Author of *The New Yorker* Series on Global Warming to Open Symposium on Climate Change

Elizabeth Kolbert, writer for *The New Yorker*, former *New York Times* Albany Bureau Chief and author of the forthcoming book *Field Notes from a Catastrophe* (which appeared in the three-part series, “The Climate of Man,” in *The New Yorker* this past spring), will open the spring symposium of the Albany Law School *Environmental Outlook Journal*, “Catastrophic Climate Change: The Science, the Social Costs, and the Race for Legal Remedies,” from 8:30 a.m. - 5:00 p.m. on April 18, 2006, at Albany Law School. The program is being co-hosted by the Government Law Center and the Albany Law School Environmental Alumni Group.

The program will present panels on “The Science, the Health Impacts, and the Costs of Catastrophic Climate Change,” “The Effectiveness of Global & Regional Initiatives,” “Catastrophic Climate Change Litigation,” and “Where Do We Go From Here?” Other speakers include: Dr. Jim Hansen of the NASA Goddard Institute for Space Studies; Dale Bryk, Esq., Senior Attorney with the Natural Resources Defense Council and Director of the Yale Environmental Law Clinic; Peter Lehner, Esq., Environmental Protection Bureau Chief in the Office of the New York State Attorney General; Amory Lovins, founder and CEO of the Rocky Mountain Institute and Professor Nicholas Robinson, Co-Director of the Center for Environmental Legal Studies at Pace Law School. Also invited are other academics, lawyers, and experts exploring the effects of climate change on health, economics, and weather patterns, and the legal implications presented by these effects.

The symposium is being planned and coordinated by Joshua Oppenheimer ’06, the *Environmental Outlook Journal*’s Managing Editor for Symposium. Professor Joan Matthews of Albany Law School and Eleanor Stein, Visiting Professor at the Law School, are also assisting in planning and coordinating the event.

Additionally, at 8 p.m. that evening, the *Environmental Outlook Journal* is co-sponsoring Ms. Kolbert’s reading from her upcoming book as part of the New York State Writers Institute’s Visiting Writers Series at the Assembly Hall Campus Center, State University of New York at Albany.

For information about the symposium, contact Joshua Oppenheimer at (518) 472-5863 or joppenheimer@mail.als.edu.

Chief Judge Kaye and Former Counsel to Governor Cuomo Among Headline Speakers at Government Reform Symposium

On Friday, February 10, 2006, the *Albany Law Review* in conjunction with the Government Law Center will host a symposium titled, “Refinement or Reinvention: The State of Reform in New York.” The event will take place from 10 a.m. to 4:30 p.m. at Albany Law School with a reception to follow. The event, which is free of charge and open to the public, will focus on visions of reform in New York State Government, with panels highlighting the executive, judicial, and legislative branches.

Evan Davis, Esq., Partner with Cleary Gottlieb Steen & Hamilton LLP and former Counsel to Governor Mario Cuomo, will present the opening *Keynote Address*. GLC Director Patricia Salkin will introduce Mr. Davis. This will be followed by the *Legislative Panel*, moderated by Professor Sandra M. Stevenson of Albany Law School, and featuring Professor Eric Lane of Hofstra School of Law; Honorable Sandy Galef of the New York State Assembly; and Barbara Bartoletti, Legislative Director of the New York State League of Women Voters.

Honorable Judith S. Kaye, Chief Judge of the New York Court of Appeals, and Evan Davis, Esq., Cleary Gottlieb Steen & Hamilton LLP

Continued on page 8
From the Director

During the last six months of 2005 the Government Law Center experienced a growth spurt and welcomed a number of new staff members who bring to the Center various skills and interests helping to shape a new agenda in 2006. As we said good-bye to our inaugural post-graduate fellow in law & public policy, William Snyder, we welcomed Michael Donohue '05 who has already assumed a leadership role in strengthening the Center's active involvement in the environmental law and policy field. Michael was joined by two additional post-graduate fellows, Michael Cassidy '05 and Teneka Frost '02, who are focusing their full-time efforts on procurement law issues. Two new administrative assistants, Jennifer Schermerhorn and Margaret Lubitz, have joined the staff to provide myriad support services for the Center's programs and initiatives.

Focused efforts in 2005 to engage more student and faculty involvement with the GLC are bearing fruit in early 2006. As you read through this issue of the newsletter, you will notice that the GLC is working with the Faculty Enrichment Committee, the Albany Law Review, the Albany Law Journal of Science & Technology and the Albany Law Environmental Outlook Symposium to bring nationally known professors, jurists, scholars, writers, lawyers and scientists to Albany Law School. Our Edgar & Margaret Sandman Fellowship Program continues to attract the best and brightest Albany Law School students who are committed to pursuing law and policy research in elder law and health law areas, and our students are receiving statewide and national recognition for the outstanding work they are doing at the Center.

The Center's commitment to training the public sector workforce will be further evidenced this spring with our participation in the re-authorized Public Service Workshops Program, training for impartial hearing officers across the state on changes to the special education laws and regulations, and our participation in training on the implementation of the new procurement lobbying law. Our staff is out of the office routinely teaching courses for local, state and federal government lawyers and public officials. In addition to teaching in the classroom at Albany Law School, our staff attorneys spent a significant amount of time researching, writing and publishing studies and reports both on their own initiative and under contract with various entities. Many of these recent writings can be accessed through our publications clearinghouse at www.governmentlaw.org.

The staff and Advisory Board of the Government Law Center join me in wishing you a happy and healthy new year. We look forward to seeing you at some of our upcoming events this spring.

Patricia E. Salkin

Government Law Center Staff

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Symposium To Examine Lead Poisoning in New York State

The Government Law Center will host a conference on lead paint poisoning issues and policies from 8:30 a.m. to 4:00 p.m. on Thursday, March 16, at Albany Law School.

National and statewide scientists, physicians and policy experts will convene to discuss the epidemic of childhood lead poisoning, current policies that focus primarily on after-the-fact responses and legislative proposals to prevent lead poisoning in children.

