Journal* detailing the secret investigation's results. His piece ran September 21, 2007, in the paper's Asia and U.S. editions. Other critics soon came forward. By October, the U.N. agreed to make the audit and several other key documents public and to set firmer anti-corruption policies.

Hall continues to bring attention to human rights violations in Cambodia. In the summer of 2008, he authored an op-ed in the *International Herald Tribune* that addressed the challenges to press freedom and murders of journalists in Cambodia. And in the lead-up to the first trial, scheduled for March 30, 2009, Hall has written several more opinion pieces for *The Wall Street Journal*, *International Herald Tribune*, and *Far Eastern Economic Review*.

"The victims of the Khmer Rouge have waited 30 years to see the leaders brought to justice," says Hall. "They deserve a tribunal that meets international standards and addresses the serious allegations of corruption." **sl**

CORINNE PURTILL is a freelance journalist.



Stanford Law School / Spring 2009

## JUST THE FACTS: EMPIRICAL LEGAL STUDIES ON THE RISE

By Marina Krakovsky (BA '92)

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atent trolls, companies that enforce patents for products they aren't actually making, are the subject of one of the most heated debates in intellectual property law. Critics say their very existence is a problem, throwing a wrench into the works of productive businesses, while others argue that these suits are a legitimate part of patent law. But for all the debate, nobody knows how big the issue really is because no one knows how many cases have been filed.

"Some say half of patent lawsuits are patent trolls; others say it's 2 percent," explains Mark A. Lemley (BA '88), William H. Neukom Professor of Law. "Whenever I see that kind of disagreement, I think it's an interesting research question because they can't both be right."

Making this sort of data-driven research possible was the impetus for the Stanford Intellectual Property Litigation Clearinghouse (IPLC), a searchable database that Lemley helped build with the project's Executive Director Joshua Walker, Director of Project Engineering George Grigoryev, and colleagues in the computer science department, that launched last December (<http://lexmachina.stanford.edu/>). Questions that can be answered with hard numbers aren't unique to IP law. Across the law school—in corporate governance, class actions, worker safety, and media consolidation, to name a few—legal scholars are engaging in complex number-crunching like never before and changing the very nature of legal argument. This fact-based approach to law, which is emerging as an important new field within empirical legal studies, builds upon traditional legal tools of doctrinal analysis and normative argument—but also provides actual data for lawyers and policymakers, resulting, scholars hope, in better legal decisions.

"There are many sophisticated theories about the effects of media consolidation, and while we can debate in the abstract, we won't know about the actual effect until we examine the evidence," says Daniel E. Ho, assistant professor of law and Robert E. Paradise Faculty Fellow for Excellence in Teaching and Research. He tackled the issue by developing a measure of viewpoint diversity based on Supreme Court editorials and examining what occurred with newspaper mergers and acquisitions. The evidence revealed a more complex picture than a prevailing assumption of federal regulation that consolidation reduces viewpoint diversity. With co-author Kevin Quinn from Harvard University, he found, for example, that the

merger of the *Atlanta Journal* and *Atlanta Constitution* may have resulted in *more* exposure to diverse viewpoints.

Another instance of facts challenging accepted theory comes from research by Michael Klausner, Nancy and Charles Munger Professor of Business and Professor of Law. The Supreme Court has taken the position that securities class actions are socially beneficial because they supplement the work of the U.S. Securities and Exchange Commission. But theoretically, Klausner says, there's good reason to suspect that rather than penalizing derelict corporate officers, shareholder lawsuits simply circulate funds from shareholder to shareholder, while both plaintiff and defense lawyers charge for the service. Whether that's true or not is an empirical question—one Klausner was able to answer by collecting data on class actions and looking at the sources of payment. As he suspected, for the period he looked at, only in 4 percent of cases did individual corporate officers pay anything.

Private sector efforts to protect shareholder interests are also a focus for Pritzker Professor of Law and Business Robert M. Daines, most notably in his research on corporate rating agencies. Using proprietary methods, these firms rate corporations on how well their boards protect and advance the interests of shareholders. Daines, who calls the firms "2,000-pound good governance gorillas" for their enormous power to swing shareholders' votes, was inclined at the outset to think the rating agencies provide a valuable service, like *Consumer Reports*. But then objections from venture capitalists made him wonder. "These guys are making claims that they separate the wheat from the chaff, so let's see if they do what they say they do." (Short answer: They don't.)

Getting the raw data to research this question was a difficult hurdle, since the rating agencies had no interest in releasing it; to varying degrees, gathering data is a challenge for all empirical research.

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For one of her projects, Alison D. Morantz, associate professor of law and John A. Wilson Distinguished Faculty Scholar, is trying to determine whether a private system provides more cost-efficient coverage for workers injured on the job than does workers' compensation (whose costs have skyrocketed over the past several decades). It's impossible to conduct a controlled experiment to answer this question, as with most empirical legal questions, but a quasi experiment occurred in Texas, the only state that

with its own website. Then, because different judges use different styles for referring to the same things, the team must, as Walker puts it, "find the oranges and identify them as oranges." What's more, because the raw information is in English, it must be parsed into structured form before it goes into the database, a task that requires the expertise of Chris Manning (PhD '95), a Stanford computer science professor specializing in natural language processing. "It's legal blood, sweat, and tears," says Walker,

data, he found that, as he puts it, "All the models they were looking at were totally useless." Bayesian techniques, which update probabilities about an unknown result based on accumulating evidence, have been around for decades, but their use remained impracticable until computers became powerful enough to rapidly crunch all these numbers.

While the Internet and personal computing have fueled interest in empirical legal studies in recent years, the movement's roots go back to the early 20th cen-

**"Too many times we see arguments based on supposition. Our goal is not to push an agenda, but to give people the data to make up their own minds."**

MARK A. LEMLEY (BA '88)

lets employers opt out of workers' comp. Because companies' occupational-injury claims and other data are proprietary and confidential, however, getting in-house counsel to participate in the research was a hard sell. "They have little to gain and a lot to lose," says Morantz, who recently was awarded a \$200,000 grant from the National Science Foundation to fund this study. Nonetheless, collaborating with 15 large firms, her preliminary analysis already suggests that the companies that choose the non-subscription option make full use of the flexibility it affords them. She needs more data to answer two tougher questions: Is non-subscription also better for employees, and does it truly save money or merely shift costs to group health plans?

Unlike Morantz, most scholars doing empirical legal studies use data that's in the public domain. And thanks to the Internet, data is more abundant than ever, from judicial opinions and regulatory actions to crime statistics and voting records. But having loads of data doesn't mean it's easy to find—not when it's distributed across hundreds of databases and in unstructured form. "The raw stuff is totally chaotic," says Walker about the data he sifts through for the IPLC. His team must collect information from 95 district courts around the country, each

who hopes his work will save judges and lawyers untold hours of research and yield more accurate results, with more effective intellectual property law.

Recent years have also seen an explosion in computing power. Clusters of personal computers working in parallel have made possible the use of more powerful analytical methods, especially computationally intensive Bayesian approaches, which enable scientists to evaluate and compare complex models of all sorts of phenomena. That's important in cases where strongly held prior beliefs keep even careful empirical scholars from agreeing on what the evidence means, explains Jeff Strnad, Charles A. Beardsley Professor of Law. For example, in the long, bitter debate between empirical scholars John R. Lott Jr. and John Donohue about the effects on crime of concealed-carry gun laws, the challenge has been to separate the effect of gun laws from confounding factors like poverty and unemployment; but the variables that should represent these factors were themselves up for grabs. As a result, Strnad says, "Through all this debate and changes in models, nobody ever changed his mind: Researchers who saw a deterrent effect kept finding one, and those who didn't, didn't." When Strnad applied Bayesian techniques to the same

tury. Vice Dean Mark G. Kelman, James C. Gaither Professor of Law, traces its history to three sources: the law and society movement, which was interested in how law interacted with the communities that it was meant to govern; the law and economics movement, which introduced econometrics as a way to model causal relationships; and a move in economics away from the abstraction of rational-choice theory toward testing how people actually behave. Kelman himself worked with the late great Stanford psychologist Amos Tversky, a pioneer in the study of human rationality, on research that tested lab subjects' legal decision making on how, for example, offering jurors a third possible verdict sways their decision toward the intermediate option.

Today the influence of empirical analysis is ubiquitous. "I can't imagine any issue that gets seriously debated now where the research hasn't influenced judgment," says Kelman. He points to the newest addition to the faculty, Joan Petersilia, a criminologist with a background in empirical research and a special advisor to Governor Arnold Schwarzenegger on California's corrections system, who will take up her appointment as professor at Stanford Law in September. "How can you debate

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## LEGAL MATTERS

WITH  
CHARLES T. MUNGER

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*Charles T. Munger* is a man of many interests, much like his hero Benjamin Franklin. Self-taught in a range of disciplines, he's a strong advocate for interdisciplinary education saying, "If I can do it, many people can." A student of physics and mathematics before entering law school, he left his mark on the legal profession early in his career by co-founding Munger, Tolles & Olson in 1962—a firm that is today consistently ranked at the top of its field. Now an icon of the business world, he joined forces with Warren Buffett in the mid-1960s—leaving law to become vice chairman of Berkshire Hathaway and a partner in one of the most successful firms in the world.

Over the years Munger has gained a reputation as something of a no-nonsense voice for sound investment strategies and responsible business practices—as well as simple common sense. But lately it is the mythical Greek character Cassandra who is much on his mind. After living through the Great Depression, serving in WWII, and entering the business world in an era of restraint and sensible regulation, he is irritated by what he calls "the asinities" of today's government and business leaders that led to the current crisis. He saw the financial train wreck coming and voiced his concerns loudly. But almost no one shared them.

"It is painful to see the tragedy coming, to care about all the people who are going to be



clobbered, and not to be able to do one damn thing about it,” said Munger, as we prepared for the interview that follows. As the nation navigates through this crisis, entering waters previously uncharted, perhaps the powers that be will be more willing to address issues previously ignored.

*Joseph A. Grundfest '78*, the W. A. Franke Professor of Law and Business and co-director of the Arthur and Toni Rembe Rock Center for Corporate Governance, is more than familiar with many of Munger's complaints. A former commissioner at the Securities and Exchange Commission (SEC) and counsel to the President's Council of Economic Advisers, Grundfest is today a prominent voice for sense and responsibility in corporate governance. Grundfest founded Stanford's Directors' College, the premier venue for continuing education of directors of publicly traded firms, and also founded the award-winning Stanford Securities Class Action Clearinghouse, which provides detailed, online information about the prosecution, defense, and settlement of federal class action securities fraud litigation. His scholarship focuses on matters related to securities fraud, complex litigation, corporate governance, and statutory interpretation, and his name regularly appears on lists of the nation's most influential attorneys. -SHARON DRISCOLL

**GRUNDFEST: I'll begin with two words: Bernie Madoff. What do you think "l'affaire Madoff" teaches us about the operation of our financial system?**

**MUNGER:** One of the reasons the original Ponzi scheme was thrown into the case repertoire of every law school is that the outcome happens again and again. So we shouldn't be surprised that we have constant repetition of Ponzi schemes.

And of course there are mixed schemes that are partly Ponzi just shot through American business. The conglomerate rage of buying companies at 10 times earnings and issuing stock time after time at 30 times earnings to pay for them was a legitimate business operation mixed with a Ponzi scheme. That made it respectable. Nobody called it illegal. But it wasn't all that different from mixing a significant amount of salmonella into the peanut butter.

**Harry Markopolos, a hedge fund expert, sent a detailed memo to the Securities and Exchange Commission (SEC) articulating why Madoff must have been a fraud. The SEC did nothing with it. We don't know the reason why, but I'm willing to suggest that the lawyers who received Markopolos's warning simply didn't understand the finance or math that Markopolos relied on.**

Lawyers who only know a mass of legal doctrine and very little about the disciplines that are intertwined with that doctrine are a menace to the wider civilization.

**Why didn't the SEC understand the warning that was clearly placed at its door?**

The SEC is pretty good at going after some little scumbag whom everybody regards as a scumbag. But once a person becomes respectable and has a high position in life, there's a great reticence to act. And Madoff was such a person.

**Why aren't our regulators capable of addressing many of the issues that we confront in the market today?**

Most of them plan to go back to living off money made in the system they are supposed to regulate. You can argue that financial regulation is so important that no one in such a position should ever be allowed to do as you partially did—serve and then leave to make money in the regulated field. Such considerations led to lifetime appointments for federal judges. And we got better judges with that system.

**So government service should be a little like a monastery from which you can never escape?**

What you *can* opt to do is retire, which is pretty much what our judges do.

**What about the idea that investors should be able to fend for themselves?**

We want the sophisticated investor to protect himself, but we also want a system that identifies crooks and comes down like the wrath of God on them. We need both.

