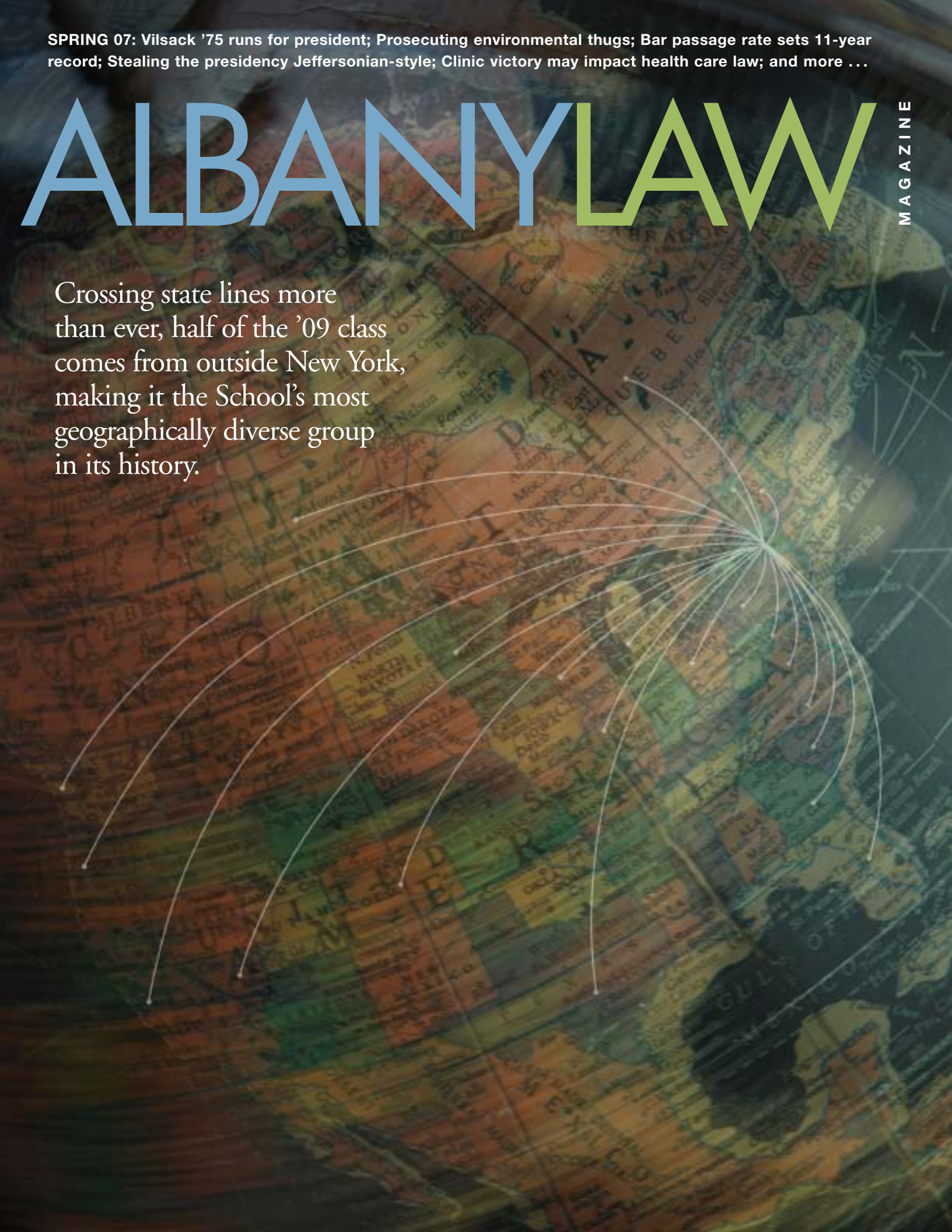


SPRING 07: Vilsack '75 runs for president; Prosecuting environmental thugs; Bar passage rate sets 11-year record; Stealing the presidency Jeffersonian-style; Clinic victory may impact health care law; and more ...

# ALBANYLAW

MAGAZINE

Crossing state lines more than ever, half of the '09 class comes from outside New York, making it the School's most geographically diverse group in its history.



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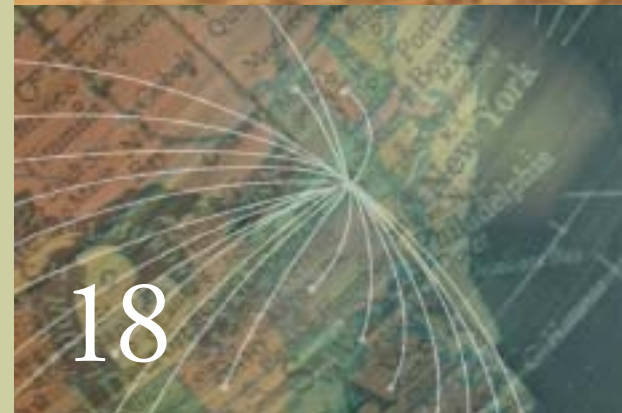
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*Vilsack First to Announce, and First to Drop*

Former Iowa Governor Tom Vilsack '75 launched a campaign for U.S. president this year. Unfortunately his candidacy did not attract the money needed to compete. What's next for the likeable Democrat?

### 16 THE ORIGINAL ATTEMPT TO STEAL THE PRESIDENCY

Professor and legal historian Paul Finkelman details the attempt by Aaron Burr to steal the 1800 election from Thomas Jefferson, a scenario allowed by the Constitution and alarmingly close to the recent stand-off between the 2000 Bush-Gore debacle.