Confirmed speakers to date include: Matthew Chacher, Esq., Staff Attorney at the Northern Manhattan Improvement Corporation; Cordell Cleare, Chair of the New York City Coalition to End Lead Poisoning (NYCCELP); Peter Danziger, Esq., of O’Connell & Aronowitz; Michael L. Hanley, Esq., of the Empire Justice Center in Rochester; Paul J. Bottari, Esq., of Wilson, Elser, Moskowitz, Edelman & Dicker, L.L.P.; Hon. David Gantt, New York State Assembly; Derrick Hazle, Managing Director of the Coalition to Prevent Lead Poisoning in Rochester; Katrina Smith Korfmarcher, Ph.D., Research Assistant Professor in the Department of Environmental Medicine at the University of Rochester; Bruce P. Lanphear, M.D., M.H.P., of the Cincinnati Children’s Hospital Medical Center; Theodore I. Lidsky, Ph.D., of the Center for Trace Element Studies and Environmental Neurotoxicology at the NYS Institute for Basic Research in Developmental Disabilities in Staten Island; Hon. Joseph Robach, New York State Senate; and Ralph Spezio, former Rochester school administrator.

The morning will begin with a discussion of the scope of the lead poisoning problem in New York State, including the incidence of elevated blood lead levels in children, sources of lead, and the state's older housing stock. The challenges for property owners, as well as county perspectives on lead poisoning will be addressed. Lead poisoning and its impacts on children, schools and the state will be discussed, as well as the costs to society of lead poisoning.

The afternoon session will feature a panel discussion on current laws and public policies, including an overview of federal, state and New York City lead poisoning laws and the City of Rochester's lead poisoning ordinance. Several speakers will discuss moving toward a comprehensive childhood lead poisoning prevention approach.

The program is being co-sponsored by the Coalition to End Lead Poisoning in New York State (CELPNYS) and the New York Public Interest Research Group (NYPIRG).

For more information or a program brochure, contact Jennifer Schermerhorn at the GLC (518) 445-3287.

Court of Appeals Judge Victoria A. Graffeo ‘77 and William F. Collins ‘76, Counsel to the State Assembly Majority, to be Honored at Alumni in Government Reception

Hon. Victoria A. Graffeo ‘77, Associate Judge of the New York Court of Appeals, and William F Collins, Esq., ’76, Counsel to the New York State Assembly Majority, will receive the Distinguished Alumni in Government Award presented at Albany Law School's 2006 Alumni in Government Reception on March 2 from 5:30 - 7:30 p.m. at the Executive Mansion.

Hon. Victoria A. Graffeo received her J.D. from Albany Law School in 1977. Following graduation, she worked in private practice until 1982 when she became associate counsel to the N.Y.S. Division of Alcoholism and Alcohol Abuse until 1984. She then spent ten years working in the State Legislature, eventually holding the position of Chief Counsel to Assembly Minority Leader Clarence D. Rappleye, Jr. In 1995, she was appointed Solicitor General for the New York State Attorney General Dennis C. Vacco and served until appointed by Governor George E. Pataki to fill a vacancy in the State Supreme Court, Third Judicial District, in September, 1996. She was elected that November to a full term as Justice of the State Supreme Court and in March, 1998 was named Associate Justice of the Appellate Division, Third Department. Her appointment to the Court of Appeals by Governor Pataki was confirmed by the State Senate in 2000. She is a member of the Albany Law School Board of Trustees, received the 2002 Distinguished Alumni Award, and presented the 2003 Commencement Address.

William F Collins has been Counsel to the New York State Assembly Majority since 1998. After receiving his J.D. from Albany Law School in 1976 he began his extensive career of government service working for the New York State Department of State, Division of Community Affairs, Legal Service Bureau until 1979. He then served as Deputy Counsel to the Governor’s Office of Employee Relations until 1983 when he became Deputy Commissioner of Administration of the New York State Department of Labor. In 1987, he joined the N.Y.S. Department of Taxation and Finance as Deputy Commissioner and Counsel until 1995. After three years of work with Bond, Schoeneck & King, LLP in Albany, he became Director of the Legislative Tax Study Commission until 1998. Mr. Collins is a member of the Government Law Center’s Advisory Board and he is on the adjunct faculty at Albany Law School.

Please contact the Alumni Office at alumni@mail.als.edu or (518) 445-3220 for more information about the Reception.

The 2006 Anderson Series Takes A Closer Look at Eminent Domain, Civil Confinement, Procurement and Racing & Gaming

The 2006 Warren M. Anderson Legislative Breakfast Seminar Series opened with presentations by Professor John Humbach of Pace Law School and Lisa Bova-Hiatt, Deputy Chief in Charge of Condemnation in the Tax & Bankruptcy Litigation Division of the New York City Law Department, on “Eminent Domain in the Aftermath of Kelo” on February 7 from 8-9 a.m. in the Assembly Parlor of the New York State Capitol. Patricia E. Salkin, Director of the Government Law Center, moderated the discussion. Richard Hamill, President of the Alliance of Sex Offender Service Providers, New York State Assemblyman Joseph R. Lentol and New York State Senator Dale M. Volker are among those slated to speak at the March 7 seminar on “Civil Confinement.”

Continued on page 9
GLC Takes Active Role in Eminent Domain Education

The GLC weighed in on the rising debate concerning eminent domain this past fall by hosting a well received lecture and panel discussion, writing several articles/reports, and offering testimony before the New York State Assembly and Senate.

A large and enthusiastic audience heard Timothy J. Dowling, Esq., Chief Counsel of the Community Rights Counsel in Washington, D.C., deliver The Edwin L. Crawford Memorial Lecture on Municipal Law at the Law School on November 1. His presentation examined the implications of the U.S. Supreme Court’s recent 5-4 decision in Kelo v. City of New London with respect to eminent domain in New York and in states and localities across the country. It was followed by a panel discussion featuring David E. Cardwell, Esq. of The Cardwell Law Firm in Orlando, Florida, and Carl Rosenbloom, Esq. of Bond, Schoeneck & King in Albany, New York. There was a large turnout of state and local officials at the Lecture which was made possible through the generous support of many friends and colleagues of Ed Crawford as well as Saratoga Associates, New York Municipal Insurance Reciprocal, New York Conference of Mayors, New York State Association of Counties, and Association of Towns of the State of New York.