**And here I think what's intriguing is we have a failure of both.**

Yes.

**As we look at the current situation, how much of the responsibility would you lay at the feet of the accounting profession?**

I would argue that a majority of the horrors we face would not have happened if the accounting profession developed and enforced better accounting. They are way too liberal in providing the kind of accounting the financial promoters want. They've sold out, and they do not even realize that they've sold out.

**Would you give an example of a particular accounting practice you find problematic?**

Take derivative trading with mark-to-market accounting, which degenerates into mark-to-model. Two firms make a big derivative trade and the accountants on both sides show a large profit from the same trade.

**And they can't both be right. But both of them are following the rules.**

Yes, and nobody is even bothered by the folly. It violates the most elemental principles of common sense. And the reasons they do it are: (1) there's a demand for it from the financial promoters, (2) fixing the system is hard work, and (3) they are afraid that a sensible fix might create new responsibilities that cause new litigation risks for accountants.

**Can we fix the accounting profession?**

Accounting is a big subject and there are huge forces in play. The entire momentum of existing thinking and existing custom

is in a direction that allows these terrible follies to happen, and the terrible follies have terrible consequences. The economic crisis that we're in now is, in its triggering circumstances, worse than anything that's ever happened.

**Worse than the Great Depression?**

The economy hasn't contracted as much as during the Great Depression, but the malfeasance and silliness, the triggering events for today's crisis, were much greater and more widespread. In the '20s, a tiny class of people were financial promoters and a tiny class of people were buying securities. Today, it's deep in the whole culture, and it is way more extreme. If sin and folly get punished appropriately, we're in for a bad time.

**And do you see a chance that our current economic woes could reach to a level closer to the Great Depression?**

Well, nobody can predict that very well because we've never faced conditions as extreme.

Very few people realize how much we've screwed up. Even

2006 came along, had pretty well disappeared. Our regulators allowed the proprietary trading departments at investment banks to become hedge funds in disguise, using the "repo" system—one of the most extreme credit-granting systems ever devised. The amount of leverage was utterly awesome. The investment banks, to protect themselves, controlled, to some extent, the use of credit by customers that were hedge funds. But the internal hedge funds, owned by the investment banks, were subject to no effective credit control at all.

**You and your partner, Warren Buffett, have for years warned about the dangers of the modern derivatives markets, particularly credit derivatives, and about interest rate swaps, currency swaps, and equity swaps.**

Interest rate swaps have enormous dangers given their size and the accounting that has been allowed. But credit default derivatives took that danger to new levels of excess—from something that was already gross and wrong. In the '20s we had the

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**“SOME OF THE MOST ADMIRED PEOPLE IN FINANCE—INCLUDING ALAN GREENSPAN—ARGUED THAT DERIVATIVES TRADING, SUBSTITUTING FOR THE OLD BUCKET SHOP, WAS A GREAT CONTRIBUTION TO MODERN ECONOMIC CIVILIZATION. THERE'S ANOTHER WORD FOR THIS: BONKERS.” CHARLES T. MUNGER**

in leading law schools and business schools very few people realize that the mess at Enron never could have happened if accounting customs hadn't been changed. What we have now is a bigger, more widespread Enron.

When the regulators put in the option exchanges, there was just one letter in opposition saying “you shouldn't do this,” and Warren Buffett wrote it. When they wanted to make the securities market function better as a gambling casino with vast profits for the people who were croupiers—there was a big constituency in favor of dumb change. Buffett was like a man trying to stop an elephant with a pea shooter. We're not controlling financial leverage if we have option exchanges. So these changes repealed longtime control of margin credit by the Federal Reserve System.

**You get unlimited leverage.**

Unlimited leverage comes automatically with an option exchange. Then, next, derivative trading made the option exchange look like a benign event. So just one after another the very people who should have been preventing these asinities were instead allowing foolish departures from the corrective devices we'd put in the last time we had a big trouble—devices that worked quite well. The investment banks of yore, chastened by the '30s, were private partnerships, or near equivalents. The partners were dependent for their retirement on the prosperity of the firms they left behind and the customs and culture they left behind, and the places were much more responsible and honorable. That ethos, by the time the year

“bucket shop.” The term bucket shop was a term of derision, because it described a gambling parlor. The bucket shop didn't buy any securities. It just enabled people to make bets against the house and the house furnished little statements of how the bets came out. It was like the off-track betting system.

**Until the house lost its money and suddenly disappeared. Or the house made its money and suddenly disappeared.**

That is right. Derivatives trading, with no central clearing, brought back the bucket shop, because you could make bets without having any interest in the basic security, and people did make such bets in the billions and billions of dollars. Some of the most admired people in finance—including Alan Greenspan—argued that derivatives trading, substituting for the old bucket shop, was a great contribution to modern economic civilization. There's another word for this: bonkers. It is not a credit to academic economics that Greenspan's view was so common.

**Isn't it ironic in a sense that what we now have is a world in which every major financial institution is a federally chartered bank.**

We had a rule that a business couldn't also be a deposit-insured bank, because we didn't want every business to be able to use the government's credit to do anything it wanted. It was a profoundly good idea to prevent the banks from being in other businesses.

Well now, when the captive finance companies like General Motors Acceptance Corporation are too big to fail and get in

trouble, we give them a bank charter so that a company whose main interest is to preserve employment in Michigan gets to use the government's credit in huge amounts to sell more cars. This is crazy. Our whole regulatory system was long designed to prevent what we're stumbling back into as a reaction to a crisis. We do not need a bunch of non-banks with unlimited access to the government's credit.

**So some of the steps that we're putting in place now to try to correct the problems are creating new problems.**

Yes. We're also recreating old problems because we're reacting hurriedly to a crisis.

**I think it's a given that you have to change General Motors in order to save it.**

Well, of course. But count on some changes being silly.

**The Federal Reserve is today buying assets that it wouldn't have even considered looking at a year ago.**

I think the problem is so extreme that nothing non-extreme has any chance of working. I like the fact that it is so willing to do things that have never been done before, because we have problems that we have never seen before. I am a right-wing Republican, and I like the fact that Obama has put into the White House Larry Summers, who is a ferociously smart human being and will try to do the right thing even if it offends some people. I think that's a quality that we need right now.

**What do you think of the job that President Obama is doing so far?**

Given the circumstances, I think he's doing very well indeed. I don't want to trade him in at the moment for any other Democrat.

**Do you have any views on the fiscal side of things—the mix of fiscal stimulus, tax cuts, and the like?**

We have to save the financial system, in spite of our revulsion about the way many of its denizens behave. We also need a huge spending stimulus from the federal government. We have a whole lot of things that are worth doing. By and large, the president does not plan to have people standing around holding shovels in the middle of some forest. He is talking about fixing infrastructure and so on. In the city of Los Angeles, where I live, the streets are a disgrace compared with the streets in Japan. Japan had so much fiscal stimulus that you can't find a pothole on a side of a mountain.

**As part of the response, the U.S. government and governments worldwide are printing money at a rate that is absolutely unprecedented. Should people be worried about deflation?**

Sure. But the dangers from what we have to do are less than the dangers that would come if we responded much as we did in the '30s.

I think it is dangerous to have big disasters in a modern economy. I regard pre-World War I Germany as an advanced, decent civilization. After all, little Albert Einstein got a very

good, subsidized primary education in German Catholic schools. But in its economic misery, Germany became dominated by Adolf Hitler. We've seen some god-awful people come to power in various miseries in various countries. Enough misery has huge dangers in a world where we have new pathogens, atomic bombs, and so forth. So we can't afford to have huge economic collapses. I think we have to do what we're doing. We're hooked. And so are the other advanced nations.

**What I'm hearing from you, Charlie, is "so far so good"?**

It is very reasonable to react with the extreme vigor that's been shown. In retrospect the vigor wasn't quite enough. I would argue that it was pluperfectly obvious the government had to save all these banks and major investment banks.

**So on a scale of 1 to 10, how big a mistake was it that they let Lehman Brothers go?**

I don't think that was a mistake. You can't save everybody. That would have created unlimited revulsion in the body politic. I probably would have let Lehman go, too.

**Even though the market seized up very dramatically afterwards and we had some of the most difficult short-term financial consequences of that failure?**

We needed a total correction to a system that was evil and stupid. You can't have a rule that no matter how awful you are, you're always going to be saved. You have to allow some failure. We don't need all our bright engineers going into derivative trading and hedge funds and so on. We need some revulsion.

**How and why do you think economists have gotten this so wrong?**

I would argue that the economists have not been all that good at working concepts of good and evil into their profession. Nor do they understand, at all well, the economic consequences of bad accounting.

**In fact, they've made a profession of driving value judgments out of the subject.**

Yes. They say it's not economics if you think about the consequences of good and evil, and good and bad business accounting. I think what we're learning is that when you don't understand these consequences, you don't have an adequately skilled profession. You have big gaps in what you need. You have a profession that's like the man that Nietzsche ridiculed because he had a lame leg and was very proud of it. The economics profession has been proud of its lame leg.

**So in order to cure the lame leg, you would lean more toward an approach to economics that takes human nature into account?**

If you totally divorce economics from psychology, you've gone a long way toward divorcing it from reality.

**The same could be said of psychology. If you divorce economics from psychology ...**

That's what's wrong with psychology professors. There are

**“I WOULD ARGUE THAT THE ECONOMISTS HAVE NOT BEEN ALL THAT GOOD AT WORKING CONCEPTS OF GOOD AND EVIL INTO THEIR PROFESSION. NOR DO THEY UNDERSTAND, AT ALL WELL, THE ECONOMIC CONSEQUENCES OF BAD ACCOUNTING.” CHARLES T. MUNGER**

so few of them that know anything about anything else. They have this terribly important discipline that all the other disciplines need and they can't communicate that need to their fellow professors because they know so little about what these other professors know. This is not an unfair description of much of academia.

**You've often said that one of the keys to your success has simply been to avoid making the garden-variety mistakes that you see other people make.**

Warren and I have skills that could easily be taught to other people. One skill is knowing the edge of your own competency. It's not a competency if you don't know the edge of it. And Warren and I are better at tuning out the standard stupidities. We've left a lot of more talented and diligent people in the dust, just by working hard at eliminating standard error.

**If you had to characterize a few mistakes that you see executives making, which ones jump out at you?**

An extreme optimism based on an inflated self-appraisal is one. I think that many CEOs get carried away into folly. They haven't studied the past models of disaster enough and they're not risk-averse enough. One of the very interesting things about Berkshire Hathaway is how chicken it is, how cautious, how low is its leverage. But Warren and I would not have been comfortable with more risk, entrusted with other people's net worths. There was no reason for our financial institutions to stretch as much as they did, with the leverage, the shady people and the compromises.

**Let me play devil's advocate. People might say, "Wait a minute. I'm at bank A and I'm competing with banks B, C, and D, and they're running at higher leverage and the system is willing to give them that additional leverage and they're making more profits. Unless I operate at their leverage ratios, I can't pay my traders competitively and I will fail."**

You've accurately described the way the culture generally works and you have seen in the present crisis how well it works for the wider civilization when everyone insists on not being left behind in lowering standards. I think the culture is simply going to have to learn to work more the way Berkshire Hathaway does, instead of the way Citigroup did.

**Do we go back to the old partnership model?**

It would be vastly better. The culture of Goldman Sachs as a partnership was morally superior and better for the surrounding civilization than the culture that came after it went public.

**Do you think we're going to be able to go back to some of the more traditional models that you value?**

A lot of it is going to be forced, so we'll go some in that direction. However, there are powerful forces intrinsic to the system that resist reform. But I have lived in my own life with responsible investment banking. When I was young, First Boston Company was an honorable and constructive firm and very much served the surrounding civilization. Investment banking at the height of this last folly was a disgrace to the surrounding civilization.

**Looking forward, I think we'll be fortunate if we're able to muddle along with 0 to 1 percent growth, 2 or 3 years out.**

If you're used to growing 3 to 4 percent per year and you go to no growth at all for 10 years, which is roughly what happened in Japan, then, as human tragedies go, that's not major. That's not the rise of Hitler. It's painful, but it's quite endurable.

**Are you worried about China and the possibility of unrest there, given this global economic slowdown?**

The people rising fastest in the Communist Party are engineers, and that's hugely desirable. The Chinese people have vast virtues intrinsic to their culture and their nature that make me optimistic that China will keep advancing. If China has to adapt to 4 percent growth instead of 10 percent growth, China will manage.

**In many ways I see China and the United States as being natural allies. Both economies are tremendous importers of oil. It's in both of our interests to come up with effective, low-cost, clean energy solutions. Yet we have these perpetual frictions that tend to dominate the debate. Any views on that and what we could do to address those questions?**

China is a nuclear power with more than a billion people, talented, driven, and achievement-motivated. I think we have no practical alternative but to get along with China. I think, properly handled, our relationship can be a big plus.