### 18 AS THE SCHOOL'S REPUTATION CONTINUES TO CROSS STATE LINES, ITS '09 STUDENTS DO THE SAME

Nearly half—48%—of the School's first-year students are from outside New York. Learn what part of Albany Law prompts students in California and Ohio to choose this School over dozens of others.

### 21 QUARE A CHAIRE?

Why are endowed chairs so important to academic institutions? Where does the term come from and why is Albany Law School seeking to increase its number of chairs?

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*Prof. Davis' M&A Class*

## Students Write Case Law Book, Publisher to Run Class Photo

William S. Hein Publishing will publish a case law book on mergers and acquisitions written by Professor Wendy Davis and students in her M&A class. Due out in fall 2007 at a price of around \$150, each student wrote a chapter, led a class around that chapter and edited two other chapters written by classmates. Davis used this method to publish a casebook on aviation law two years ago and expects the same success this time.

One student, Amy Dickson '07, wrote a chapter on Accounting Issues as well as co-authored a chapter with Martin Finn '83 on Tax Aspects of Mergers. Eileen Gallagher '07 contributed a chapter on Intellectual Property and Matthew Leonardo '07 wrote a chapter on Federal Securities Laws. Along with the research and writing, students created hypothetical situations for the teaching manual, as well as answers and explanations. Of the 30 chapters, Davis wrote nine of them and edited all the student chapters.



*Prof. Timothy Lytton*

## Conference Brings Science-Policy Scholars to Albany Law

Professor Timothy Lytton and Theresa Colbert led a one-day conference focused around the forthcoming book entitled *Bending Science*.

The book addresses the distortion of science in litigation and the regulatory system.

Conference participants included the authors Wendy Wagner and Thomas McGarity of the University of Texas Law School, as well as law and science-policy scholars from Albany and around the country.



*Prof. Sheldon Halpern*

## Judges from Russia Explore School for Two Days

Hosted by U.S. Magistrate Judge Randall Treece '76 for the U.S. Federal Courts, four Russian judges heard faculty panels talk about free speech, the structure of the state and federal courts, and the role judges play in U.S. courts. Above, Professor Sheldon Halpern, the Hon. Harold R. Tyler Jr. Chair in Law and Technology, discusses U.S. intellectual property laws and the issues these laws face in an international setting.

## Litigation Finalists

*Winners and finalists pose for a photo before the 2006 Gabrielli Appellate Advocacy Moot Court Competition. Pictured left to right are Nathan Sabourin '08 (finalist), Robert Manfredi '08 (winner), Robert Lindholm '08 (finalist) and Ryan Keleher '08 (winner).*



## Students to Help Non-Profit Leaders through GLC Program

A new Government Law Center program provides training and education to non-profit boards of directors to enhance their understanding of governance issues facing community-based boards.

With federal funding secured through the efforts of Congressman Michael R. McNulty (D-Green Island), the program will provide an opportunity for four law student fellows, under the supervision of the program's director, John Santacrose, Esq., to each work

with a non-profit organization to develop a series of training modules around non-profit board governance and other general legal issues, such as director responsibilities, conflicts of interest, liability, and distinction between advocacy and lobbying under federal and state laws.

The information will be published in user-friendly guides and made available to all non-profits across the state. The project will culminate in a statewide non-profit law conference this year.



*Congressman McNulty, sitting far left, announced the grant at the School this fall. With him are (back row from left) Donald Stauffer, Community Caregiver Inc.; Christine Halverson '07; Dr. Marshall G. Jones, The Alternative Living Group, Inc.; Glinnesa D. Gailliard '07; Bryon K. Fogan '08; Theresa Ashline, Watervliet Senior Citizens' Center; Deanna Scesny '08; Pam Robbins, Caring Together, Inc.; and Diana Burns, Caring Together, Inc. Sitting are program director John Santacrose and Maxine George, The Alternative Living Group.*

## Clinic Gets \$490,000 Grant For Securities Arbitration

The Law Clinic & Justice Center received a \$490,000 grant to establish a clinical legal studies program to represent low-income or other underserved investors who have been victimized by abusive investment brokers.

The grant money, the result of a litigation settlement from the Office of the New York Attorney General, will be provided over a five-year period.

Under faculty supervision, students will represent low-income investors in negotiations and arbitration proceedings before the National Association of Securities Dealers and the New York Stock Exchange. Students will be trained to interview and counsel clients, evaluate potential claims, prepare pleadings and negotiate settlements.

The program will also focus on educating those most prone to abusive securities sales practices. Investor rights materials and training will be targeted to senior citizen organizations and other groups serving individuals who are elderly or have a disability.

The grant comes one month after the Clinic received its largest gift ever—\$1 million from Sherry Gold to establish the Barry Gold '70 Health Law Clinical Program Endowment Fund. That gift will support legal representation for low-income clients with cancer or other chronic medical conditions, and provide training on legal rights for clients, advocates, health care staff, physicians and students.

The School will hire a faculty member to oversee the securities arbitration program and plans to enroll students and take on clients starting August 2007.

## School Wins Silver for Media Coverage, Only Law School to Place

Albany Law School won the Silver Award for its media coverage last year, topping all other law schools in the eastern region, losing only to University of Pittsburgh (Gold), and ousting University of Maryland (Bronze) and University of Pennsylvania (Honorable Mention).