Recent GLC publications on eminent domain, authored by GLC Director Patricia Salkin, can be downloaded from the Center’s clearinghouse, Government Law Online (www.govlaw.org). They include “Eminent Domain Law in New York State: Issues and Opportunities,” Testimony offered before the New York State Senate Committee on Commerce, Economic Development and Small Business and Committee on Local Government (October 18, 2005); “U.S. Supreme Court Upholds Use of Eminent Domain for Economic Development and Spurs a Firestorm of Legislative Activity to Limit Such Authority,” Municipal Lawyer, Vol. 19, No. 3 (Summer 2005); and “Community Redevelopment, Public Use, and Eminent Domain,” The Urban Lawyer, Vol. 37, No. 2 (Spring 2005).

In addition, a book to be published by the ABA in early 2006 will include a chapter on the role of Amicus Curiae in the Kelo case co-authored by Patricia Salkin, Lora Lucero, Esq. and ALS student Allyson Phillips ’06.

GLC Director Patricia Salkin testified about eminent domain issues in New York, and the impact of the Supreme Court decision, on November 1, 2005 before the New York State Assembly. This fall Dean Salkin was named chair of a New York State Bar Association task force to study eminent domain, established to review existing and proposed legislation around eminent domain in New York and make recommendations on legislation and regulations. She also chairs the Amicus Curiae Committee of the American Planning Association and participated in two briefs submitted to the U. S. Supreme Court regarding the Kelo case. In early 2006, Salkin will be speaking on eminent domain issues before the American Association of Law Schools Annual Meeting, the New York State Association of Counties, the New York State Association of Realtors and the American Planning Association.

Prominent Jurists Hold Balance of Power Discussion at Government Law Center Event

Hon. John T. Buckley ’61, Presiding Justice of the First Department, Appellate Division, was joined by former New York Court of Appeals Judge Stewart F. Hancock Jr., Justice Bernard J. Malone Jr. ’72 of the First Department, Appellate Division, and ALS Professor Michael J. Hutter to discuss balance of power between the executive and legislative branches of government on September 20 at Albany Law School.

The informative program was hosted by the Government Law Center, Albany Law Review, Alumni in Government Group, and State Academy for Public Administration.

Albany Law School Professor Leads Panel on Budget Reform Ballot Initiative

Albany Law School Professor Michael Hutter facilitated a panel discussion on the pros and cons of the fall 2005 proposed budget reform referendum to amend the State Constitution, featuring William Collins, Counsel to the NYS Assembly Majority, Robert Ward, Director of Research for the Public Policy Institute of the Business Council of New York State, Blair Horner, Legislative Director of the New York Public Interest Group, and John Cape, Director of the New York State Division of the Budget.

Co-sponsored by the State Academy for Public Administration, the program took place at Albany Law School shortly before Election Day and was widely praised by the attendees.

Attorney, Novelist and Screenwriter Shares Thoughts About Combining Legal and Literary Careers

Jonathan Miller, Esq., author of Rattlesnake Lawyer, Crater County and the non-fiction book Amarillo in August: An Author’s Life on the Road, spoke to members of the ALS community about literary careers for lawyers on October 17, 2005. Mr. Miller, Editor in Chief of an award-winning newspaper while at the University of Colorado Law School and currently working as a public defender in New Mexico, has been called “The next John Grisham” and “The new voice of contemporary legal fiction.” All of his projects are under consideration as movies or television shows.

The event, co-presented by the Faculty Enrichment Committee, Career Planning and Student Bar Association, was enjoyed by all who attended.
Leading Criminal Law Scholar to Lecture at Albany Law School

Professor Tom Baker, Connecticut Mutual Professor of Law and Director of the Insurance Law Center at the University of Connecticut School of Law, will speak on medical liability policy reform at an invitational roundtable discussion taking place from 12 noon - 2 p.m. on February 16 at Albany Law School. Professor Baker will open the program with a brief introduction to the subject, followed by a conversation among the other participants. Professor Timothy Lytton of Albany Law School will serve as program moderator.

Professor Baker is the author of "The Medical Malpractice Myth" (U. Chicago 2005) which examines the misperceptions behind the tort reform movement and proposes an evidence-based approach to medical liability reform. He teaches torts and insurance law, and serves as the faculty advisor to the Connecticut Insurance Law Journal. Professor Baker received a B.A. and J.D. from Harvard University, magna cum laude. Before entering law teaching, he clerked for Judge Juan Torruella of the United States Court of Appeals for the First Circuit, practiced with the firm of Covington & Burling in Washington, D.C., and served as an Associate Counsel for the Independent Counsel investigating the Iran-Contra affair. His research examines issues of risk and responsibility in the fields of torts and insurance. Professor Baker is active in the Law and Society Association and is a co-founder of the Insurance and Society Study Group, an informal association of scholars from law, humanities and the social sciences who write about risk and insurance. He has published articles in the Texas Law Review, Law & Social Inquiry, Wisconsin Law Review, Economy and Society, Law and Society Review, and Connecticut Insurance Law Journal. Professor Baker also authored "Insurance Law and Policy" (Aspen 2003) and co-edited "Embracing Risk: The Changing Culture of Insurance and Responsibility" (U. Chicago 2002).

For more information, contact Professor Timothy Lytton at Albany Law School (518) 445-2397.

Leading Authority on Insurance and Law to Unravel Myths Surrounding Medical Malpractice Lawsuits at Albany Law School Event

Leading Authority on Insurance and Law to Unravel Myths Surrounding Medical Malpractice Lawsuits at Albany Law School Event

Government Law Center Names Teneka E. Frost, Esq. ’02 As New Post-Graduate Government Law and Policy Fellow

Teneka E. Frost, Esq. ’02 was selected to participate in the Post-Graduate Fellowship in Government Law and Policy in the Fall 2005. Ms. Frost is focusing her work on procurement lobbying and in particular, working with the GLC to provide staff support and legal and technical assistance to the NYS Office of General Services and to the Advisory Council on Procurement Lobbying.