**Getting back to prospects for growth, I would bet on technology.**

We think alike. And we may even take our present misery and use it to boost our chance of ending up where you and I want us to go. We probably have a man in the White House who is quite friendly to this concept.

**A crisis is ...**

We may be forced into much desirable change. If there aren't a lot of new jobs in derivative trading, maybe the engineers will have to do more engineering. If you look at the history of Berkshire Hathaway, you will find that time after time

W E A T H E R I N G

T H E

S T O R M

Six attorneys  
from Virtual Law Partners (VLP),  
four of them  
Stanford Law alumni,  
are seated around a half-moon-shaped  
conference table across from  
three huge digital screens at Cisco  
Systems' San Jose office.

On those screens, five attorneys from  
the Beijing firm Broad & Bright,  
including Changchun Yuan, JSM '94, JSD  
'95, are gathered in an identically  
outfitted room in China. The net effect is a  
half-real, half-virtual meeting.

**BY**

**JOAN O'C. HAMILTON (BA '83)**

PHOTO ILLUSTRATION BY FREDRIK BRODEN

PORTRAITS BY LESLIE WILLIAMSON



**T**HE ACOUSTICS OF THIS CISCO “TelePresence” system are so sensitive that when a Chinese attorney riffles through her papers, it’s as if she’s just a few feet away. Aside from all the fancy technology, what’s even more startling is the frank conversation the seasoned attorneys at these two newly affiliated firms are having about how they can sell legal services to major U.S. clients for, well, a bargain.

“What are you billing per hour?” VLP President RoseAnn M. Rotandaro ’95 asks her former Stanford Law classmate and friend Yuan.

“Starts at \$200 for associates, up to \$450 per hour for partners,” Yuan replies.

“And we’re billing at \$300 to \$500,” adds VLP CEO Craig Johnson ’74. Johnson, with Rotandaro and Andrea Chavez ’96 (MS ’98), founded VLP last year on the premise that it would use technology to create a firm of networked partners who could deliver the same quality of service as big law firms for a much lower cost. For example, U.S. clients who work with major firms in China routinely pay fees that start at \$600 and run to \$1,000 per hour. “By bypassing big global firms that legally must subcontract with local firms, we can cut out one layer of middlemen and curb about 50 percent of the hourly rate. What’s not to like?” adds VLP partner Wena Poon, a Harvard Law alum and veteran of London law firms Linklaters and Reed Smith LLP.

Top attorneys excitedly talking about low-balling the competition? Welcome to the legal profession, 2009.

The economic shock wave moving through the world economy is creating an upheaval in law firms not seen for almost two decades. Today, demand across broad categories of practice areas has plummeted. Especially hard hit: real estate, mergers and acquisitions (M&A), and corporate transactions. After growing by 12 percent in 2007, for example, M&A work contracted 2.5 percent in 2008, according to a survey by Hildebrandt International.

Layoffs in the first few months of the year have been widespread, with an estimated 800 attorneys losing their jobs on February 12 alone, a day law bloggers quickly dubbed “Black Thursday.” According to the legal newspaper *The Recorder*, prominent firms trimming both associates and staff that day in-

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20 TO 30 INVEST-  
MENTS. WE  
CAN PREDICT WHEN  
A STARTUP WILL  
NEED TO GO PUBLIC.  
BUT IF A CLIENT  
SAYS THEY WANT A  
FIXED FEE FOR ONE  
ACQUISITION  
OR FOR LITIGATION,  
WELL, FOR  
COMPANIES WITH-  
OUT A REGULAR  
PATTERN, IT’S HARD  
TO ESTIMATE A  
FAIR PRICE.”

**Gordon K. Davidson ’74**  
(BS ’70, MS ’71)  
*Chairman and Partner,*  
*Fenwick e3 West*

cluded many in the Am Law top 100. That came just a couple of weeks after more than 1,000 lawyers and staff lost their jobs at many more firms. And news of more layoffs comes every week. According to a recent *National Journal* article, by the end of February another 4,200 jobs had been shed in the legal profession. And the news for March was equally bleak.

Students and recent graduates are starting to worry. Susan C. Robinson, associate dean for career services, says there were widespread cutbacks in summer internship programs for 2009, and many firms are considering shortening the programs to 8 to 10 weeks, down from the typical 12 or more weeks. Across the board, associate salaries have been frozen. Robinson says she sees no evidence of firms rescinding offers to Stanford Law students slated to arrive next fall, although some firms have offered incoming associates deferrals. More troubling are the calls from alumni who have been laid off. “The market out there is very tight right now,” she says.

And so are the key indicators. In its 2009 Client Advisory prepared with Citi Private Bank, the legal industry consulting group Hildebrandt projects that 2008 profits per equity partner in most firms will be flat to negative 10 percent and that in 2009 the drops are expected to be worse, particularly for firms with significant practices in the capital markets. Last year, venerable firms such as San Francisco’s Heller Ehrman and Thelen Reid & Priest were shuttered along with another 16 firms. There were 55 mergers of U.S. law firms, according to Hildebrandt, and more consolidation and shrinkage are likely ahead.

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**Ripe for Change?**

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IT’S NO WONDER SUCH A CLIMATE HAS MANY PEOPLE ACROSS THE LEGAL PROFESSION questioning the role lawyers play today in general and also grappling with just how much of the traditional firm structure and its billing and management practices is sustainable. “There isn’t a large corporate general counsel in the United States right now that isn’t working hard to figure out better alignment with outside counsel,” says Mark Chandler ’81, senior vice president, general counsel, and secretary of Cisco. Chandler has been aggressively working with Cisco’s legal partners for several years to implement better technology and process to rein in soaring legal



Gordon K. Davidson '74  
(BS '70, MS '71)

costs. "There are a thousand flowers blooming right now. It's conceptually a general relook at every facet of law practice and the appropriate way to define the relationship," says Chandler, who also sits on the VLP advisory board.

To those attuned to both the business and practice of law, this day of reckoning comes as no surprise. "The need for the profession to change pre-dates this current crisis; it's a model of practice that's teetering on collapse," says Larry Kramer, Richard E. Lang Professor of Law and Dean of Stanford Law School. Kramer believes that, for a profession steeped in tradition and stubbornly organized around management practices many consider out of date, the widespread shocks can be an opportunity to step up and reinvent itself. Such practices as the traditional billable-hour structure, which seems to many clients to reward inefficiency; associate starting salaries that have climbed to the stratosphere; and the expensive wooing and entertaining of top law students, in summer programs that create a fantasy of what a young lawyer's life is really like, should all get a once-over, says Kramer. But when he looks around he says he is disappointed that he sees few signs that real change is imminent. "I worry that everyone will hunker down and hope to wait until things pick up."

**C**ARL A. LEONARD, FORMER chairman at Morrison & Foerster and now chairman and director of The Hildebrandt Institute, the educational arm of Hildebrandt International, agrees with Dean Kramer. Leonard consults extensively with law firms about their business models and despite the enormous bottom-line hits, he says, "We're still in the mentality that we're a guild and business forces don't apply to us. Well, we're wrong." Among the most fundamental problems, according to Leonard: "We still have a separation in most firms between the management committee and the compensation committee. We have lockstep advancement by year regardless of performance. And I've been writing and speaking for so many years about the stupidity of time-based hours."

The fall 2007 *Stanford Lawyer* feature, "The Changing Business of Law," looked at gather-

"THERE ARE A THOUSAND FLOWERS BLOOMING RIGHT NOW. IT'S CONCEPTUALLY A GENERAL RELOOK AT EVERY FACET OF LAW PRACTICE AND THE APPROPRIATE WAY TO DEFINE THE RELATIONSHIP."

Mark Chandler '81,  
*Senior Vice President,  
General Counsel,  
and Secretary of Cisco*

ing pressures that now, with this economic crisis, have converged into a "perfect storm" for the legal profession. These include soaring salaries for associates, which in turn fueled the steadily escalating hourly rates that have prompted clients to revolt, as well as many firms' slow adoption of more technologically efficient business practices. But a big issue in 2007, work-life balance, is barely whispered today. As we noted then, despite starting salaries at an eye-popping \$160,000 per year, associate attrition at many large law firms was nearing 30 percent and had even inspired some Stanford Law School students to launch an organization called Law Students Building a Better Legal Profession.

The turnover and unhappiness of large-firm associates was a factor in driving talented lawyers to sign on with new outfits like Axiom, a legal service company that provides attorneys to corporations for a fraction of what firms charge for project-based help. In exchange, the lawyers get to practice without putting such brutal pressure on their personal lives. In the current economic climate, many expect this trend to continue. "The development of the independent contractor market for lawyers is an important trend," believes Dan Cooperman '76 (MBA '75), general counsel at Apple Inc. "The capabilities and qualifications of lawyers who are willing to make themselves available on this basis are now very high."

In conversations with Stanford Law alumni and others working in a wide variety of firms and as general counsel today, there is no doubt these sobering and difficult issues remain, although concern about associates' work-life balance mostly has dropped off the radar. "In 2000, people came out of law school looking to be masters of the universe; now they are happy to be employed by the universe," observes a Stanford alum who recruits for a major Silicon Valley firm.

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**Business Outlook: Uncertain**

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BUT IN THE LAST 18 MONTHS, SIMMERING CONCERNS HAVE BEEN MAGNIFIED by the global recession and a few developments even experts didn't see coming. For example, "Nobody knows what's really going on with litigation," says Hildebrandt's Leonard. More and more companies seem to be settling rather than



RoseAnn Rotandaro '95 and Craig Johnson '74

prosecuting big cases, he notes, and demand for litigation fell into negative digits from 2007 to 2008. Litigation tends to be a counter-cyclical practice that often cushions economic downturns for firms. “That litigation is down is unprecedented, and it’s not picking up,” says Leonard. “We can’t figure out if it’s just the cost of litigation that companies are rejecting or the economy or both. That would be a tectonic shift if litigation really changed on a long-term trend line. But we just don’t know.”

The conventional wisdom is that during this recession the very large firms will prosper as will highly specialized boutique firms, but the mid-size firms are vulnerable. At least one SLS alumnus who helps manage a 2,000-plus attorney firm, however, says he does not believe the impact will be so black and white. “Everybody in the middle thinks the sky is falling and economic activity will never return. Economic activity will return to the country and the world. It’s a mistake to develop the mind-set that the work won’t return. There are investment banks that no longer exist—but the ones that do will be subject to more regulation. My instinct is that this will be like the early 1990s, but more pronounced. We need to retool and readjust.”

Those terms seem to mean different things to different firms. “There is definitely a reset going on in the profession. We are looking at ways to control rising costs, associates’ salaries, and other pressures on billing,” says John Roos ’80 (BA ’77), CEO of Wilson Sonsini Goodrich & Rosati. Also on many firms’ list for review: real estate. An imposing, even luxurious office once was considered, along with the ampersand, as one of the premier signs of stability and strength for law firms. Today, Roos and others are looking at real estate costs, for example, and questioning to what degree it makes sense, in a highly networked, work-anywhere world, for every attorney to have a private office in a high-rent location.

However, reforming one of the most hotly debated foundations of legal work—billable hours—seems to remain more talk than action. Many academics, companies, and business consultants predict that the days are numbered for the billable hour way of doing business. They say that the field must move to more transaction-based billing and fees for service that don’t incentivize firms to do more than is required to keep associates busy. The presiding

partner at Cravath, Swaine & Moore in New York even told *The New York Times* in January, “This is the time to get rid of the billable hour.” But many law firm partners aren’t so sure. “I don’t believe the legal profession is going to move away from the hourly rate anytime soon,” says Roos. “What we know is that it has to be a certain kind of client and mind-set. Neither lawyers nor clients are in love with the hourly system, but if the clients really wanted to transition to transaction-based fees or other billing schemes, we’d have them.”

**G**ORDON K. DAVIDSON ’74 (BS ’70, MS ’71), chairman and partner of Fenwick & West, seconds Roos’s observations that clients are not demanding negotiated fees in large numbers—though Davidson entered into just such a relationship with Cisco a while back. However, despite an agreement with Cisco that both Davidson and Chandler say works very well, it isn’t a one-size-fits-all remedy.

“The tradition has been to charge by the amount of effort expended. Clients are happy to pay for value, less happy to pay for effort,” says Davidson. “A fixed-fee relationship depends on predictability. We can predict the business we will do with Cisco in a year—perhaps 6 to 10 acquisitions, 20 to 30 investments. We can predict when a startup will need to go public. But if a client says they want a fixed fee for one acquisition or for litigation, well, for companies without a regular pattern, it’s hard to estimate a fair price. In fact, even internally it’s easier for the general counsel to say to the CFO, ‘I got our law firm to give us a 10 to 15 percent discount.’ The fixed fee is harder to calibrate and explain,” says Davidson.