The Council for the Advancement and Support of Education (CASE) also awarded Honorable Mention for Albany Law's Web site home page, behind Ithaca College, Lehigh University and SUNY Purchase.

The school's media push and new Web site were part of a larger branding effort launched last year.



*Katheryn D. Katz*

## Professor Katz Named Stoneman Chair

Albany Law School has named Katheryn D. Katz the Kate Stoneman Chair in Law and Democracy. The position is named in honor of the first woman to graduate from Albany Law School in 1898 and the first woman admitted to practice law in New York state.

“Prof. Katz is an accomplished family law scholar who reflects the spirit of Kate Stoneman by actively seeking to expand opportunities for women in law throughout her remarkable tenure at Albany Law School,” said President and Dean Thomas F. Guernsey. “For 30 years she has represented the voice of women in family litigation, as well as mentored women attorneys and Albany Law students.”

Katz teaches in the areas of family law, children in the law and women in the law. She is the author of numerous articles on topics diverse as the reproductive rights of minors, the first amendment rights of students, majoritarian morality and parental rights, and elder abuse. Her scholarship in recent years

has concentrated on assisted reproductive technologies and the law, and includes work on surrogate motherhood, egg donation, the clonal child and the legal status of the ex utero embryo.

The Kate Stoneman Chair in Law and Democracy was originally established to bring distinguished visiting professors to Albany Law School. In 2007, the Law School changed the position to a permanent chair to commemorate Kate Stoneman’s extraordinary achievements and to ensure that her contributions to society are recognized and continued at Albany Law School by inspiring new generations of students.

Before joining the Albany Law School faculty, Katz was an assistant professor at Rensselaer Polytechnic Institute and the founding partner of one of the first female law firms in upstate New York. In 1975, Katz was the second female faculty member hired by Albany Law School. Katz received an A.B. from the University of California, Berkeley, and a J.D. from Albany Law School.

## Albany Law in the News

*The New York Times*, September 25, 2006

**“They have their own little fiefdoms. Some are benevolent despots, but despots nonetheless.”** —Albany Law School Professor Laurie Shanks in an article titled, “Broken Bench: In Tiny Courts of N.Y., Abuses of Law and Power.”

*Associated Press*, November 27, 2006

**“With all the extraordinary legal talent in New York, there is no excuse for the Court of Appeals not to be the strongest court in the country and it’s nowhere near that.”** —Albany Law School Professor Vincent Bonventre in an article titled, “Spitzer to have two picks for state’s top court.”

*The Chronicle of Higher Education*, January 5, 2007

**“Virtually every law student takes the same set of courses from faculty members who graduated from the same small set of law schools.”** —Albany Law School President and Dean Thomas F. Guernsey in an article titled, “Law Schools Should Do More to Prepare Students for Real-World Issues, Carnegie Report Says.”

*New York Law Journal*, January 17, 2007

**“He had no appointee on the commission and probably wanted to get his own feel for it, but I think that is a very positive sign that he himself took the time to meet with everyone.”** —Albany Law School Professor Michael Hutter in an article titled, “N.Y. High Court Nominee Marks Gov. Spitzer’s First Judicial Selection.”

*Boston Globe*, February 4, 2007

**“And whereas tobacco and gun litigation have been criticized as attempts to circumvent the legislative process and regulation by government agencies, clergy sexual abuse litigation has helped other regulatory institutions—the U.S. bishops, law enforcement officials, state legislators—do their jobs better. Clergy sexual abuse litigation is, in short, a poster child for the policy-making benefits of tort litigation.”** —Albany Law School Professor Timothy D. Lytton’s article titled “Legal legacy.”

*Richmond Times-Dispatch*, February 14, 2007

**“Black History Month should be understood as something that primarily educates white people. African-Americans are far more aware of their history and contributions. It’s important, especially in communities where there are few black students, teachers or people living.”** —Albany Law School Professor Paul Finkelman in the article, “BLACK HISTORY MONTH: Celebration or obligation?”

*The New York Times*, March 5, 2007

**“He can break ties on normal procedures, certainly on naming leaders in the Senate, on appointees, on resolutions,”** said Bennett Liebman, coordinator of the racing and gambling law program at Albany Law School, in an interview. **“He just can’t break a tie on a law.”** —From an article about the State Constitution’s laws should the Senate be evenly split by Republicans and Democrats.



*Stephen C. Ainlay*

### **Union College President Joins Board**

Union College's 18th president Stephen C. Ainlay is the newest member of Albany Law School's Board of Trustees. As part of the Union University tradition—an alliance with Union College, Albany Medical College, Albany Law School and Albany College of Pharmacy—all Union College presidents serve on the law school's board.

The association dates back to 1795, and today Albany Law offers several degree programs with the member schools.

## **New Leadership for Science & Technology Law Center**

Annette I. Kahler, Esq., will lead the Science & Technology Law Center, returning home to the Capital Region after spending 20 years in northern Virginia specializing in intellectual property, technology licensing, and commercial and government contracting. Kahler was formerly vice president, associate general counsel and director of Intellectual Property for American Management Systems, Inc., and most recently CEO and general counsel of Ascella Technologies in Fairfax, Va.

"Annette Kahler has a strong record of leadership with a wonderful range of hi-tech experience," said Albany Law School's President and Dean Thomas F. Guernsey. "This law school is committed to growing

a Science & Technology Law Center that provides numerous levels of support for early-stage and established tech companies. Ms. Kahler brings the experience and entrepreneurial spirit needed to raise the Center to a higher level."