Before joining the Government Law Center, Ms. Frost worked as a Staff Attorney for the Legal Aid Society of Northeastern New York, Inc., where her practice concentrated in housing litigation. She also practiced law with Lemery Greisler, LLC in Albany as an Associate Attorney in the area of commercial litigation. Ms. Frost is currently serving a four-year term as an elected member of the Board of Education for the City School District of Albany and serves as a board member for the Capital District Black and Hispanic Bar Association and St. John’s Community Development Corporation. She graduated from Albany Law School in 2002 and, while attending law school, she also obtained a Master’s Degree in Public Administration from SUNY Albany’s Rockefeller College of Public Affairs and Policy. During law school, Ms. Frost served as: Northeast Regional Director of the National Black Law Students Association; Regional Representative of the Albany Law School Black Law Students Association; Member of Albany Law School’s Moot Court Board; a law clerk to Lemery Greisler LLC; and as an intern for the Black, Puerto Rican and Hispanic Caucus of the NYS Legislature. Ms. Frost earned a Bachelor of Arts in Political Science and African American Studies at Syracuse University, and graduated from Albany High School where she was named one of the outstanding high school students in the Albany area and was presented with the High School Achiever’s Award from the State University of New York at Albany.

For more information, contact Professor Timothy Lytton at Albany Law School (518) 445-2397.

Teneka E. Frost, Esq. ’02

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Leading Criminal Law Scholar to Lecture at Albany Law School

The Albany Law School Faculty Workshop and the Government Law Center will be co-hosting Paul Robinson, the Colin S. Diver Distinguished Professor of Law at the University of Pennsylvania Law School, on April 26 from noon-1:30 p.m. at Albany Law School. Professor Robinson will make a presentation on his new book (co-authored by Michael Cahill), Law without Justice: Why Criminal Law Doesn’t Give People What They Deserve (Oxford 2006).

Professor Robinson has served as a federal prosecutor, as counsel for the U.S. Senate Subcommittee on Criminal Laws and Procedures, and as one of the original commissioners of the U.S. Sentencing Commission, where he was the lone dissenter to promulgation of what are the current federal sentencing guidelines. Among his dozen books are the standard lawyer’s reference book on criminal law defenses, an internationally-known Oxford monograph on criminal law theory, a highly-regarded criminal law treatise, a popular innovative case studies course book, and a groundbreaking empirical study of the conflict between criminal law rules and lay intuitions of justice. He also has published scholarly articles in nearly every top law review.

An unflinching look at American criminal law, Law without Justice demonstrates that cases with unjust outcomes are not always irregular or unpredictable. Rather, the criminal law sometimes chooses not to give defendants what they deserve: that is, unsatisfying results occur even when the system works as it is designed to work. The book comprehensively surveys the undeserved outcomes that occur because of law, rather than in spite of it. From statutes of limitations and double-jeopardy rules that disallow newly found evidence conclusively proving an offender’s guilt, to harsh doctrines that ignore legitimate claims of blamelessness, the authors find that while some justice-sacrificing doctrines serve their intended purpose, many others do not, or could be replaced by other, better rules that would serve the purpose without abandoning a just result.

For more information, contact Professor Timothy Lytton at Albany Law School (518) 445-2397.

Government Law Center Names Teneka E. Frost, Esq. ’02 As New Post-Graduate Government Law and Policy Fellow

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For more information, contact Professor Timothy Lytton at Albany Law School (518) 445-2397.

Teneka E. Frost, Esq. ’02
GLC Undertakes Procurement Law Initiatives

GLC Assembles Statewide Focus Groups to Provide Ideas for Improving Procurement Process

This Fall, the New York State Office of General Services retained the Government Law Center to conduct a series of statewide focus groups to assist OGS in obtaining detailed comments and suggestions from constituencies involved in the New York State procurement process. The goal was to identify areas within the Procurement Stewardship Act that are ripe for reform in light of the June 2006 sunset of the Act. The GLC conducted four focus groups—one in Harlem, one in Syracuse, and two in Albany—and drafted a report summarizing the comments of the attendees, called The Procurement Stewardship Act: Opportunities for Reform.

In 1995, the Procurement Stewardship Act was enacted by the State Legislature with the goals of bringing reform and consistency to the procurement process in New York State. The Act was initially adopted with a five-year sunset clause, presumably to ensure that the new law would be evaluated for effectiveness prior to end of the sunset. No such study or analysis was conducted and in 2000 the Act was extended with some amendments and was scheduled to sunset on June 30, 2005.

In the summer of 2004, the GLC, recognizing that the sunset was nearing in less than a year, embarked on a year-long study of the Act, culminating with a statewide symposium in April 2005. The symposium attracted more than 200 people interested in discussing the benefits, challenges and opportunities for reform to the Act. (See below “Now Available: Proceedings from the Government Law Center’s Procurement Law Symposium.”) In April 2005, as part of the budget negotiations, the Act was again extended, but this time for just one year. The Act is now set to sunset on June 30, 2006.

On September 27, 2005, the New York State Assembly held a public hearing to focus attention on potential reform issues related to the Act during the 2006 Legislative Session. According to the hearing notice, "[w]hen the Stewardship Act was renewed in 2000, a number of significant changes were made to the State Finance Law. "The hearing was designed to obtain information for the Legislature to review the impact of those changes. The hearing notice specifically indicated that the Assembly was seeking comment on a number of issues that significantly impact the State procurement laws and bills that have been introduced to improve the State’s procurement process. Issues and related bills on which testimony was invited included: Accountability reform (A.3454, A.4564, A.7575, A.8231, A.8397); Responsibility of bidders (A.1080, A.4562, A.4568); Bid evaluation (A.1081); Procurement challenges (A.1082); Emergency procurement procedures (A.1083); Remanufacturing (A.2948); Green procurement (A.7257); Preferences (A.7310); and Notice of Opportunities (A.8873). GLC Director Patricia Salkin offered written testimony.

For more information about the GLC’s focus group report, contact Michael Cassidy, Post Graduate Fellow in Law and Policy at the GLC (518) 445-2301.