On the other hand, he is very happy to explore such arrangements and sees potential for clients to save money and take valuable legal counsel with fixed fees. “With the hourly rate, in-house counsel may say ‘I have a small question; I’ll just make a best guess.’ It could be that a 10-minute call could have prevented an expensive mistake,” says Davidson. “With a fixed fee there is no inhibition to make that call, and you avoid a \$10,000 legal bill later. All this really needs more research. I

**“THERE IS DEFINITELY A RESET GOING ON IN THE PROFESSION. WE ARE LOOKING AT WAYS TO CONTROL RISING COSTS, ASSOCIATES’ SALARIES, AND OTHER PRESSURES ON BILLING.”**

**John Roos ’80 (BA ’77)**  
*CEO of Wilson Sonsini  
Goodrich & Rosati*

think it works at the low end and the high end, but in the middle it's hard to tell."

Deborah L. Rhode, Ernest W. McFarland Professor of Law and director of the newly launched Stanford Center on the Legal Profession, agrees that these tumultuous times demand more targeted research from the academy—and that the start of the center couldn't have come at a more opportune time. "We've just put in a grant to look at the alternative structures for law firms. We'll look at billing, fee structures, quality of life. This kind of research should inform decisions moving forward," she says. "For example, in the last recession firms reacted with layoffs but then they didn't have the manpower at the mid-associate level when business picked up again." Indeed, a number of partners at major firms say they are forecasting internally that the huge drops in corporate valuations probably make a burst of mergers and acquisitions inevitable; the question is how do you balance staff in the interim. Rhode says the answer may lie in projects such as "strategic pro bono work" designed to retain and train particular associates with particular skills.

As part of the wider rethinking, the profession also must recommit to its most fundamental responsibility to serve clients by telling them "what they ought to hear, not what they want to hear," says William H. Neukom '67, former general counsel of Microsoft, former president of the American Bar Association, and now the CEO of the San Francisco Giants. Whether in situations like the imploding of Enron, the dot-com bust, or the current misconducts and mistakes in the financial industry, he says, "Part of what we're seeing is that the classic role of the wise, trusted lawyer wasn't being played. We had companies going public without a business plan, reporting their activities in confusing or even misleading ways, managing for the short term to impress the street, and reaching for questionable ways to generate profit well outside their core competence."

Part and parcel of looking at fee structures and efficiencies are these more fundamental notions about the proper role and value of a lawyer. "We have to ask, 'Are lawyers asserting themselves in the way that they should?'" says Neukom.

Some lawyers certainly are asserting themselves in new and different ways. For example,

"PART OF WHAT WE'RE SEEING IS THAT THE CLASSIC ROLE OF THE WISE, TRUSTED LAWYER WASN'T BEING PLAYED. WE HAD COMPANIES GOING PUBLIC WITHOUT A BUSINESS PLAN, REPORTING THEIR ACTIVITIES IN CONFUSING OR EVEN MISLEADING WAYS, MANAGING FOR THE SHORT TERM TO IMPRESS THE STREET, AND REACHING FOR QUESTIONABLE WAYS TO GENERATE PROFIT WELL OUTSIDE THEIR CORE COMPETENCE."

**William H. Neukom '67**  
*Former general counsel of Microsoft, former president of the American Bar Association, and now the CEO of the San Francisco Giants*

the famously entrepreneurial Craig Johnson, who created Venture Law Group (a new model for a branded, high-tech-oriented firm) in the 1990s and sold it to Heller in 2003, recently started VLP, which is a radical new idea. While a temporary service company such as Axiom maintains offices, VLP's model—no physical offices, all lawyers as partners who keep 85 percent of what they bill—is a big departure from the associate-dependent, high-overhead structure of most firms. "The large law firm business model is broken; nobody even disputes that it's broken," claims Johnson. While some attorneys do try to strike out on their own, the difficulty in doing so hinges on generating enough business and keeping it. The idea behind VLP is to develop a brand and a reputation for being able to assemble an experienced, sophisticated team quickly, but without a traditional firm's overhead.

Some partners in mid- and large-size firms say that while the growth of contract lawyers and more independent staff attorneys is a trend that's here to stay, they aren't so sure such a virtual arrangement can replace the stability and relationship-based business of traditional law firms. "The economy could lead to a prolonged reduction in lawyers in major firms," says Stephen C. Neal '73, chairman of Cooley Godward Kronish. "But I don't think it's time to change the concept of a private law firm. I think a lot of what we're dealing with is not even as much the economy as that we weren't as disciplined as we should have been in our hiring and we have to recalibrate."

However, David Jargiello, former general counsel to Heller who has since joined VLP, believes virtually all law firms today are vulnerable to a sudden turn of fortune. "The traditional law firm model is overly dependent on a small number of individuals with some to little to no loyalty to the organization—an exquisitely fragile structure. Because of this free agency factor, any law firm is within a matter of months of imploding." And that reality is making for tense, uncertain days across the profession. **SL**

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JOAN O'C. HAMILTON (BA '83) is a former bureau chief for *BusinessWeek* magazine: this fall *Smart on Crime: A Career Prosecutor's Plan to Make Us Safer*, by San Francisco District Attorney Kamala D. Harris, written with Joan, will be published by Chronicle Books.

# F A C U L T

## Cuéllar Appointed to Obama Administration

President Barack Obama selected Mariano-Florentino Cuéllar (MA '96, PhD '00), professor of law and Deane F. Johnson Faculty Scholar, to serve as a special assistant to the president for justice and regulatory policy at the White House Domestic Policy Council. Cuéllar's work will involve criminal and civil justice, safety regulation, and related issues. Initially appointed in November to co-head the transition team's immigration policy group, Cuéllar was also active in the Obama campaign, chairing its



policy advisory committee on immigration, borders, and refugees and advising on criminal justice.

## Thompson Appointed Special Master; Receives Lyman Award

In October 2008 the U.S. Supreme Court appointed Barton H. "Buzz" Thompson Jr., JD/MBA

'76 (BA '72), Robert E. Paradise Professor of Natural Resources Law and Perry L. McCarty Director, Woods Institute for the Environment, as "special master" in the case *Montana v. Wyoming*. The case involves a water dispute between the two states over the Yellowstone River Compact of 1950. Because the Court has original jurisdiction over conflicts between states, a special master is appointed to conduct fact-finding, usually handled by lower court judges. Thompson's expertise in property, water, and natural resources law and his experience as a Supreme Court law clerk led to the appointment. Thompson will report and make recommendations directly to the justices.

In January, Stanford's Alumni Association honored Thompson with the 2008 Richard W. Lyman Award. The award recognizes Thompson's exceptional volunteer service to Stanford alumni and the university over the past 30 years. Presented annually to a faculty member, the prize provides funding to purchase books and materials for the university's libraries in areas of the recipient's choosing.

## Martinez Granted Tenure

Stanford Law School granted tenure and full professorship to Jenny S. Martinez, currently the Justin M. Roach, Jr. Faculty Scholar. An emerging voice in international law, Martinez's



scholarship focuses on tribunals operating in a globalized environment, but without the supervening sovereign authority to which they are all bound. Before joining the Stanford Law faculty in 2003, she was a senior research fellow at Yale University and an attorney at Jenner & Block. She clerked for Justice Stephen G. Breyer (BA '59) of the U.S. Supreme Court and Judge Guido Calabresi of the U.S. Court of Appeals for the Second Circuit, and she was an associate legal officer for Judge Patricia Wald of the United Nations International Criminal Tribunal for the former Yugoslavia.

"Jenny was a spectacular teacher from the get-go, and she has just as quickly emerged as a major scholar in international law," says Larry Kramer, Richard E. Lang Professor of Law and Dean. "She is part of an amazing cohort of young scholars developing at Stanford Law School."

## Kessler Awarded J. Russell Major Prize

The American Historical Association awarded Amalia D. Kessler (MA '96, PhD '01), professor of law and Helen L. Crocker Faculty Scholar and professor (by courtesy) with the Stanford University Department of History, the J. Russell Major Prize for 2008. Kessler received the honor, awarded annually for "the best work in English on any aspect of French history," for her book *A Revolution in Commerce: The Parisian Merchant Court and the Rise of Commercial Society in Eighteenth-Century France*. AHA presented the award during its annual meeting in January.

## Goldstein and Lemley Included in Best Lawyers 2009

Paul Goldstein, Stella W. and Ira S. Lillick Professor of Law, and Mark A. Lemley (BA '88), William H. Neukom Professor of Law, have both been included in the most recent *Best Lawyers* list. *Best Lawyers'* lists are compiled from numerous peer-review



# Y N E W S

surveys. Goldstein and Lemley were selected by their fellow practitioners in intellectual property law.

## Lemley and Falzone on *Daily Journal* Top 100

Mark A. Lemley (BA '88), William H. Neukom Professor of Law, and Lecturer in Law Anthony Falzone have been named to the *Daily Journal's* list of "Top 100 California Lawyers." The publication recognized Lemley for his "provocative research" on intellectual property law. Lemley is a partner and founder of the firm Durie Tangri LLP.



Falzone, who is executive director of the Fair Use Project at Stanford Law School's Center for Internet and Society, was honored for his work on several "hot-button copyright disputes," including the *Harry Potter Lexicon* case.

## Fisher Honored with CLAY and Heeny Awards

*California Lawyer* magazine named Jeffrey L. Fisher a recipient of its *California Lawyer*



Attorneys of the Year (CLAY) Award. Fisher was recognized for his achievements as co-director of the Stanford Law School Supreme Court Litigation Clinic, through which he argued an astounding five cases before the U.S. Supreme Court in 2008. His argument in *Kennedy v. Louisiana* led to the elimination of the death penalty for child rape in six states and the nullification of laws in a handful of other states that allowed capital punishment for non-homicidal crimes. The CLAY awards recognize attorneys whose work had a significant impact in the previous year, or attorneys whose work is expected to have such an effect in the coming years.

Fisher was also recognized last August by the National Association of Criminal Defense Lawyers (NACDL) with the prestigious Robert C. Heeny Memorial Award. The award, which is named for the NACDL's 18th president Robert C. Heeny, is given

annually to an attorney who best exemplifies the goals and values of the association. Fisher, associate professor of law (teaching), joined the Stanford Law faculty in 2006 as co-director of the Supreme Court Litigation Clinic. A leading Supreme Court litigator and nationally recognized expert on criminal procedure, Fisher has argued several and worked on dozens of cases before the U.S. Supreme Court. For more information about Fisher, go to the spring 2008 *Stanford Lawyer* article on the Supreme Court Litigation Clinic at [www.law.stanford.edu/publications](http://www.law.stanford.edu/publications).



## Ford's *The Race Card* Selected for *New York Times Book Review* "Notable Books" List

George E. Osborne Professor of Law Richard Thompson Ford's (BA '88) critically acclaimed book *The Race Card: How Bluffing About Bias Makes Race Relations Worse* appeared on *The New York Times Book Review* "100 Notable Books of 2008" list, released in November. The *Book Review* describes Ford's text as a "vivisection of every sacred cow in 'post-racist' America" and

commends Ford's "exquisitely subversive mind." *The Race Card* was published in January 2008.

## Grundfest Named to List of Top Corporate Governance Influencers

Joseph A. Grundfest '78, W. A. Franke Professor of Law and Business and co-director of the Arthur and Toni Rembe Rock Center for Corporate Governance, appears on *Directorship* magazine's list of the top 100 most influential players in corporate governance for the second consecutive year. The list honors "directors, professors, regulators, politicians, advisors, and others who have made a lasting impact."

## Lessig Recipient of the 2008 Monaco Media Prize

Lawrence Lessig, C. Wendell and Edith M. Carlsmith Professor of Law, received the second annual Monaco Media Prize during a special ceremony at the Monaco Media Forum in Monte Carlo last November. His Serene Highness Prince Albert II of Monaco presented Lessig with the award to "acknowledge innovative use of media for the betterment of humanity." HSH Prince Albert II praised Lessig as "a pioneer in the true sense of the term—a peacemaker who has bravely walked into one of the most hotly contested battles of the Internet age: copyright."

# C L I N I C

## ORGANIZATIONS AND TRANSACTIONS CLINIC: Vital Lessons in Law and Business

By Sharon Driscoll

**T**EACHING LAW WAS NOT IN JAY MITCHELL'S FIVE-YEAR PLAN. BUT THE FORMER CHIEF CORPORATE COUNSEL at Levi Strauss & Co. and one-time partner at Heller Ehrman was exploring the next stage in his career and, with both corporate and law firm experience, his CV was tailor-made for the director position at Stanford Law School's newest addition to the Mills Legal Clinic. He left the corporate world in August 2007 and embraced the opportunity to lead the new Organizations and Transactions Clinic. With his third semester of teaching under way, Mitchell (BA '80) is the antithesis of an absent-minded professor, his office the picture of business-tidiness, with stacks of binder-clipped documents and three whiteboards ready for brainstorming.