The new director received a B.A. in economics and political science from the University of Rochester and a juris doctor degree from George Mason University School of Law.

Kahler looks to forge stronger relationships with incubators, licensing executives, academia, high tech companies and business leaders throughout the region. "I intend to focus the Center on entrepreneurship, technology transfer and legal issues related to burgeoning



*Annette Kahler*

technology industries, such as nanotechnology, biotechnology and energy. My goal is to create a vibrant Science & Technology Law Center that is externally focused, collaborative and offers Albany Law School students learning opportunities in technology law."



*Hon. Chief Judge Judith S. Kaye*

### **Judge Kaye to Speak at Commencement**

Judith S. Kaye, Chief Judge of the State of New York and the first woman to occupy the State Judiciary's highest office, will deliver the keynote speech at Albany Law's graduation for the Class of 2007 on May 18 at the Saratoga Performing Arts Center.

*"We believe no other school in the country offers a degree like this." Dean Guernsey*

## **Albany Law and RPI to Collaborate**

Rensselaer Polytechnic Institute and Albany Law School announced this spring two new degree programs they will offer jointly, marking the first collaboration between the two schools.

Albany Law School's Master of Science in Legal Studies with a Concentration in Technology Transfer, and Rensselaer's Master of Science in Commercialization of Technology, will both begin this fall and represent the first programs within a larger Memorandum of Understanding between the two institutions that calls for further collaboration.

"By collaborating, the two schools can enhance the educational opportunities as well as the quality of technology transfer in the region," said Thomas F. Guernsey, President and Dean of Albany Law. "We believe no other school in the country offers a degree like this. I need to thank State Senate Majority Leader Joseph L. Bruno for providing the funding and foresight to develop our technology transfer program."

Albany Law's M.S. in Legal Studies—Concentration in Technology Transfer will include legal courses such as Trademarks, Contracts, Patents and Licensing, as well as business courses from the Lally School of Management such as Valuation of Technology, Fundamentals of Technology Marketing and Tax Aspects of Technology Transfer.

The MOU calls for exploring other cooperative approaches, including the possibility of a future joint degree between the two schools.

## Prominent Minority Lawyers Offer Inspiration, Tips

A distinguished panel of minority alumni ranging from judges and prosecutors to civil, criminal defense and public interest attorneys offered some inspiration, political advice, principled warnings and a few routine but critical tips to surviving and thriving in a law career.

Panelists included Enrique Abarca, Intermagnetics General Corp.; Gaspar Castillo '80, Private Criminal Defense Attorney; William Little, Associate, Carter Conboy Case Blackmore Maloney & Laird; Lydia Law, Associate, Friedman and Molinsek; Lillian Moy, Executive Director, Legal Aid Society of Northeastern New York; Sandra Rivera '02, Lobbyist; David Soares '99, District Attorney, Albany; and Judge Randolph Treece '76, U.S. Magistrate Judge, Northern District of New York. John Higgins '89, Attorney at Nixon Peabody, moderated the discussion.



*Albany County District Attorney David Soares '99 speaking to students.*



*Glinnesa Gailliard '07*

**“Many people in my life have helped me to achieve a law degree. Working with non-profit and public interest organizations gives me an opportunity to give back to them by using my degree for the public good.”**

## Mother, Student, Worker: EJW Fellow Will Help Low-Income Home Buyers

During her 12-year-old summer vacation, third-year law student Glinnesa Gailliard '07 stumbled upon something in her grandmother's attic that caught her interest.

“I found a law dictionary,” Gailliard said, smiling. “I spent the rest of my summer vacation reading and studying the reference book.”

Twenty years later, Gailliard is getting ready to take the bar exam. However, her journey through law school was not an easy one. Between being a single mother, going to classes, studying and working, Gailliard struggled.

“Going to law school was one of the hardest things I've ever done,” said Gailliard. “It's also been one of the most worthwhile experiences of my life.”

Gailliard's hard work and effort has paid off. In September she will start working as an Equal Justice Works Fellow. Based on a proposal she created and submitted, she will assist low-income potential homebuyers in New York's Capital Region with no-cost legal representation on home closings and offer credit assistance. She will also help people who are experiencing financial difficulty to keep their homes.

“This is such an important position,” said Gailliard. “Many persons of low income forego hiring an attorney due to the expense, or involve an attorney in the process after they signed a contract skewed to the seller's interests. The goal of this program is to assist those with low incomes to not only be able to purchase and keep their home, but also to allow them to have someone advocating for their interests at the inception of the home ownership process.”

Equal Justice Works administers the largest postgraduate legal fellowship program in the nation, placing new lawyers in two-year assignments at non-profit public interest organizations.

This is not Gailliard's only fellowship. In October 2006, she was named one of the four Albany Law fellows for the Government Law Center's non-profit legal assistance program (see page 3). Through this fellowship, Gailliard works with the Alternate Living Group of Schenectady to develop a series of training modules around non-profit board governance and other general legal issues.

“Many people in my life have helped me to achieve a law degree. Working with non-profit and public interest organizations gives me an opportunity to give back to them by using my degree for the public good.”

—Nicole Soucy





Frank Anderson

## What's Frank Anderson Doing These Days?

Call him stubborn. Frank Anderson won't stop. At 86, retired now for 17 years, you can still find him in a small office in the library where he reads five newspapers a day and prepares to teach his class on Professional Responsibility, a subject he also taught in 1962.