GLC Assists the State Advisory Council on Procurement Lobbying

On August 23, 2005, Governor George E. Pataki signed A.8964/S.5873 into Chapter 1 of the Laws of 2005, which amended the Lobbying Act and the State Finance Law, to include provisions for the regulation of attempts to influence state and other governmental entity procurement contracts. Among other things, the new law: makes the lobbying law applicable to attempts to influence procurement contracts once the procurement process has been commenced by a state agency, unified court system, state legislature, public authority, certain industrial development agencies and local benefit corporations; requires the above mentioned governmental entities to record all contacts made by lobbyists and contractors about a governmental procurement so that the public knows who is contacting governmental entities about procurements; requires governmental entities to designate persons who may be the only staff contacted relative to the governmental procurement by that entity in a restricted period; imposes fines and penalties against persons/organizations engaging in impermissible contacts about a governmental procurement and provides for the debarment of repeat violators; directs the Office of General Services to disclose and maintain a list of non-responsible bidders and those who have been debarred and publish such list on its website; requires the timely disclosure of accurate and complete information from offerers with respect to determinations of non-responsibility and debarment; expands the definition of lobbying to include attempts to influence gubernatorial or local Executive Orders, Tribal–State Agreements, and procurement contracts; modifies the governance of the Temporary State Commission on Lobbying to provide that opinions of the Commission shall be binding only on the person to whom such opinion is rendered; increases the monetary threshold which triggers lobbyists obligations under the Lobbying Act from $2,000 to $5,000; and establishes the Advisory Council on Procurement Lobbying.

The Advisory Council on Procurement Lobbying (“Advisory Council”), was created to examine the implementation of the new law and to issue guidelines regarding contacts to assist governments and the vendor community in complying with the new law. The Advisory Council, composed of eleven members, and chaired by the Commissioner of the Office of General Services (or his designee) is charged with: providing advice to the Temporary State Commission on Lobbying with respect to the implementation of the provisions of the changes to the Legislative Law as such provisions pertain to procurement lobbying; annually reporting to the Legislature any problems in the implementation of the Legislative Law as such provisions pertain to procurement lobbying; establishing (permissive, not mandatory) model guidelines pursuant to the State Finance Law §139j addressing certain contacts during the restricted period; submitting a preliminary report by December 31, 2005 to the Governor and Legislature on potential implementation issues arising out of procurement lobbying provisions that are to take effect on January 1, 2006; and submitting a report by October 30, 2007, to the Governor and Legislature on the effects of the procurement lobbying law, including information on any changes to the number and nature of offerers participating in the procurement process after January 1, 2006.

The GLC is providing staff support services to the Advisory Council and has assisted the Council with the drafting of its preliminary report, model guidelines, training and education program and general administrative and legal support.

Now Available: Proceedings from the GLC’s Procurement Law Symposium

Proceedings of the Government Law Center’s Spring 2005 Procurement Law Conference are currently available: “Evaluating New York Procurement Law as the Sun Sets: An Analysis of the Experience of the Past Ten Years” includes a discussion of the procurement process in New York and the proposed recommendations for changes to the Procurement Stewardship Act. It features presentations by Tom Sanzillo, First Deputy Comptroller, New York State Office of the Comptroller; Commissioner Daniel D. Hogan, New York State Office of General Services; Larry Ethridge, Esq., Chair of the ABA Model Procurement Code Revision Committee; and many other experts.

To access a copy of the proceedings go to www.governmentlaw.org or contact Jennifer Schererhorn at (518) 445-3287.
Internet Sales of Pharmaceuticals Examined at Albany Law Journal of Science & Technology, Symposium

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harmaceuticals and the Internet is the topic of the upcoming annual symposium of the Albany Law Journal of Science & Technology. The Symposium will be held March 2, 2006 and is co-sponsored by the Government Law Center and the Science & Technology Law Center. Presentations during the day-long program will focus on legal, technical, and policy issues pertaining to the pharmaceutical industry and the availability of drugs over the internet.

Speaker panels will address issues pertaining to the import of lower-cost pharmaceuticals from Canada, and the effect that this will have on the United States pharmaceutical industry and your wallet; concerns and novel issues regarding the illegal sale of pharmaceuticals over the internet; and the consequences of counterfeit drugs for both individuals and the drug industry. The Symposium will bring together speakers with a wide-variety of expertise, including representatives from state legislatures, the Drug Enforcement Administration, the pharmaceutical industry and academics.

The Symposium is free. Please register with the Albany Law Journal of Science & Technology at (518) 472-5855 if you would like to attend. Please contact Audra Lieberman at (518) 472-5855 or alieberman@mail.als.edu for more information.

Government Law Center Hosts National Teleconference on Use of Hydrogen as Cleaner, More Efficient Renewable Energy Source

The GLC served as a host site for a national teleconference and live presentation by Peter R. Smith, President of the New York State Energy Research and Development Authority, on “Legal Aspects of Commercializing Hydrogen Technology” on January 18, 2006. Other host centers were located in New York City, Washington, D.C., and Denver, Colorado.

Peter R. Smith was appointed President of the New York State Energy Research and Development Authority by the NYSERDA Board of Directors on January 26, 2004. Mr. Smith previously served as NYSERDA’s Vice President for Programs and Program Director for Energy Analysis overseeing delivery of the Authority’s energy efficiency, energy analysis, economic development, research and development, residential, nuclear waste, and bond financing programs. He is responsible for the overall management of the Authority with assets of more than $330 million. NYSERDA is also the third-party administrator of New York’s five-year, $750 million public benefits program which was created as part of the State’s move to electric competition. Mr. Smith is President of the Board of the American Council for an Energy-Efficient Economy (ACEEE), and the Chairman of the Board of the National Association of State Energy Officials (NASEO). He received a Masters Degree in Public Administration from the Nelson A. Rockefeller School of Public Affairs and Policy, State University of New York at Albany.

Other panelists included: Charlie Pratt, Esq.; John Herrick, Chief Counsel of the Department of Energy; and Joe Romm, author and Executive Director of the Center for Energy and Climate Solutions. The GLC looks forward to hosting future teleconferences with the ABA Section on Environment, Energy and Natural Resources.

Adrienne A. Foederer ’07 Receives Sandman Fellowship for 2006

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drienne A. Foederer, Albany Law School class of 2007, has been selected as the recipient of the Government Law Center’s Edgar & Margaret Sandman Fellowship for 2006. Established in 1993, the program provides ALS students the opportunity to explore an area of elder law in depth for a year, present initial findings at a roundtable discussion, and publish a report to educate law and policy makers and advocates across the country on an issue.