### THE ABC'S OF TRANSACTIONAL LAW

Dressed in jeans, Mitchell's casual attire belies the keen attention to detail that is the hallmark of the clinic. He spent a semester drawing up a plan and developing clients from among the Bay Area's many not-for-profit organizations. At the start of each semester, students are presented with a playbook in the form of a well-organized binder, complete with a course plan and syllabus, the California rules of professional conduct, a summary of risk management and quality control guidelines, and other useful tools. It's a crash course in how to actually be a transactional attorney with a detailed plan setting out the objectives, methods, and timeline for the work. And it all happens in the context of representing not-for-profits.

"It's like a med student taking anatomy," says Mitchell. "We look at lots of contracts, financials and other documents. We run through questions that lawyers need to ask themselves and their clients: What are we trying to accomplish here? What's missing? Does this need to get board approval? What are the implications of doing X, Y, or Z? How do we best communicate the data? It's the stuff corporate lawyers deal with every day. But our students have the opportunity to learn it here first, to ask all

the questions they want and to reflect on what they've seen."

Although the clients for this clinic are nonprofits, the work includes a range of business projects such as comprehensive governance reviews, mergers, fiscal sponsorship arrangements, leases, and licensing agreements. Client interaction is with executive directors and board members. Here too, Mitchell and Alicia E. Plerhopes, the Orrick Herrington & Sutcliffe Clinical Teaching Fellow, ensure they are prepared.

"Working in the corporate world you quickly see how important it is to understand the company's priorities. At Levi's it was all about the product and the brand. Everything we did had to support business strategy and execution," says Mitchell. "It's important for our students to get to know the organizations that they are representing, to really understand their mission, resources, and constituencies. And when giving advice, they have to get out of the weeds and understand what needs to be communicated to organizational leadership."

### PRESENTING TO THE BOARD

An essential part of the first half of the clinic semester is the mock senior management presentation, when students learn to "think like a client." Students are presented with a fictional apparel company that's considering a sale of one of its businesses. They then study the transaction and present a plan to a "management team" composed of local business leaders and lawyers, which has included senior executives from Levi's.

"It's our equivalent of a court appearance," says Mitchell.

# C N E W S

“The students put together a presentation and take the group through their analysis. Identifying relevant assets and audiences, third-party approvals, employee reactions, impact on the business—it’s basic project assessment and planning. These are essential skills for a good transaction lawyer.”

“It’s one thing to look at the law and come up with a recommendation. It’s another to present it to a board and have the chief financial officer of the company sitting across from you raise something you didn’t consider,” says Ashley Hannebrink ’10. “Practical considerations are sometimes lost on young associates. Jay and the clinic did a great job of emphasizing how important they are.”

“The management presentation really drove home the point that we need to know the client and our audience,” says

Ryan Loneman ’09, who teamed up with Hannebrink during last semester’s clinic to work with the Farmer-Veteran Coalition, an educational nonprofit that trains veterans for a career in agriculture. The students drafted a fiscal sponsorship agreement and an advisory board charter for the newly established group. The organization is one of a number of clinic clients active in sustainable agriculture and food system reform.

## PRO BONO BUSINESS LAWYER

Another agricultural organization clinic students worked with was Collective Roots, an East Palo Alto nonprofit focused on engaging youth and the community in food system reform. Here Brent Harris ’09 (BA ’04, MA ’04) and Melissa Magner ’08 helped to establish the first farmers market in East Palo Alto, a city that doesn’t even have a supermarket for residents to purchase fresh produce.

“This wasn’t just a legal challenge. There were many practical challenges like how best to make the business function and how to help people understand how it functions,” says Harris.

Part of the project involved establishing a plan for the new farmers market and a set of market rules to run it—making recommendations for issues such as how many farmers could be accommo-



dated, other activities at the site, dispute resolution, and the like.

“We understood that the rules governing the new market’s management would set the tone for the venture, so we worked hard to design a straightforward, accessible document,” says Magner, now an associate at Latham & Watkins LLP in San Francisco, who visited the farmers market last summer along with some 7,000 customers.

In addition to the practical lessons of transactional law, clinic students gain a keen understanding of the importance of legal counsel to the nonprofit community and how business-focused JDs can engage in pro bono lawyering after graduation.

“The clinic highlighted the importance of pro bono business legal counsel and motivated both my clinic partner, Alice Yuan, and me to pursue such work at our respective firms,” says Susan Dawson ’08 (BA ’03), an associate specializing in public finance at Orrick, Herrington & Sutcliffe LLP, who worked on a merger of seven Bay Area charter schools into a single organization. “Working on a successful merger improved my ability to manage transactions effectively, and receiving such preparation before leaving Stanford Law was incredible.”

“It was a great precursor to the work I’m doing now,” agrees Yuan ’08, an associate at Kirkland & Ellis LLP. **SL**

## CASE ROUNDUP

Our 10 legal clinics, under the guidance of faculty mentors, test and sharpen students' lawyering skills, expand their perspectives, and cultivate the values that make for effective, ethical attorneys. The following is a small sampling of our clinics' accomplishments during the past few months.

**CRIMINAL DEFENSE CLINIC**

The Criminal Defense Clinic scored two major victories on behalf of clients sentenced to life imprisonment under California's "three strikes" law. Last June, the clinic successfully argued on behalf of a Vietnam War veteran who suffered from post-traumatic stress disorder and substance abuse and was denied effective representation of counsel by his trial attorney. As a result, the court ruled in November that the client was entitled to a new sentencing hearing. At the hearing, Jessica Feinstein '10 and Thomas Scott '10 argued that instead of a life sentence, the client deserved access to treatment in a rehabilitation facility. The judge agreed, and the client has since been released to a treatment facility.

Clinic students also obtained a new sentencing hearing for a client who is developmentally disabled. Last semester, the clinic successfully argued that the client was not effectively represented during his original sentencing in 1997, since the attorney on the case failed to present evidence that the client was disabled and suffered from post-traumatic stress disorder as the result of sexual abuse. This semester, Kathleen Fox '10 facilitated negotiations with the district attorney and worked with Lisa Douglass (BA '93, MA '94), of the SLS Social Security and Disability Project, to develop a rehabilitation plan for the client. The judge and district attorney agreed to re-sentence the client to time served, pursuant to the rehabilitation plan. The client is expected to be released from prison soon.

**IMMIGRANTS' RIGHTS CLINIC**

The Immigrants' Rights Clinic, together with the National Immigration Law Center, the ACLU of Southern California, and the National Lawyers Guild of San Francisco, filed a lawsuit to compel the U.S. Department of Homeland Security (DHS) to disclose information about a program called "stipulated removal." Stipulated removal allows the Department of Justice and DHS to remove a non-citizen from the United States, even one with valid defenses against deportation, as long as the non-citizen signs an order.

Advocates have expressed concerns that immigrants signing these orders do not realize they are giving up their rights to challenge their deportation. Stipulated removal has resulted in the removal of more than 96,000 non-citizens since its inception. IRC filed the complaint in federal district court under the Freedom of Information Act (FOIA). Eunice Cho '09 worked on both the stipulated removal FOIA request and drafting the complaint.

**STANFORD COMMUNITY LAW CLINIC**

The Stanford Community Law Clinic continued to pursue wage and hour and expungement practices. Larisa Bowman '09 and Nicole Daro '10 took a restaurant worker case to the administrative enforcement agency and secured a \$14,000 settlement on their client's behalf. Beth Derby '09 and Francisco Garay '09 each took an individual construction/contracting worker through an administrative hearing that resulted in a judgment for the client. Valerie McConnell '10 represented a domestic worker who was never paid the overtime to which she was entitled and negotiated a settlement on her behalf.

**SUPREME COURT LITIGATION CLINIC**

The Supreme Court Litigation Clinic successfully argued against a rehearing of *Kennedy v. Louisiana*, a case in which the Supreme Court held in June 2008 that the Constitution does not permit states to execute defendants for non-homicidal rapes, even those involving children. Both the State of Louisiana and the Solicitor General of the United States had asked the Court to rehear the case. They argued that the existence of a federal statute allowing the death penalty for child-rape in the military belied the Court's conclusion that there was a strong national consensus against the death penalty in child-rape cases. The Court amended its opinion to include a footnote leaving open whether the military is different in this regard, but reaffirming its decision that in all other contexts the death penalty is not available in such cases. Justice Anthony Kennedy (BA '58), who had authored the original majority, issued a separate opinion explaining why rehearing was not necessary. This opinion adopted many of the arguments set forth by the clinic in its memorandum. Professor Jeffrey L. Fisher served as lead counsel in the case with students Ruth Zemel '09 and Patrick Nemeroff '09 providing assistance on the initial briefs and on the rehearing memorandum.

## IN FOCUS

### The Prolific Professor: Lawrence M. Friedman

CONTINUED FROM PAGE 7

"We were talking about a shopping center in Santa Clara County. The Pruneyard. Do you know why it's called the Pruneyard? Before this was Silicon Valley, it was an agricultural center and the area was full of fruit trees. The Supreme Court decided the Pruneyard case . . ." He goes on, explaining the landmark case that pitted the shopping center against several local high school students assembling for the purpose of collecting signatures, and then launches into a lecture on the history of free speech in American law, the undergrads hanging on his every word. Friedman started teaching the undergraduate class, *Introduction to American Law*, in 1985.

"Law in all its forms—Congress, the courts, police—is ubiquitous in this country and extraordinarily important. Yet because legal training is a graduate program, the typical undergraduate student, even at an elite university, will not study the law," says Friedman, who, in addition to this class, still carries a full teaching load at the law school. "I thought our undergraduate students should have this class, so I introduced it with support from the political science and American studies departments."

Friedman's office is a work in progress, or many works in progress, with most available space covered with stacks of files and books.

"I've written or edited around 27 books and something like 200 articles. But who's counting?" he says.

He waves at the piles of folders and stacked books in his office. "My most recent work, called *Dead Hand*, will be published soon. It's a social history of wills and trusts, a fairly short book that I enjoyed working on. So I've never abandoned wills and trusts but came full circle back to them," he says. Within the circle of Friedman's expertise are many vortexes, each demonstrating a broad range of interests. And curiosity. For Friedman is, above all else, a great thinker. What can coroners' reports tell us about our society and the law that governs us? How do wills and estates

change over time? Can we explain spikes in crime? How have our views on issues such as equality, privacy, and marriage changed and why? He smiles just asking the questions. And he's lived long enough to have witnessed many changes firsthand.

"I joke to my students that I'm now old enough to be considered a primary source," he says. "Growing up in Chicago, there were no black policemen, no black bus drivers, no black shoppers at Marshall Fields," he says. "Yet in my lifetime so much has changed. We now have an African-American president. It's amazing."

His enthusiasm for the law, history, and society is contagious. After embracing a new area of legal scholarship some 50 years ago, Friedman is now one of the icons of the discipline. Today, young scholars seek him out; they aid him with his research and cheerfully help him sift through those boxes of old files heaped on tables in the law library basement and in his office. And some are lucky enough to gain a credit in one of the many, many papers and books he has written. But, indeed, who's counting? Very likely, the thousands of scholars throughout the world who regularly cite Friedman. **sl**

## IN FOCUS

### Just the Facts: Empirical Legal Studies on the Rise

CONTINUED FROM PAGE 14

the serious issues we face today without the benefit of this kind of research? I don't think you can."

That wasn't the case just 30 years ago, says Deborah R. Hensler, Judge John W. Ford Professor of Dispute Resolution and associate dean for graduate studies, who before coming to Stanford led the RAND Corporation's Institute for Civil Justice, a center dedicated to empirical research. When she began her law career in the 1970s, she says, "The idea that you would bring empirical data to bear on questions having to do with legal doctrine was mind-boggling." Hensler's recent work represents the qualitative strand of empirical legal studies; rather than running experiments or statistically analyzing large data sets, she uses interviews to

understand why class actions have become increasingly popular outside the United States during a period when they've come into disrepute here. To share information about class-action developments in different countries, Hensler directs the Global Class Actions Exchange (<http://globalclassactions.stanford.edu/>).

For the most part, empirical legal scholars see themselves as neutral providers of fact. "Too many times we see arguments based on supposition," says Lemley. And although he's referring to the IPLC, he echoes sentiments shared by most empiricists when he says, "Our goal is not to push an agenda, but to give people the data to make up their own minds." **sl**

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MARINA KRAKOVSKY (BA '92) is a freelance writer whose work has appeared in *The New York Times*, the *Washington Post*, and *Scientific American*.

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## LEGAL MATTERS

### Charles T. Munger

CONTINUED FROM PAGE 19

we did something that I describe as turning lemons into lemonade. Part of my Berkshire Hathaway holdings came from a dumb investment.