A veteran of two wars, he still avoids physical labor and new technology, lifts weights and bikes on a machine per his wife and doctor's orders, and has plenty to say about the war in Iraq.

He's proud to announce he just bought his fifth Jeep. "My first one the Germans took from me on Feb. 14, 1943." He can rattle off details of times and places from his WWII and Korean War days. He remembers keeping his radio off during a retirement trip, driving silently, alone, for 14,000 miles to Alaska and back in a meandering route through northern Canada.

But he relies on a folded written note in his shirt pocket, reminders from his wife, to mention things she suspects he'd forget to mention. "I tried three book clubs over several years," he said. "And I still don't like fiction. I'd much rather read about the law and the military."

Another glance at his note prompts him to mention a bout with colon cancer a few years ago. He then lists a few family stats, like six children, six grandchildren and four great-grandchildren. He puts down the note and praises his wife, Ruth, for being "very tolerant of me. She is very smart in handling me."

"When people ask what I do with my time," he says, "I tell them 'I think'." Proclaiming his affinity for privacy, he offers a comment he likes to tell his students: "You can't make privacy by law. You must make your own privacy."

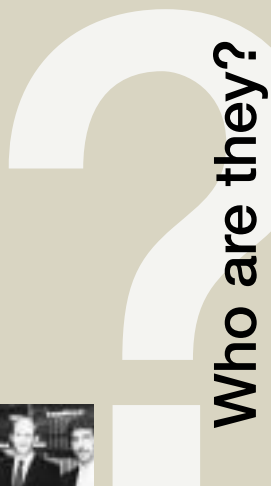
Along these lines, he has successfully evaded the cell phone, the computer and other "fancy gadgets. . . I'm considering a vow to do without this latest stage of technology." But when pressed, he admits he hasn't committed to this yet. Clearly he has more plans. —DS

## Students Gain Fitness Center

Beginning this fall, students will have access to the Albany Law/College of Pharmacy new fitness center located in ACP's Classroom Building, between the 1928 and 2000 Buildings.

The Fitness Center will have cardiovascular equipment, a variety of weight equipment that includes a squat rack, flat bench, rowing machine and a new dumbbell rack with additional weights. The Center will include rubberized flooring throughout the weight and strength training sections, an expanded area for stretching and core-ball exercising, and a closed room for aerobics, dance, stretching and exercise.

Also added are new televisions, new glass entrance doors and a check-in counter that will be staffed by fitness center attendants.



The first 10 alumni to correctly name anyone in either photo win an Albany Law School cap. The first five alumni to correctly name all in either photo, including their graduating year, win a School sweatshirt.

Submit your answers to Christina Sebastian, Director of Alumni Affairs, at 518-445-3361 or [cseba@albanylaw.edu](mailto:cseba@albanylaw.edu).



**Who are they? Answers from the last issue.** *Top photo:* Kenneth L. Gellhaus '86, Kenneth L. Miller '86, Constance M. Boland '86, Kenneth J. Bulko '86 and Craig R. Benson '86 *Bottom photo:* Peter T. VanDyke '68, Nancy Thielking Riseley '68, Doren P. Norfleet '68 and Michael S. Lynch '68.



Four chief justices pose prior to the symposium. From left, Chief Justice Judith S. Kaye, New York; Chief Justice James Hannah, Arkansas; Chief Justice Shirley S. Abrahamson, Wisconsin; and Chief Justice Christine M. Durham, Utah.

## Chief Justices from Four States Gather for Law Review Symposium

A distinguished panel of chief justices from around the country addressed a packed Dean Alexander Moot Courtroom at the symposium titled, “The Reemergence of State Constitutional Law and the State High Courts in the 21st Century” on Feb.16, 2007.

Presented by the *Albany Law Review* and the Government Law Center, panelists included Chief Justice Shirley S. Abrahamson, Supreme Court of Wisconsin; Chief Justice Christine M. Durham, Supreme Court of Utah and Chief Justice James Hannah, Supreme Court of Arkansas. The event opened with a tribute to Judge Kaye, who has served on the Court of Appeals for 24 years.

Select transcripts from the symposium will be included in this year’s *State Constitutional Law* issue of the *Albany Law Review*. For more information, visit [www.albanylawreview.org](http://www.albanylawreview.org).

## Pro Bono Clinic Added to Senior Citizens’ Law Day

In October, hundreds of seniors, their children and caregivers attended the Government Law Center’s 13th annual Senior Citizens’ Law Day.

In addition to the dozens of free seminars addressing the health and legal issues related to aging, the Elder Law Section of the New York State Bar Association offered its first Pro Bono Senior Clinic. Attendees received free 15-minute appointments with a practicing elder law attorney. The Pro Bono Senior Clinic had such an overwhelming response, another Clinic was held in March at Albany Law School.

Ann G. DiSarro, the former executive director of Senior Services of Albany, Inc., delivered the Nancy M. Sills ’76 Memorial Lecture to a packed gymnasium. She talked about aging America and its impact on the Capital Region. This year’s event featured seminars on topics such as Medicaid, retirement planning, identity theft, health care proxies and living wills.

## IP Conference In NYC Draws World’s Experts

Panel experts from across the United States as well as from England, Scotland, Germany, Israel, Australia and New Zealand examined Intellectual Property issues for two days while challenging baseline principles of copyright law.

Directed by Sheldon W. Halpern, the Hon. Harold R. Tyler Jr. Chair in Law and Technology at Albany Law School, speakers tackled subjects like globalization and jurisdiction, moral right and performer’s rights, and rethinking the purpose of copyright law in light of technological change.