This year’s study will focus on the use of volunteer panels to act as guardians for individuals who have been determined by a court to be incapacitated. A person without a power of attorney and/or a health care proxy who suffers a loss of capacity will usually require a court appointed guardian to make decisions regarding his or her personal care and financial matters. When the incapacitated person does not have a family member or friend who can assume the responsibilities of guardianship, courts often struggle to find an appropriate guardian.

One potential, and as yet untapped, source of guardians in New York could be retired persons or other individuals willing to volunteer their assistance. Grouping such volunteers into panels would lessen the burden on a single individual and foster carefully considered decisions. Several models for this approach exist. In New York, panels of professionals acting pursuant to Article 80 of the Mental Hygiene law make health care decisions for incapacitated persons living in mental health facilities. In other states, not-for-profit organizations often staff their guardianship programs with trained volunteers. The GLC’s 2006 Edgar and Margaret Sandman Fellow will spend the 2006 calendar year studying the current models and examining the advantages, disadvantages, and barriers to developing such volunteer panels for guardianships in New York.

Ms. Foederer interned in the Health Care and Litigation Bureaus at the New York State Office of the Attorney General during 2005. In 2002, she served as a Research Assistant to the Director of the Office of Policy and Planning at the New York State Department of Health, where she managed a research project for Newborn Screening procedures, designed and conducted a statewide survey, and interviewed laboratory directors and personnel to determine clinical compliance with newly enacted legislation. Ms. Foederer is a member of Albany Law Review and recipient of the Thomas Sponsler Fellowship for fall 2005. She is also a candidate to receive a Masters of Science degree in Bioethics from Union College in 2008. Ms. Foederer graduated from Ithaca College in 2003 with a B.A. in Biology.

The Albany Guardian Society has commissioned this study by the 2006 Edgar & Margaret Sandman Fellowship Program. For more information about the Sandman Fellowship Program, please contact Rose Mary Bailly, Esq. at (518) 472-5858.
More than 500 Attend Twelfth Annual Senior Citizens Day

The Government Law Center hosted a successful Senior Citizens’ Law Day at Albany Law School last fall with an estimated attendance of more than 500 seniors and their family members from the surrounding communities. Highlights included The Nancy M. Sills ’76 Memorial Lecture delivered by ALS professor Harold Dubroff on “What To Do If the IRS Audits Your Tax Return,” and a panel discussion on “Medicare Part B – Helping You Prepare,” featuring Andrew Koski, MSW, Home Care Associates of New York State, Inc.; Louis W. Pierro, Esq., Pierro & Associates; Larry Shapiro, New York State Office for Aging; and Cindy Rivera Whitehead of EPIC. The presentation was followed by audience participation in a lively question and answer session.

Thirty workshops were offered on legal, financial and health topics affecting older adults and their families, such as Privacy Laws (HIPPA), Health Care Decisions and Preferences, What You Should Know About Trusts, Avoiding Scams When Choosing Home Repair Contractors, Driving with Confidence, Reducing Care Giver Stress, Know About Trusts, Avoiding Scams When Choosing Home Repair Contractors, Understanding Alzheimer’s Disease.

The Nancy M. Sills ’76 Memorial Lecture was created as a tribute to the memory of Nancy M. Sills, an alumna of Albany Law School and respected law day speaker; through a generous gift by her husband, Dr. Stephen Sills. Senior Citizens’ Law Day sponsors were: Citizens Bank, Times Union, CDPHP, CSEA, New York State, Inc.; Louis W. Pierro, Esq., Pierro & Associates; Larry Shapiro, New York State Office for Aging; and Cindy Rivera Whitehead of EPIC. The presentation was followed by audience participation in a lively question and answer session.

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A small supply of Senior Citizens’ Law Day handbooks, containing up to date information on many of the issues covered during the event, are available (at a cost of $5 to cover postage). If you would like a copy, please contact Michele Monforte at mmonf@mail.als.edu or (518) 445-2383.

Government Reform Symposium (Cont’d from page 1)

Hutter of Albany Law School and including remarks by Dean Gerald Benjamin of SUNY New Paltz, John Faso, Esq., former Assembly Minority Leader and Gubernatorial Candidate; Karl Sleight, Director of the New York State Ethics Commission; and Blair Horner, Legislative Director for the New York Public Interest Research Group. Richard Platkin ’93, Counsel to Governor Pataki, will provide closing remarks. For additional program information please contact James Leary at (518) 445-5306 or jleary@mail.als.edu. For CLE information please contact Lisa Busini, Continuing Legal Education Coordinator, at (518) 472-5888 or lbusc@mail.als.edu.

Projected Shortages in New York’s Long Term Care Workforce Discussed at Sandman Roundtable

On December 1, 2005, Francesca Fonte ’06 and Stacey Stump ’06, 2005 Edgar & Margaret Sandman Fellows, hosted a roundtable discussion on “Meeting the Long Term Care Workforce Challenges: Options for New York State.” The discussion was attended by experts on the subject from around New York State.

Included among the attendees were: representatives from the State Office for Aging, Department of Health, Office of Mental Health, Office of Mental Retardation and Developmental Disabilities, New York State Association of Homes and Services for the Aging, New York State Association of Health Care Providers, Inc., The Healthcare Association of New York State, Long Term Care Ombudsman Program, Medicaid Fraud Unit of the Attorney General’s Office, University at Albany, The Schuyler Center for Analysis and Advocacy, Northeast Health, and several members of the private Bar.

The Roundtable was the culmination of the Fellows’ year-long study of the extent of the labor shortage in both the institutional and home care settings, as well as its consequences on the quality of care received by elders. Nationwide initiatives and proposals to address this mounting problem were discussed, as well as options for New York and other states to consider in preparing to meet this crucial need.

The Fellows’ final report on this issue will be published in early 2006, and will be distributed to New York State Legislators, and state agencies and other interested parties. It will also be posted at www.governmentlaw.org.