**I didn't realize you made dumb investments.**

I certainly did. I think it's part of a life lived right that you learn how to make some lemonade out of your lemons.

**So turn the clock back. Imagine that you're a young law school graduate from a top law school, one of the top grads the same way you were several years ago, what advice would you give to a graduate looking at the world today?**

Well, that's easy. I would avoid fields where prosperity depended to a considerable extent on misbehavior. I would not go into a plaintiffs' law firm. I would be afraid of what that would do to me. And I would want to work for people at a business that I admired, and I would take less money to do that.

**Charlie, we're at the end of our time and I'd like to thank you. You've really been terrific.** **sl**

# THE RACE CARD: A POST-ELECTION UPDATE

By Richard Thompson Ford (BA '88)

At the beginning of

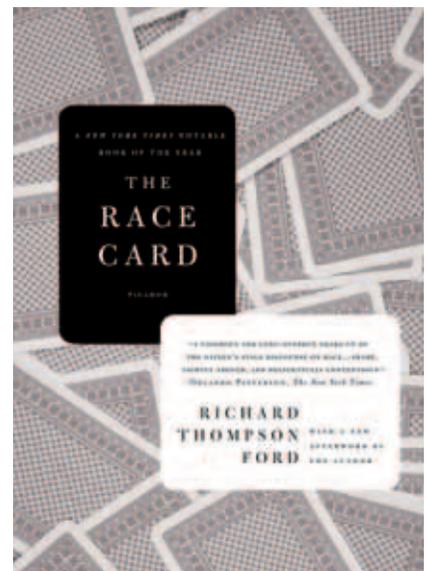
the 21st century the United States swore in its first black president. The tall, handsome, and charismatic senator had survived the smear tactics and dirty tricks of his rival for the Democratic nomination, the bad press generated by his opinionated and outspoken spouse, a bitter fight in the general election, and the threat of assassination when he took the oath of office. President David Palmer made history in the hit counterterrorism drama *24*, becoming the most popular president since Ronald Reagan, easily besting his ratings rivals Jed Bartlet of *The West Wing* and *Commander in Chief*'s Mackenzie Allen—to say nothing of such prime-time mediocrities as William Jefferson Clinton and George W. Bush. The nation felt in good hands with President Palmer, secure in the knowledge that a strong, ethical, and pragmatic leader would keep the homeland secure from terrorist threats both foreign and domestic. The Nielsen ratings proved that the average American would not only accept a black president—but would embrace him.

Four years later Barack Obama announced his run for the presidency. And by early 2008, the field had narrowed to two: Obama and Hillary Clinton. Democrats were euphoric about the possibility of setting new and historic precedents. The first black! The first woman! No matter who won the nomination, the Democratic Party would emerge from the convention strong and united behind a candidate who would make history by his or her very presence on the ticket.

But as the campaign wore on and Hillary Clinton's prospects dimmed, feminists began to seethe with resentment and frustration. Pundits had focused obsessively on Clinton's hair, makeup, wardrobe, cleavage. They had berated her as a castrating dragon lady and an angry and shrill banshee. MSNBC's Tucker Carlson quipped, "When she comes on television, I involuntarily cross my legs." Ken Rudin of NPR compared her to the psychotic jilted lover played by Glenn Close in *Fatal Attraction* and columnist Mike Barnicle said she looked "like everyone's first wife standing outside a probate court." Author Marc Rudov complained about Clinton's "nagging voice" and opined that "when Barack Obama speaks, men hear, 'Take off for the future,' and when Hillary Clinton speaks, men hear, 'Take out the garbage.'"

Their righteous indignation did not stay confined to such conspicuous examples of chauvinism; it quickly spilled over to Obama himself. *Wasn't*

*Obama winning because of male chauvinism?* Gloria Steinem penned an angry screed for *The New York Times* op-ed page, in which she insisted that "the sex barrier is not taken as seriously as the racial one." "I'm not advocating a competition for who has it toughest," Steinem claimed, but her op-ed declared women the presumptive winners: "Gender is probably the most restricting force in American life, whether the question is who must be in the kitchen or who could be in the White House." Walter Mondale's former running mate Geraldine Ferraro offered an even less nuanced version of the same complaint, suggesting Obama was, effectively, the



beneficiary of an electoral affirmative action: "If Obama was a white man, he would not be in this position. And if he was a woman of any color, he would not be in this position. He happens to be very lucky to be who he his."

Obama supporters were furious. And many blacks thought these comments trivialized racism—or worse, reflected it. *Lucky?* Had black skin—what W.E.B. Du Bois called the badge of insult—become instead a sign of privilege? Many thought the observation of comedian Chris Rock struck closer to the mark: "Not a single white person in America would trade places with me. And I'm rich!" Had Steinem and Ferraro forgotten the racist death threats that Obama

query had all of the conceptual futility of grade-school kids arguing over whether Superman could kick Spider-Man's butt in a fight, but with none of the playful charm. The culture wars of the 1980s broke out all over again on the opinion pages and blogs of the nation. Typically, the opening salvo involved some thin and one-sided evidence that "established" that one or the other candidate had it worse because of bigotry (Clinton has to put on makeup and worry about the color of her pantsuits/Obama can't go on the attack without sounding like a black thug) and then added a long litany of injustices that had little or nothing to do with Clinton or Obama (on the one hand: slavery, Jim Crow, job discrimi-

president. This obtuse and unresolvable moral question, shot through with anxiety, desperation, and raw self-interest, had ruined more potentially successful activist organizations, academic conferences, college seminars, and political movements than all the *agents provocateurs* J. Edgar Hoover ever deployed. Now it was poised to ruin the Democrats as well.

By early 2008 the Democrats' presumptive cakewalk to the White House started to look like a cross between a street riot and a death march. Comedy Central's *Colbert Report* began a nightly feature on the latest squabbling among the Democrats, called "Democrapocalypse Now," which began with an ani-

## "As the increasingly bitter struggle wore on, the question boiled down to this: Which is worse, racism or sexism?"

RICHARD THOMPSON FORD (BA '88)

received on an almost daily basis? Were they so cloistered in their all-white, gated communities and tony country clubs that they didn't notice the poverty and despair of the black community on the South Side of Chicago, where Obama worked as a community organizer and still attended church with his family? Did they really think it was tougher to be a rich white lady with a livery chauffeur and a half a dozen yellow pantsuits than to be a black man who can't hail a cab even when he's wearing a business suit?

As the increasingly bitter struggle wore on, the question boiled down to this: *Which is worse, racism or sexism?* This

nation, racial profiling, segregation, the Tuskegee experiment, the Jena Six; on the other: rape, pornography, anti-abortionists, sexual harassment, prostitution, the glass ceiling, lazy and macho husbands, laundries that charge more to clean blouses than shirts). The sheer tedious length of this catalog of grievances was meant to overwhelm all arguments to the contrary, leaving only one conclusion: Sexism (or racism) is worse.

The narrow question of whether Hillary Clinton's campaign had been hindered by sexism more than Barack Obama's had been by racism was muddled together with a larger question: Was racism or sexism the more pressing social problem? The real argument wasn't over which *candidate* had been harmed more by bigotry, but which *type of bigotry was worse*, which social justice struggle was more important, and, hence by implication, whether it would be more profound to elect the first black or the first female

mated graphic of a donkey being split in two. While re-fighting the culture wars, the Democrats were test-marketing the tactics that Republicans would later use against whichever candidate was eventually nominated.

What started as a historic opportunity for Democrats to transcend the divisive politics of race and gender turned out to be another sad demonstration of the temptations and costs of playing the race (and sex) cards. The historic campaign for the Democratic nomination had slipped first into tragedy and then, as Karl Marx would have expected, into farce. **SL**

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RICHARD THOMPSON FORD (BA '88) is the author of *The Race Card: How Bluffing About Bias Makes Race Relations Worse*, recently released in paperback. This essay is an excerpt from the new paperback edition of the book.

## POST-ELECTION, POST-RACE?

By James Hairston '10

**T**

he election of Barack Obama to the nation's highest office was a defining moment in American history and our discourse on race. Shortly after the 44th president took office, a new debate began taking shape across the country addressing the growing sentiment that America had begun to cross the threshold of becoming a post-racial society. It begged the question: Had we exorcised one of our country's oldest demons?

Since the election, these questions have figured prominently in scholarly debates, publications, and everyday conversation. Even the newly appointed Attorney General, the first-ever African-American to hold the post, Eric Holder, dared to raise the issue. While optimism for the prospect of a society free of racial division underscores many of these discussions, it has also been accompanied by a growing distrust of institutions that appear to be polarizing vestiges of racial politics. Amid the growing consensus among liberal pundits that class, not race, is the key determinant of success in America today, race-based organizations and institutions find themselves under a more critical microscope. The critique holds that in a post-race society, these organizations and institutions highlight difference and ultimately encourage division. Characterized in this manner, race-based organizations come to be viewed as divisive because they exacerbate rather than diminish the importance of race as we attempt to move forward. We find ourselves asking: Have we really arrived?

What is the purpose of race-based student organizations like the Black Law Students Association (BLSA) or their professional counterparts like the National Bar Association or the Charles Houston Bar Association in our post-Obama-election world? In my experience, these organizations continue to provide an invaluable role for the communities they serve. As stressed by our Black Law Students Association, insofar as ethnic organizations are progressive in their missions and pursue integrative solutions to the challenges facing their constituencies, they will continue to be viable. And the harsh reality is that even with an African-American leading the nation and another leading the DOJ, the legal profession is still not fully representational. According to a report prepared by the American Bar Association titled *Miles To Go: Progress of Minorities in the Legal Profession*,

only 3.9 percent of our nation's lawyers are African-American. The report also notes steady attrition rates of African-American students attending law schools. When compared with the disproportionate percentages of African-Americans who fall victim to ill effects of poverty, underemployment, and the criminal justice system, the message to black lawyers of all ages becomes crystal clear: There is much more to be done.

BLSA strives to build community and forge alliances among its members and alumni, work we feel is essential if the legal profession is to become more diverse and integrated. We also work very closely with the other student-of-color organizations at the law school (Asian and Pacific Islander Law Students Association, Native American Law Students Association, and Stanford Latino Law Students Association) to exchange academic and career resources, plan social outings, host academic discussions, and follow through on initiatives to increase diversity among the faculty and student body. As a result of the successes of these efforts, I believe the post-race discourse would benefit far more from discussions of cross-racial coalition building than a call for the rejection of race.

One thing that may not be readily apparent about the membership of BLSA is its diversity, both ideological and racial. We are black, white, Hispanic, Asian, conservative, liberal, gay, straight, and we hail from all over the country—and by extension the world. There is no monolithic worldview, political ideology, or cultural understanding of blackness that informs our efforts. Rather, we come together as a community organization—with everyone bringing his or her particular history, perspective, and outlook to the table—and seek ways to address issues facing minorities and people of color throughout the world. This outward-looking perspective, which acknowledges and celebrates race but also encourages constructive dialogue that cuts across race and class lines, is what we strive to accomplish in BLSA.

With this in mind, our monthly programming covers a broad spectrum of event types and topics.

Our monthly general body meetings are the bread and butter of our organization. We use them first and foremost to check in with each other to ensure everyone is doing all right navigating the rigors of law school. During these meetings we discuss the range of short- and long-term initiatives on our calendar. These include everything from monthly academic talks, public service initiatives, and social events to annual events like our BLSA Conference (where we bring distinguished academics and practitioners to campus to discuss major issues facing minority communities and the legal world).

The continued strength and versatility of our organization is owed to the outstanding students and alumni at its core. There are no requisites for membership in BLSA. If there were any, being of African ancestry would not be one of them. Instead, as the membership and alumni continue to demonstrate to me on an ongoing basis, the only requisite seems to be dedication. Dedication to breaking down barriers to legal access for those who need it most, to serving one's community (however broadly or narrowly construed), and to the prospect of bequeathing a better legal profession to the next generation than the one we inherited. Have we arrived? I don't think so. But organizations like BLSA work hard every day to ensure that we are edging closer. **sl**

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The author, JAMES HAIRSTON '10, is co-president of BLSA at Stanford Law School.



“What is the purpose of race-based student organizations like the Black Law Students Association or their professional counterparts like the National Bar Association or the Charles Houston Bar Association in our post-Obama-election world?”

JAMES HAIRSTON '10

"You can't get blood from a stone. ... But you sure can get money from the insurance company that covered the stone."

JOSEPH A. GRUNDFEST '78, W. A. Franke Professor of Law and Business and faculty co-director of the Arthur and Toni Rembe Rock Center for Corporate Governance, quoted in *The New York Times* article "Financial Crisis Provides Fertile Ground for Boom in Lawsuits," from October 17, 2008.