Underwriters and sponsors included the New York IP Law Association, Patterson Belknap Webb & Tyler LLP, Winston & Strawn LLP and Kluwer Law publishers.

For full agenda and speakers, go to [www.albanylaw.edu/ip](http://www.albanylaw.edu/ip).

## Student Center Offers Alternative Gathering Spots

The new \$13.5 million 54,000-square-foot ACP Student Center transforms the heart of the University Heights campus. The wireless facility includes a 350-seat cafeteria, a mezzanine overlooked by a soaring wall of smoked glass, a coffee shop, the 5,000-square-foot bookstore that Albany Law shares, a student lounge, a 500-seat lecture hall and offices for students and staff.



## Albany Law Bar Results Highest in 11 Years

More than 88% of Albany Law's '06 first-time test-takers passed the July 2006 New York bar examination, surpassing the average for all first-time test-takers in New York state by almost 10%.

More than 88% of all Albany Law bar exam takers passed the bar this year, exceeding the average rate for all of New York by more than 9%. This year Albany Law School moved ahead of two colleges in bar pass rate.

"Much of our success results from the hard work of the students themselves," said President and Dean Thomas F. Guernsey. "I also believe that this accomplishment is a direct result of the academic support and bar preparation programs this school put in place three years ago."

### JULY 2006 BAR PASS RATES FOR FIRST-TIME CANDIDATES

LAW SCHOOL	NUMBER OF FIRST-TIME EXAM TAKERS	6.06	6.05	6.04
Columbia	339	95%	90%	94%
New York University	338	95%	94%	97%
Cornell	114	93%	95%	92%
St. John's	294	91%	89%	87%
Fordham	395	90%	88%	88%
Cardozo	307	90%	86%	80%
<b>Albany</b>	<b>222</b>	<b>88%</b>	<b>78%</b>	<b>78%</b>
Brooklyn	413	85%	84%	84%
New York Law School	294	84%	74%	68%
Pace	165	83%	71%	74%
Buffalo	188	82%	80%	80%
Syracuse	154	81%	73%	76%
Touro	154	79%	65%	69%
CUNY	105	77%	62%	67%
Hofstra	256	73%	71%	69%
<b>STATE AVERAGE</b>		<b>79%</b>	<b>76%</b>	<b>77%</b>

*\*Chart Courtesy New York Law Journal*



*Second-year students Laura Kenney and Charles Dunham IV enjoy their victory.*

## Two Clinic Students Take On Insurance Firm and Win

Two law students won a case this semester that forced United Healthcare to pay for a 20-year-old cancer patient's Rituxan treatment. The decision may impact some 8,000 Americans who are diagnosed each year with Hodgkins' disease.

After Jennifer McDonald was denied the \$40,000 that the treatment cost to complement her chemotherapy, she turned to the Albany Law School Clinic and Justice Center, which filed a complaint with the N.Y. State Department of Insurance. Second-year law students Charles Dunham IV and Laura Kenney worked in collaboration with Associate Clinical Professor Joseph Connors and McDonald's physician, Jennifer Pearce, an associate professor at Albany Medical Center.

"This decision not only relieves McDonald's anxiety about trying to find a way to

pay for the Rituxan out of her own pocket—about \$40,000—but hopefully will lead to a policy change at United Healthcare," said Kenney, "opening the door to other Hodgkin's Lymphoma patients around the country."

"Physicians who are specialists in certain diseases often think creatively and expand the use of beneficial drugs beyond the guidelines of 'FDA approved' diseases," said Pearce. "We spend a lot of time fighting battles with insurance companies who often stick to rigid guidelines about treatment options. As seen in this case, this leads to a waste of a physician's time and a great emotional and economic burden on the patient that is unnecessary. The Law Clinic is providing a valuable service to the oncology community by helping us in this battle."



### One Step Closer to Practicing

*This year 39 students of the Law Clinic & Justice Center were admitted to practice under the Student Practice Rule. The Hon. Anthony V. Cardona, Presiding Justice of the Appellate Division, Third Department, swore in the students, allowing them to conduct court appearances, negotiations, hearings, and trials under faculty supervision. In front stands (from left) H. Sarah Kim, Leslie A. Granger and Carmina K. Tessitore.*



*Andrew Goldsmith '83*

**“It stands to reason that when a company is willing to exploit its workers, you can be certain that the company pollutes the environment too.”**

## Combining OSHA and EPA Crimes to Prosecute the Nation's Worst Employers

After an eight-month prosecution of a New Jersey foundry and five of its managers for environmental offenses, workplace safety crimes and systematic deception of state environmental and occupational safety officials, Andrew Goldsmith '83 and his prosecution team convicted the foundry on 32 of 33 counts. The foundry, Atlantic States Cast Iron Pipe Company, a division of McWane Inc., was found guilty of a wide-ranging conspiracy, false statement and obstruction of justice offenses, and violating the Clean Water Act and Clean Air Act. Four of the managers were also convicted of numerous crimes.

“They spent millions on their defense and we couldn't compete with them on that level,” said Goldsmith describing McWane, the nation's largest cast-iron pipe manufacturer. “So what we did was out-work them,” he added, noting that it was the longest environmental crimes-related trial in U.S. history.