Government Law Center Assists in Review of Albany City Charter

This fall, the City of Albany retained the Government Law Center to provide legal research services for the Charter Revision Commission appointed by Mayor Gerald Jennings. The research was conducted by Robert Batson, Esq., Government Lawyer in Residence, and Michael Donohue, Esq., Post-Graduate Fellow in Government Law and Policy, who prepared reports comparing several sections of the Albany City Charter to those of similar sized cities in New York and presented their findings to the Commission. The GLC also is maintaining a web site for the Commission (http://www.albanycitycharter.org) that contains GLC reports, meeting minutes, and other resource materials to inform the citizens of the City of Albany of the work of the Commission as it proceeds. The GLC will also provide assistance to the Commission in their public education and outreach efforts.

On June 14, 2005, Mayor Jennings announced the appointment of a fifteen member City of Albany Charter Review Commission, chaired by former County Court Judge Larry J. Rosen. The Commission was charged with undertaking a complete review of the Albany City Charter that was approved by voters in November 1998. The Commission has proposed a number of changes to the existing charter, that will be submitted to the voters of the City of Albany in November 2006.
Office of the Governor is Examined in Latest Government Law & Policy Journal

Weak Governor States by Thomas C. Marks, Jr.; Article IV of the State Constitution: New York’s Governor and the Executive Branch by Catherine L. Bonventre; Gubernatorial Powers in New York: The Ongoing Battle by Robert F. Pecorella and Jeffrey M. Stonecash; Fiscal Discipline in New York State by Joseph Zimmerman; In Defense of Executive Budgeting by Robert B. Ward; The Right to Legisl ate: How Has the Court of Appeals’ Decision in PATAKI v. ASSEMBLY Affected the Executive/Legislative Balance of Power? by Janet L. Horn; Gubernatorial Oversight of Executive Agencies by Hermes Fernandez; Exercising the Power by Appointment: An Analysis of Variation in Gubernatorial Appointments by Judith R. Saidel, Tamika R. Black and Xiaolei Chen; The Governor’s Power to Appoint Judges: New York Should Have the Best Available Appointment System by Norman L. Greene; and George Pataki and the Institution of the Governorsship in New York by Gerald Benjamin.

Rose Mary Bailly, Esq., served as Editor in Chief of the current issue. The student editorial board included Ryan Emery ’06, Executive Editor, and Senior Editors Joshua Oppenheimer ’06, Andrew Poplinger ’06, Suzanne Post ’06, Jessica Satriano ’06, and Sharalyn Savin ’06.

Robert Batson, Esq., Government Lawyer in Residence, will serve as the guest editor along with June Egland ’91 for the spring 2006 edition of the publication. It will explore many critical issues affecting Native Americans.

Government, Law & Policy Journal is produced twice yearly by the GLC for the New York State Bar Association’s Committee on Attorneys in Public Service. The magazine is available free of charge to NYSBA members. To get on the mailing list, contact the membership office (518/487-5577) or e-mail membership@nysba.org.

Five Albany Law School Students Spending the Semester in D.C.

GLC director Patricia Salkin is teaching a new course this spring for a record number of ALS students who are enrolled in the Semester in Government in Washington, D.C. program. The course, taught every other week in Washington D.C., focuses on topics of importance to federal government lawyers. For example, sessions examine administrative law at the federal level from both the rulemaking and hearing perspectives. ALS alumnus Fred Emery, ’57, President of The Regulatory Group, and the Hon. John Vittone, Chief ALJ of the U.S. Department of Labor, will participate in these sessions. Students will visit the Library of Congress for a special presentation by Morton Rosenberg, Esq., Specialist in American Public Law, on the role of Congressional Research Services and the American Law Division, and they will undergo ethics training at the U.S. Office of Government Ethics. ALS alumnus Mark Zaid ’92 will share his expertise on the Freedom of Information Act. Other sessions will focus on lawyering issues and Congress and the various roles and responsibilities of agency counsel.

The five second-year students are working 30 hours per week in the counsel’s office at federal agencies under the supervision of a government lawyer-mentor. The interns and their placements are: Jonathan Gunther, U.S. Environmental Protection Agency, Air Enforcement Division; Karen Maynard, U.S. Patent and Trademark Office, Office of Legal Assistance; Britt Carlson, U.S. Department of Labor, Office of the Solicitor; Michael Dollinger, U.S. Department of Justice, Civil Division; and Alison Bates, U.S. Department of Justice, Office of the Trustee.

The program is a joint offering of the GLC and the Clinical Field Placement Program at ALS. If you are interested in becoming a government lawyer-mentor in either Washington, DC or Albany, NY, contact Professor Laurie Shanks, Director of the Clinical Field Placement Program, at (518) 445-3227.

The 2006 Anderson Series (Continued from page 3)

This popular annual breakfast series for lawmakers and policymakers is designed to provide information on legal aspects of current policy matters facing the Legislature. Other topics to be addressed in the 2006 series are: sunset of the Procurement Stewardship Act (April 4th); and emerging issues in racing and gaming (May 9th).

Senate Majority Leader Joseph Bruno, Assembly Speaker Sheldon Silver, Senator David Paterson, and Assemblyman James Tedisco are serving as Honorary Co-Hosts of the 2006 Anderson Series.

Sponsors confirmed at press time include: The Civil Service Employees Association; The Energy Association of New York State; Girvin & Ferlazzo, P.C.; Hinman, Howard & Kattell, LLP; Hinman Straub PC; New York State Association of Counties; State Academy for Public Administration; and Wilson, Elser, Moskowitz, Edelman & Dicker.

Attorneys may obtain Continuing Legal Education credit for attending the programs. The seminars are free of charge, but space is limited. To register and/or to have your name added to the mailing list for this series, please contact Jennifer Schermerhorn at (518) 445-3287.

GLC NEWSLETTER

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Visit the GLC on-line at http://glc.als.edu
Working with the National Academy for Public Administration, the Government Law Center developed and provided staff for an invitational workshop series on how to integrate social equity goals with local planning and zoning laws and decision making. The workshops, funded through a Ford Foundation grant, took place last fall and early this winter at the American Planning Association Headquarters in Chicago, Illinois, at Albany Law School, and at Hastings College of Law in San Francisco, California.