"There has to be a readjustment in our thinking, and our approach to other countries has to be through a spirit of cooperation. We must put behind us the you're-with-us-or-you're-against-us philosophy that has dominated for eight years." Former Secretary of State WARREN CHRISTOPHER '49, quoted in a *Los Angeles Times* article

"5 Secretaries of State Advise Hillary Clinton." The December 7, 2008, story discusses Hillary Clinton's new position and responsibilities following the Bush administration.

"Some have argued that with new technology there is a diminished expectation of privacy. ... But the opposite may also be true. New techniques may require us to expand our understanding of privacy and to address the impact that data collection has on groups of individuals and not simply a single person." MARC ROTENBERG '87, quoted in *The New York Times* story from November 30, 2008. The article "You're Leaving a Digital Trail. What About Privacy?" discusses the issue of privacy and technological development.

"This isn't like steroids and sports ... enhancement is not a dirty word."

HENRY T. "HANK" GREELY (BA '74), Deane F. and Kate Edelman Johnson Professor of Law, director of the Center for Law and the Biosciences and director of the Stanford Center for Biomedical Ethics Program in Neuroethics, in the *New Scientist* story "Brain-boosting drugs 'not to be feared,'" released December 14, 2008. The story sheds light on a recent survey that indicates that at some U.S. universities, up to 25 percent of students routinely use prescription drugs, such as Ritalin or Adderall, for study purposes.

"Barry Bonds is innocent." ALLEN RUBY '68, Bonds's lead attorney, as quoted in the *USA TODAY* March 1, 2009, article "Bonds federal case takes legal twist."

ALUMNI AND FACULTY SPEAK OUT

# in the

"We want disabled children to be welcomed into the world. My fear is we're moving in the opposite direction. If we decide to use prenatal testing to eliminate gene-based disabilities, that's what the Nazis were trying to do, in their own crude way. I think we're saying that certain types of lives aren't worth living." ANDREW J. IMPARATO '90, president and CEO of the American Association of People with Disabilities, quoted in the October 26, 2008, *Washington Post* article, "Fresh Hopes and Concerns as Fetal DNA Tests Advance."



"When the signs went up at Hillary Clinton's speeches 'iron my socks,' it tells you something about the legitimacy of gender prejudice. You didn't see signs at Obama rallies saying 'shine my shoes.'"

DEBORAH L. RHODE, Ernest W. McFarland Professor of Law and director of the Stanford Center on the Legal Profession, quoted November 12, 2008, in an *ABC7 News* segment in which she discussed the role of gender bias in the presidential election.

"He who pays the piper calls the tune, and Congress can't resist calling the tune. The big banks have now gotten in bed with Congress. The word would be micromanagement. When Congress manages anything, God help us." KENNETH E. SCOTT '56, Ralph M. Parsons Professor of Law and Business, Emeritus, quoted in *The Wall Street Journal* "Deal Journal" blog, February 3, 2009, "How Many Bailouts Does One Bank Need?" The interview addresses the recent government bailouts and seeks an answer to the question: "Is all this money fixing anything?"



“... the whole idea behind a market scheme is you make carbon more expensive, and that forces people to find new ways to use less of it, to switch to new technologies and to change their behavior.” DAVID VICTOR, professor of law and director of the Program on Energy and Sustainable Development at Stanford’s Freeman Spogli Institute for International Studies, on NPR’s *Morning Edition*, March 4, 2009. The interview, printed under the headline “Spending Plan Tackles Tax Cuts, Global Warming,” was a roundtable discussion of Obama’s budget plan, which would increase the price of “dirty energy” and fund a middle-class tax cut.

“You can’t become a rabbi or a priest without having worked under supervision.” LARRY KRAMER, Richard E. Lang Professor of Law and Dean, quoted in a September 21, 2008, profile in *San Francisco Attorney* magazine in which he discussed the need to retool legal education so that law students obtain more clinical experience.

“As long as the media continue to cover women’s political differences in their ‘Health’ sections, we are probably doing something wrong. Just as Michelle Obama has been reduced to a perpetual fashion story, the fight for the future of young women in the GOP has now become a body-image story. Well done, ladies! Way to get your thoughts and preferences taken seriously!” DAHLIA LITHWICK ’96, in her March 17, 2009, *Slate* column “Blonde-Sided: Are prominent conservative pundits really in a catfight over body fat?” Lithwick discusses the public sparring between GOP pundits Meghan McCain and Laura Ingraham.

“The handwriting on the wall for the future is the Supreme Court is not very committed to the exclusionary rule, and when it can find ways of getting around the exclusionary rule, there seemed to be five justices who are prepared to give the rule lip service and then whittle it down to a doorstep.”

PAMELA S. KARLAN, Kenneth and Harle Montgomery Professor of Public Interest Law and co-director of the Supreme Court Litigation Clinic, on NPR, January 14, 2009. Karlan discussed the Supreme Court’s recent decision in *Herring v. United States*.



# news



“From the defense bar’s point of view, there’s a suit every time there’s a stock drop, basically.” ROBERT M. DAINES, Pritzker Professor of Law and Business and faculty co-director of the Arthur and Toni Rembe Rock Center for Corporate Governance, quoted in a January 14, 2009, *Forbes* story “Lawsuits Could Fly Over Jobs’ Exit,” regarding potential lawsuits in the wake of Apple’s handling of the disclosure of CEO Steve Jobs’ health woes.

“The law does not allow EPA to do what’s politically expedient. It requires what is necessary to protect our waters.” DEBORAH A. SIVAS ’87, professor of law (teaching) and director of the Environmental Law Clinic, quoted in a January 12, 2009, Associated Press story regarding a lawsuit against the EPA that aims to prevent cargo ships from dumping invasive species into the nation’s waterways.

“The Bush administration tried to justify its behavior with outlandish legal opinions that claimed extraordinary powers for the president to disobey laws passed by Congress and international treaties like the Geneva Conventions.” JENNY S. MARTINEZ, professor of law and Justin M. Roach, Jr. Faculty Scholar, quoted in *The New York Times* “Room for Debate” blog, March 2, 2009. She comments on the prospect of creating a truth commission to investigate the actions of the Bush administration with regard to the war on terror.

# A L U M N I W E E K E N D



Photos Below:  
Alumni, family, and friends enjoying  
the weekend's Tailgate Party

Fred Alvarez '75 (BA '72) and  
Leah Williams '00

Alumni listen to Dean Larry Kramer  
at the Reception for  
Alumni and Students of Color



Photos Above:  
Ryan Spiegel '03, Marcy Karin '03, Herbie  
Bohnet '03, and Carrie Simons '04 reconnect-  
ing on campus during Alumni Weekend 2008

Congressman Xavier Becerra '84 (BA '80)  
at the President's Roundtable Forum hosted  
by President John L. Hennessy

Alumni gather at Saturday's Tailgate before  
the Stanford and University of Arizona game



# I N M E M

**LEE RAND ORR '42 (BA '39)** of Palo Alto, Calif., died March 22, 2008. He was 89. Lee practiced law in Menlo Park for 50 years. He was a member of the Barbershop Harmony Society and sang bass with the Peninsulaires for more than 40 years. Lee is survived by his second wife, Elle; daughters Cary and Kathy; son-in-law Chuck; and four grandchildren.

**COLIN MACLEAN PETERS '47** of Los Altos Hills, Calif., died September 2, 2008. He was 89. He served in the Navy and scouted enemy positions in the South Pacific islands. Colin began his law career at McCutchen in San Francisco and later joined Frank Crist in Palo Alto, becoming a partner and lead trial attorney. In 1968 he started his own practice; his son Stephen later joined him as a partner at Peters, Peters & Ellingson. He is survived by his wife, Carol (BA '47); children Geoffrey '74, Stephen '76, Anne (BA '75, MA '76), and their spouses; and five grandchildren.

**HAMILTON COLMAN DE JONG '48 (BA '45)** of Pasadena, Calif., died January 14, 2007. He was 83. Hamilton is survived by his wife, Sydney; daughters, Antoinette and Celia; and sons, Colman, Edward, and William.

**JAMES OWEN WHITE JR. '48 (BA '42)** of San Marino, Calif., died October 17, 2008. He was 88. James was a founding partner of Cummins and White. He served as past president of the American Trial Lawyers Association and the American Board of Trial Advocates. He was a member of the ROTC and was involved in military campaigns in Italy, France, and North Africa; for his service he was awarded the Silver Star and Purple Heart. He is survived by his wife, Elizabeth; sons Carter and Stewart; and sisters Jacqueline and Marilyn.

**ROBERT W. PENDERGRASS '49** of Atlanta, Ga., died March 24, 2009. He was 91. He served in the Navy during WWII in the South Pacific. He practiced law in California for more than 40 years. Robert held positions in the San Rafael Chamber of Commerce, Visiting Nurse Association, Lions, and Rotary. He was director of the Marin Shakespeare Festival. He was also co-founder and director of the Marin County Development Association and board president at the First Presbyterian Church of San Rafael. He is survived by his children Rhea and William; son-in-law Frank; three grandchildren; and three great-grandchildren.

**GORDON LEE LUND '50** of Salt Lake City, Utah, died January 26, 2009. Gordon practiced law in California for a time. He served in the Air Force, earning his wings and serving as a fighter pilot instructor; he was active in the Air Force Reserve as a pilot and judge advocate, appearing before the U.S. Supreme Court. Gordon enjoyed oil painting, inventing, building, and he was an active member of the LDS church. His wife of 67 years, Lillie, passed away a few hours before him. He is survived by his children, Jeffrey, Michael, Randall, Kristine, Deborah, Daniel, Jeremy, and their spouses; 28 grandchildren; and 26 great-grandchildren.

**LEROY J. REINHARDT '50** of Kerman, Calif., died July 30, 2008. He served in the Navy during WWII. He was assigned to the LST-677 and acted as the ship's navigation, communications, and gunnery officer. He practiced with Crossland and Crossland in Fresno, specializing in the formation of corporations, before entering private practice in 1954. He was a member of the Fresno County Bar Association for more than 50 years and was accepted to the U.S. Supreme Court bar as well. LeRoy was preceded in death by his son, Garth. He is survived by his wife, Janet; siblings Irene and Elmer; children Brad, Rodney, Rhonda, Stacy, and their spouses; and three grandchildren.

**G. WILLIAMS RUTHERFORD '50 (BA '48)** of San Diego, Calif., died August 31, 2008. During WWII, Bill worked at Consairways serving as a navigator delivering planes to the South Pacific. He loved aviation and after graduating from law school and practicing for a short time he joined the legal department at Ryan Aeronautical. When Teledyne acquired the company, Bill was appointed vice president and group executive of Teledyne Inc. Bill was predeceased by his wife, Anna Gwyn Rutherford, in 2004, and by his son Timothy '78 (BA '75) in 2007. He is survived by his son George; daughter Amanda; step-

daughter Alexandra; and grandchildren and great-grandchildren. The Honorable **HARMON G. "BUD" SCOVILLE '50** of Monarch Beach, Calif., died September 19, 2008. Bud served in the Army during WWII and was stationed in Germany. After law school he practiced for 17 years, predominantly in Orange County. He served as municipal and superior court judge and as a presiding justice of the Court of Appeal, Fourth District. In honor of his service, the Orange County Bar Association created the Harmon G. Scoville Award, presented annually to a recipient exemplifying the highest standards of the legal profession. He is survived by his wife, Lura; sister Janet; children Douglas, Craig, Karen, Brent, Kristine, Scott, and their spouses; and grandchildren and great-grandchildren.

**ROBERT LEE "BOB" RAYMOND '51 (BA '50)** of Little River, Calif., died January 8, 2009. He served in the Navy during WWII and attended Stanford University on the GI Bill. He married Loisjean Balyeat in 1948. He moved to the Mendocino Coast after 18 years as a trial lawyer and remarked that the area and community made it "the best place on the planet." Bob and Loisjean contributed multiple parcels of land in the area to the California State Parks system. He is survived by his wife, Loisjean; his children, Jennifer, Steve, Mark, Patrick, Chris, and their spouses; 10 grandchildren; and his sister, Bette.

**FRED V. CUMMINGS '52 (BA '50)** of Lafayette, Calif., died August 31, 2008.

**NEWMAN RUSH PORTER '55 (BA '53)** died October 16, 2008, in San Diego, Calif., at the age of 77. Following service in the Air Force as a legal affairs officer, he began practicing law in Los Angeles. He then joined Evans, Kitchel & Jenckes in Phoenix. He and his third wife, Amy, both later joined Lewis and Roca, where they practiced until retirement. He was a board member of the Phoenix Symphony. He is survived by his wife and law partner, Amy; his children, Rush, Sally, Michele, Nancy, and their spouses; Amy's children, Andy, Timothy, Christopher, and their spouses; his brother Bart and sister-in-law Carol; his brother's children; and 16 grandchildren.