He described the trial's final dramatic days to a group of Environmental Law students last fall. “For 18 hours the defense attorneys pounded away at the Government's case during their summations. Yet, on several key points, they said things to the jury that were completely contradicted by documents that were in evidence,” Goldsmith

explained. He dramatically recounted how he used these documents during his rebuttal summation.

Goldsmith, Assistant Section Chief of the Environmental Crimes Section for the U.S. Department of Justice, described how this case represented a new joint approach to prosecute the country's most dangerous employers, combining the powers of the Environmental Protection Agency and the Occupational Safety and Health Administration. “Traditionally, the two agencies have worked separately. Now, they are sharing lists of their most egregious offenders which often overlap,” Goldsmith said. “It stands to reason that when a company is willing to exploit its workers, you can be certain that the company pollutes the environment too.” As part of the worker endangerment initiative, Goldsmith has conducted training for over 1,000 federal officials, including OSHA compliance officers, federal prosecutors, and EPA special agents.

In the Atlantic States case, several senior managers were found guilty of lying to government officials, obstructing justice by altering accident scenes, forcing workers to lie to officials and manipulating documentary evidence. “We can paint a complete picture for the jury

of what is actually going on at a company,” said Goldsmith, noting that the company and its managers face millions of dollars in fines and substantial prison sentences.

Based on his accomplishments during the Atlantic States trial, in 2006 Goldsmith received the Justice Department's prestigious John Marshall Award. In 2005, for his efforts under the worker endangerment initiative, he received the Attorney General's Distinguished Service Award, the second-highest award in the Department.

During his career as a local, state and federal prosecutor, Goldsmith has tried more than 30 cases. Previously he was Chief of the Environmental Crimes Unit of the N.Y. Attorney General's Office. Upon graduating law school, he worked at the Manhattan D.A.'s Office, and then worked at a New York City law firm, where he specialized in environmental insurance law. He also served as an Assistant U.S. Attorney for the District of New Jersey. He has been with the Justice Department for 10 years.

Goldsmith repeatedly emphasized the importance of his education at Albany Law School: “Last week, while arguing motions in front of the judge in Atlantic States, I was still using the same theories that I learned over 20 years ago from Peter Preiser. And you can rest assured that my arguments were quite persuasive thanks to what I learned from Professor Preiser.”

# A Message from the Chairman

With my three-year term as Chair of the Board of Trustees coming to a close, I would like to share with you some of the significant progress I think we have made in several key areas.

- We have balanced the budget and created a reserve, increased financial aid, dramatically increased giving to the Annual Fund from \$600,000 to \$1,000,000 and enjoyed some notable individual gifts.
- We have increased the breadth and depth of scholarship of our existing faculty and attracted two new extraordinary faculty members, each of whom left endowed positions to join us. We've named two other endowed positions and created an Associate Dean for Research and Scholarship.
- By reducing the class sizes, increasing the median LSAT scores of incoming students and increasing our percentage of minority students, we are making Albany Law School a better place for studying the law.
- This year's bar passage rate for first-time test takers was 88%, which exceeds the state average by 10% and is our highest in 11 years.
- The successful conclusion of the University Heights reorganization brought about the expansion of the school's campus by more than four acres as we exchanged our leasehold interest in the land under the 2000 Building for fee title.

All of this improvement didn't happen overnight, nor did it happen within the last three years. It all began with the hiring of Tom Guernsey as Dean. The Dean has, with the support of the Board of Trustees, forged a unique partnership with his staff, the faculty and the student body. This partnership and the tremendous progress we have made were recognized by the ABA Accreditation Committee as it examined the School during its review last April. The accreditation, this year's bar passage rate and the expansion of the campus were the most personally rewarding events to occur during my tenure as Chair.

We have made great strides in the past few years, and I am confident that with the continued support of our alumni, this team will continue to make dramatic improvements in the School. Reaching our next summit, however, will require us to establish new faculty chairs—endowed positions that guarantee high-achieving, coveted professors a place to pursue their research, to teach subjects they like best and to enjoy institutional support of both pursuits. We can attain this goal if we continue to work together and to support each other in our respective roles.

Finally, I want to take this opportunity to thank all members of the Law School family for their support and cooperation during the last three years. I remain personally committed to making this school a better place for students, faculty, staff and alumni.

Sincerely,



Harry L. Robinson, Esq. '65  
Chair, Board of Trustees



*Harry L. Robinson*

## 900-Plus Alumni in Every Nook of N.Y.



*Andrew Cuomo '82, N.Y. Attorney General, takes the oath of office on Monday, Jan. 1, 2007, as his father, former N.Y. Gov. Mario Cuomo and Andrew's daughter, Cara, watch. The oath is administered by Court of Appeals Chief Judge Judith S. Kaye.*

Since its inception 155 years ago, Albany Law has educated thousands of leaders in New York State's political landscape who hold elected and appointed posts. ■ The most watched statewide race this fall was the Attorney General's office between two Albany Law alumni—Jeanine Pirro '75 and the new Attorney General Andrew Cuomo '82. ■ And while Cuomo holds the spot of top prosecutor in the state, there are more than 900 attorneys at senior positions in state, county and municipal levels who hold J.D.s from Albany Law School. ■ “I'm certain we've prepared and shaped more lawyers than any other school in the world to work and lead N.Y. State government,” said Thomas F. Guernsey, President and Dean. “We were doing it 100 years ago and it continues today. Government Law is a core part of our school and remains a large reason why many students choose us over other schools.” ■ ■ ■ ■

### Other notable political victories of alumni this past election include:

**Assemblyman Phil Boyle '87** (*R-Islip*) won re-election to represent West Babylon, Babylon, West Islip, Bayshore, Islip, East Islip, and Great River. Boyle served in the Assembly from 1994 until his seat was redistricted in 2002. Before that he was a founding partner in the law firm of Stemberg & Boyle, LLP, in East Islip. He has served as Assistant Town Attorney and Special Assistant District Attorney in Suffolk County.