Under the direction of GLC Director Patricia Salkin, ALS student Natasha Phillip and Siena College student Kristen Scanlon researched and contacted scores of national, statewide and regional government agencies and non-profit organizations across the country to assist with the curriculum preparation. Along with the Environmental Justice Panel Members at the National Academy for Public Administration, Philip Rutledge, Professor Emeritus of Public and Environmental Affairs at Indiana University, and Senior Fellow at the National Academy for Public Administration (and Chair of the Social Equity Panel), was instrumental in providing guidance and assistance to the GLC in the program design. GLC Post-Graduate Fellow Michael Donohue was also instrumental in recruiting speakers and coordinating the day-long agenda.

The invitation-only workshops were taught by recognized leaders in the field, and were both well attended and well received by members of planning and zoning boards, local legislative bodies, local elected officials, municipal attorneys and professional planners. The agenda included an introduction to environmental justice (EJ) that briefly focused on the historical development of the movement, the broad legal aspects of EJ and the current status of EJ in law and policy. This was followed by specific examination of EJ issues in each of three regions of the country where the workshops occurred. Professor Craig “Tony” Arnold, Boehl Chair in Property and Land Use at the University of Louisville’s Brandeis School of Law, delivered presentations that specifically examined the intersection between environmental justice and local land use planning. Professor Arnold provided attendees with checklists and case studies to assist with the application of EJ principles in routine planning and zoning decisionmaking. Each workshop featured a panel of local officials from their respective region of the country, who offered insights into how EJ principles are incorporated into planning, public participation and project design in their communities. After lunch, workshop participants were able to apply the concepts and information provided in the morning by organizing into three working groups to develop responses to several hypothetical scenarios. Following reports back from each of the working groups, a panel of representatives of EJ nonprofit advocacy organizations based in the region provided reactions and feedback to the ideas generated from the discussion of the scenarios. The programs concluded with additional views on EJ and land use from transportation, public health and affordable housing specialists in the region.

National co-sponsors for the workshops included: the American Planning Association, the ABA Section on Environment, Energy and Resources, the ABA Section on State and Local Government Law, the Center for Policy Alternatives, The Conference of Minority Public Administrators, the International City/County Management Association, the International Municipal Lawyers Association, National Association of Counties and the National Association of Towns and Townships. In addition, more than two dozen regional organizations joined on as regional co-sponsors for one of the three workshops in their area.

Materials from the three workshops will be available on the National Academy for Public Administration’s website. For more information, contact Michael Donohue at the GLC at mdono@mail.als.edu or 518-472-5849.

VISIT Government Law Online

Government Law Online (www.governmentlaw.org) is the GLC’s new electronic publications clearinghouse. On the Center’s website you’ll find articles, studies and proceedings written by GLC staff, as well as faculty and students at Albany Law School.

Law and policy topics covered include:
- Land use planning and zoning
- Health
- Ethics—land use & government
- Aging
- Labor & employment
- Finance
- Energy
- Administrative

We hope that you’ll take a moment to look at the Government Law Center’s publication collection on the web at www.governmentlaw.org. Please send comments about the site via e-mail to mmonf@mail.als.edu.
The GLC is pleased to once again be working with the Association of Towns of the State of New York to help certify the February Annual Meeting for CLE credit. Patricia Salkin will be speaking on the subject of the government attorney client privilege and the GLC will have a presence in the exhibit hall.

The GLC and Career Planning hosted two programs for students on “Careers in the Executive and Legislative Branches of Government” and “Careers in Local Government.” Robert Batson, Esq. ’75, Government Lawyer in Residence, moderated the first program which featured Jason Cooper ’99, Legislative Bill Drafting Commission; Timothy Lennon ’95, NYS Department of Labor, Office of the Attorney General; Melissa Pugliese ’95, NYS Senate; and James Walsh, Esq. ’96, NYS Office of the Governor. Justina Cintrón Perino ’00, GLC Senior Staff Attorney, moderated the second program, featuring: Donna Giliberto, Esq. ’84, NYS Conference of Mayors; Arnis Zilgme, Esq. ’84, Colonie Town Attorney’s Office; Christina Roberts, Esq. ’01, Albany Community Development Agency; and Patrick Jordan, Esq. ’02, City of Albany, Corporation Counsel’s Office.

The GLC and New York State Energy Research and Development Authority (NYSERDA) continued collaborating on a project this fall to examine the relationship of planning and zoning laws to the siting of wind farms in New York State. The GLC provided a background paper for the NYSERDA Toolkit, developed a flow chart explaining the siting process under state zoning and environmental laws and is developing training curriculum for local government officials. For more information contact Michael Donohue, Esq. at (518) 472-5849.

At the request of the National Governor’s Association, the GLC began drafting an issue brief this past fall providing an analysis of state programs to preserve farmland located near cities and towns. Jon Thayer ’06 and Margaret Lavery ’07 have been working on this project.

The following students worked at the GLC in fall 2005: Willow Baer ’07, Elizabeth Bell ’06, Margaret Lavery ’07, Matthew Leonardo ’07, Natasha Phillip ’06, Allyson Phillips ’06, Kamara Shade ’07, Sergio Simoes ’06, Shannon Slavin ’06, Jon Thayer ’06.

In 2005 the Government Law Center facilitated training programs and conferences for professional staff at a number of state agencies. This included coordinating a series of training programs for the New York State Office of Children and Family Services, New York State Education Department, School of Public Health at the University of Albany, and New York State Higher Education Services Corp.

GLC Senior Staff Attorney Justina Cintrón Perino was elected Chair of the Young Lawyers section of the NYS Bar Association. She will assume this position in June 2006.

In January, GLC director Patricia Salkin spoke on eminent domain at the annual meeting of the American Association of Law Schools, the Legislative Conference for the American Planning Association, and at the annual meeting of the NYS Association of Counties. In February she spoke on eminent domain for the NYS Association of Realtors.

Look for the GLC at the Spring and Summer Public Service Workshops Program Series, sponsored by the Governor’s Office of Employee Relations and the Public Employees Federation. Rockefeller College has contracted with the GLC to provide the following courses: evidence refresher for administrative law judges; investigative interviewing; how to testify in court; current topics in government law; administrative law update for government lawyers; dealing with difficult people; ethics for government lawyers, ethics for ALJs; drafting and interpreting statutes and regulations for non-lawyers; and detecting fraudulent documents.