**MAURICE T. WATSON '55 (BA '53)** of San Diego, Calif., died August 15, 2008. He was 82. "Maurie" attended school and college in the San Diego area before heading north for law school. He was a World War II veteran. He served on the boards of the San Diego County Bar Association, San Diego Foundation, and St. Paul's Retirement Homes Foundation. He was a member of the San Diego Rotary Club, the San Diego Yacht Club, and the Rest and Aspiration Society. He is survived by his son, John; daughter, Charlotte; granddaughter, Jessica; and his brother John.

The Honorable **HERBERT DONALDSON '56** of San Francisco, Calif., died December 5, 2008. He was 81. Herbert was widely regarded as a "pioneer for gay rights" and was believed to be the first openly gay male judge in California appointed to the municipal court bench. He worked as a staff attorney for the Southern Pacific Company and managed his own law office, specializing in criminal law. In 1967 Herbert became the chief counsel for the San Francisco Neighborhood Legal Assistance Foundation. He was a municipal judge and later a superior court judge; Herbert retired in 1999 but remained active as a judge for a local Behavioral Health Court.

**ROBERT C. RAND '56 (BA '54)** of Palo Alto, Calif., died October 16, 2008. Bob lived in California for most of his life, growing up in Los Angeles, attending high school in Fullerton, studying law at Stanford, and practicing law in Palo Alto. He is survived by his wife, Faunce; sister, Patricia; sons, Matt, Chris, Charles, and Paul; daughter, Robin; 11 grandchildren; four great-grandchildren; and many nieces and nephews.

**JOHN JAMES LUTHER '57** of Sunnyvale, Calif., died September 25, 2008. He was 86. After law school, John joined what became Robertson, Alexander, Luther, Esselstein, Shiells and Wright in Menlo Park, Calif., where he worked until retirement in 1992. John was president of the Palo Alto Center for the Blind and Visually Impaired from 1973 to 1977 and a

# O R I A M

member of Kiwanis and SIRS clubs. He is survived by his second wife, Shirley; children Craig, Lorraine, and Robert; stepchildren Dick, Eric, Cindy, Virginia, and Tina; and many nieces, nephews, grandchildren, and great-grandchildren.

**DOUGLAS CLAY WHITE '57 (BA '51)** of San Francisco, Calif., died June 23, 2008. Douglas decided early in his life, reportedly at age 8, that he would attend Stanford and become an attorney. Prior to law school, he served in the Navy. He received the China Service Medal, the National Defense Medal, the Korean Service Medal with four stars, and the United Nations Medal. He was a California Supreme Court clerk before joining Morrison & Foerster as an associate in 1959. He retired in 1983. Douglas is survived by his sister, Patricia.

**JAMES O. HEWITT '58 (BA '56)** of La Jolla, Calif., died October 28, 2008.

**ALLYN OVERTON KREPS '58** of Los Angeles, Calif., died September 9, 2008. He was 78. Allyn worked for many years as a partner in litigation in the Los Angeles offices of O'Melveny & Myers. He also managed Alan Cranston's campaign for U.S. Senate in 1968 and chaired a bipartisan commission that assisted in selecting candidates for federal judgeships and U.S. attorneys in the state of Washington. He returned to law in 1981, retiring from private practice in 2005. He is survived by his wife, Cassandra; children Eric, Theodore, Rebecca, and Jessica; several brothers and sisters; and his grandson.

The Honorable **JAMES P. ZARIFES '58 (BA '53)** of Long Beach, Calif., died March 3, 2008. He was 77. James served two years in the Army, achieving the rank of first lieutenant. He practiced with Denio, Hart, Taubman & Simpson for four years before becoming a solo practitioner. James served for 17 years as a trustee on the Long Beach Unified School District Board of Education. He was appointed to the bench in 1991 and served for eight years. He is survived by Angie, his wife of nearly 50 years; his children Peter, Michael, Marina, and their spouses; his sister, Helen; and three grandchildren.

**CHARLES WILLIAM KEY '59** of Honolulu, Hawaii, died September 10, 2008. He was 79. Charles served in the Navy as an enlisted man and officer, prior to attending law school. Charles began practice at Damon Key Leong Kupchak Hastert in 1963. He was president of the Hawaii State Bar Association and served as Hawaii's delegate to the American Bar Association. He founded and maintained the Wednesday Club, a handful of Honolulu lawyers from different firms who met each week for lunch, for more than 30 years. He is survived by his wife, Deborah.

**DANIEL D. LEVENSON '59** of Newton, Mass., died September 13, 2008. He was 76. Following law school, Daniel practiced tax and estate law at Lourie & Cutler, PC, in Boston, where he worked for 49 years. He also served as general counsel to the ACLU of Massachusetts during the 1960s. Active in the Jewish community, Daniel was chairman of MAZON: A Jewish Response to Hunger and president of Temple Beth Elohim in Wellesley from 1976 to 1978. He is survived by his wife, Helen; daughters Rachel, Marilyn, and Judy; and four grandchildren.

**RICHARD HALL NICHOLLS '63** of Stamford, Conn., died March 14, 2009. Richard had a 40-year career in law, including as head of the tax department at Mudge Rose Guthrie Alexander & Ferdon and of counsel to Orrick, Herrington & Sutcliffe. He did extensive pro bono work for the American Bar Association and the National Association of Bond Lawyers and was honored with the Bernard P. Friel Award for distinguished service in public finance in 2000. Richard was predeceased by his second wife, Anne. He is survived by his first wife and mother of his children, Judy; his children Jamie and Christopher, and their spouses; and six grandchildren.

**MURRAY THOMAS GIBSON '64** of Phoenix, Arizona, passed away on November 26, 2008. He was 80. After graduating from Stanford Law, Murray began his legal career working at corporate firms in California and Chicago before beginning a long-standing career with St. Vincent De Paul's

Oznan Manor in Phoenix. Murray was a deeply committed member of the St. Thomas the Apostle Catholic Church and served as a lector, sacristan, Eucharistic Minister and usher. He is survived by his wife, Mary Lois, daughters Jane and Kate, and three grandsons.

The Honorable **THOMAS A. HARRIS '64** of Fresno, Calif., died November 12, 2008. He was 69. He served in the Fresno County District Attorney's Office and in 1967 joined his family's firm. He served on the Fresno County municipal and superior courts and later on the Fifth District Court of Appeal. Thomas was best known for his work on *In re Donna Sue Hubbard*, in which he authored an opinion that overturned a 100-year sentence for a woman convicted of child molestation. He is survived by his wife, Judy; son, Michael; daughter, Hilary; and three grandchildren.

**RICHARD BATES COUSER '66** of Concord, N.H., died September 23, 2008. He was 67. His career in law included practicing at Orr & Reno PA and D'Amante, Couser, Steiner and Pellerin. Richard assisted in organizing a branch of the A Better Chance (ABC) program; he was also active with the Friends of the Norris Cotton Cancer Center and president of the Rolfe and Rumford Home. Richard was predeceased by his sister, Sarah. He is survived by his wife of 42 years, Linda; his brother, William; his children Alison and Jonathan and their spouses; and seven grandchildren.

**KERRICK C. SECURDA '71 (MBA '72)** of San Martin, Calif., died August 8, 2008. Kerrick served in the Air Force in Vietnam and was awarded the Bronze Star Medal for meritorious service as an Air Intelligence officer. He had experience in management consulting and enterprise customer management and was most recently involved in launching a high power green-light laser for urology that "transformed the industry." He is survived by his wife, Linda; his sister, Michelin; sisters-in-law Joan, Corinne, Sandra, and Diane; and nieces and nephews.

**STEPHEN JOHN HEISER '72 (MBA '71)** of Sacramento, Calif., died April 8, 2008. Stephen practiced as a trial lawyer, before turning to entrepreneurial endeavors with H.M.W. Consulting Inc. He assisted in patenting a bracelet embedded with a computer chip intended to monitor the location of paroled felons. Stephen is survived by his children, Lauren and Julia.

**PATRICK VICTOR COLLINS '80**, of Boise, Idaho, died March 8, 2009. He began his career at Quane, Smith, Howard and Hull in Boise. He worked for the Idaho Department of Finance and the First Interstate Bank of Idaho. He was recruited by Hawley Troxell Ennis & Hawley in 1987 and served as head of the banking practice group, head of the business department, and managing partner. He was on the boards of the Friends of Children and Families and the 2009 Special Olympics World Winter Games. He is survived by his wife, Margaret; their sons Cameron and Christopher; and his siblings Daniel, Timothy, Colleen, and their spouses.

**NANCY HICKS MAYNARD '87** of New York, N.Y., died September 21, 2008. She was 61. At the age of 23, she was one of the first black women to work as a reporter for *The New York Times*. In 1974 she met Robert C. Maynard; the couple married within a year. With seven other journalists, they founded the Institute for Journalism Education (renamed the Maynard Institute for Journalism Education following Robert's death). In 1983, the Maynards acquired the *Oakland Tribune* and acted as co-publishers for nearly 10 years. She was predeceased by her first husband, Daniel Hicks, and her second husband, Robert C. Maynard. She is survived by her mother; her partner Jay; daughter Dori; sons David and Alex; and siblings Barbara and Al.

**WILLIAM T. SEARS '88** of San Pedro, Calif., died suddenly November 2, 2007. He was 53. William was an active member of the Rolling Hills Covenant Church in California. He passed away in Dubai, UAE, while on business. He is survived by his mother, Onnye Jean Sears; his sister Leah; his brother Michael; and children Alexis and Christopher.

# WE'RE MOVING

CLASSMATES SLIDESHOWS ARE MOVING TO SLSCONNECT

For this issue of the *Lawyer* and all future issues, **Classmates Slideshows** will be posted directly into **SLSConnect**—the law school's new social and professional network exclusively for alumni and current students. We are hoping SLSConnect becomes your social network of choice when it comes to reconnecting and keeping in touch with your classmates.

If you haven't already, simply **Create an Account** on SLSConnect—and since we are finally using single-sign on technology—your SUNet ID and password that you use for the Alumni Directory will get you right in! Simply go to: [www.law.stanford.edu/slsconnect](http://www.law.stanford.edu/slsconnect) and follow the instructions.

Once inside SLSConnect, select **Groups & Class Notes** from the left-hand navigation bar and look for either **Your Class** or the **Stanford Lawyer Magazine**.



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60	5.0
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80	7.1
85	8.1
90+	9.5

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# From the Editor

EVERY FEW YEARS WE CHECK IN WITH YOU, OUR ALUMNI, to gather input regarding general communications from the law school and to gauge satisfaction with the magazine. Do you read *Stanford Lawyer*? Do you find the articles interesting? Do you value "Classmates"? Thank you to everyone who responded to the survey last summer. While there's a general view among communications professionals that surveys tend to elicit disproportionately high negative responses, the opposite seems to have held in this case.

Here are some of the results:

- 98% read "Classmates" news from their class
- 91% also read the articles in the front of the magazine
- 96% rate the magazine as good to excellent
- 82% want a printed version of the magazine

*Stanford Lawyer* is an important communication tool, serving a variety of audiences. It is the law school's most widely distributed publication, providing readers with news of scholarship, programs, and alumni, student, and faculty achievement. It also serves as a way for alumni to stay connected to each other through the "Classmates" section. And while alumni are the primary focus of our efforts, *Stanford Lawyer* is sent to peer law schools, leaders in the legal profession, and members of the media—highlighting our reputation as a top-tier law school.

*Stanford Lawyer* is also a collaborative effort that requires the involvement of faculty, students, and alumni to rise above the ordinary. One of the greatest pleasures of my job is the interaction I have with this community (you) and I continue to be impressed by how much of your time you give to the magazine—whether for a quick question, a lengthy Q&A, contributing to "Classmates," or as a class correspondent.

I'm pleased that so many of you are satisfied with the magazine, but know that there is always room for improvement. The survey is finished, but my door is always open, my e-mail and phone on. Please feel free to continue the conversation.

With great appreciation,  
SHARON DRISCOLL  
*Editor*

## UPCOMING EVENTS AT SLS

Conference on Intellectual Property  
Law and the Biosciences  
<http://lst.stanford.edu/iplawandbioscience>  
May 8

Law School Graduation Ceremony  
May 10

Sixth Annual E-Commerce Best  
Practices Conference  
[http://lst.stanford.edu/best\\_practices](http://lst.stanford.edu/best_practices)  
June 12

Stanford Law School's  
Directors' College  
[www.directorscollege.com](http://www.directorscollege.com)  
June 21-23

Alumni Weekend  
[www.law.stanford.edu/alumniweekend](http://www.law.stanford.edu/alumniweekend)  
October 22-25

Fall Public Service Awards Dinner and  
Shaking the Foundations Conference  
Dates to be Announced

FOR MORE INFORMATION ABOUT THESE AND OTHER EVENTS, VISIT [WWW.LAW.STANFORD.EDU](http://WWW.LAW.STANFORD.EDU)

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