**Assemblyman Kevin Cahill** (*D-Ulster, Dutchess*) represents the 101st Assembly District, which includes most of Ulster County and the Town and Village of Rhinebeck in Dutchess County. He was elected in 1998 and re-elected in 2000, 2002 and 2004. ■ Mr. Cahill is the Chair of the Assembly Standing Committee on Ethics and Guidance and serves on the Health, Higher Education, Ways and Means and Economic Development, Job Creation, Commerce and Industry Committees.

**Sen. John Sampson '71** (*D-Brooklyn*), an Albany Law Board of Trustee, was re-elected to the N.Y. State Senate, where he has served since 1996. A Democrat, he represents the 19th Senatorial District which encompasses Canarsie, East Flatbush, Parts of Brownsville, Crown Heights, East New York and other areas. ■ Sampson worked for the Legal Aid Society of New York. He then joined the firm of Alter and Barbaro, Esqs., where he represented clients in Real Estate, Criminal and Election matters.

**Sen. Fred W. Thiele Jr. '79** (*R-Sag Harbor*) won his re-election with 94% of the vote. Since 1995 Thiele was elected to the Assembly to represent East Hampton, Southampton and parts of Brookhaven. Before that he was Southampton's town supervisor, East Hampton Town Planning Board attorney and South Hampton town attorney, and in 1987 he served in the Suffolk County Legislature.

## Former Iowa Gov. Vilsack '75 Launched Campaign for U.S. President



### Assemblywoman Michele Titus '93

(D-Queens) was re-elected to the Assembly, where she has represented since 2002 the Queens communities of South Ozone Park, Springfield Gardens, Rosedale, Far Rockaway and Laurelton. ■ Titus served as Chief of Staff to State Senator Ada L. Smith and then Executive Director to the New York State Black and Puerto Rican Legislative Caucus. Prior to her election, Titus was an attorney for the New York City Board of Education.

*Top: Vilsack speaks at a rally where he formally announced his candidacy on November 30, 2006, in Mt. Pleasant, Iowa.*

*Bottom: He speaks with Jay Leno during taping for The Tonight Show.*

### Vilsack First to Announce, and First to Drop

Two-term Iowa Governor Tom Vilsack announced his bid for U.S. president in November 2006, the first candidate out of the gate. History seemed on his side. After all, the only other alumnus we know who ran for president—William McKinley—won, and was a two-termed governor (Ohio) like Vilsack.

Not four months later Vilsack ran out of money, 10 months before the first caucus in his home state, where he had hoped a win there would propel him into a higher level of fund raising. Meanwhile, the money that he had raised—\$1.1 million—was going out faster than it was coming in, Vilsack said.

For those short months Albany Law School was enjoying a good ride of publicity. Major media outlets mentioned Vilsack's alma mater day after day for weeks. National reporters called the School to learn about the candidate's law school days. He chatted with Jay Leno on the Tonight Show and with Jon Stewart on The Daily Show. And when Vilsack dropped out, Leno made some fun of him that night. How many Albany Law alums get ribbed on national television?

Numerous classmates of Vilsack had fond memories, like William Fox '75, a rugby teammate who called the candidate "as slow as him" on the field, but instrumental in the scrums. "He was a big fella, cordial, a nice guy."

John Quinn '75 remembers sitting in front of Vilsack his entire first year. "An affable and pleasant person who never wiggled out by the stresses of law school as a number of others did."

Ed Wurtz '75 was in his weekly study group and thought of "Tom being one of the most thorough members of our 'end of the alphabet' group."

Orphaned at birth, Vilsack was raised in Pittsburgh, met his wife at Hamilton College and married before his days in Albany. "He was a Pittsburgh Pirates fan," recalled Paul Wein '75. Margaret Corcoran '75 thought of him as "pleasant, rather quiet . . . and pretty intense."

In Vilsack's message to supporters announcing the end of his campaign, he claimed that they had "everything to win the nomination and general election. Everything except money."

So what now for Mr. Vilsack? Perhaps he is now positioned well—with his homespun persona and centrist politics—for a national spot. They say he was on John Kerry's list for vice president four years ago. We may see more of the 56-year-old alumnus.

Only five law schools have presidential alumni, and only one—Yale Law School—has had two presidents. We want to be in that club. —DS

JOB INTERVIEW DAY



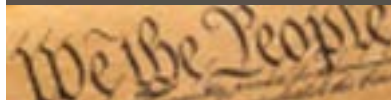
Whether studying, talking with a friend or traveling from one class to another, the tension of a job interview that afternoon never lets you fully focus on your day.





MAY 2007

*Photos by Kris Qua*



# THE ORIGINAL ATTEMPT TO STEAL THE PRESIDENCY *Jeffersonian-Style*

BY PAUL FINKELMAN

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IT WAS THE FIRST ELECTION OF THE NEW CENTURY. THE RACE HAD BEEN TIGHT AND CLOSE. THE INCUMBENT PARTY MIGHT NOT BE ABLE TO HOLD THE PRESIDENCY, DESPITE RELATIVE PROSPERITY IN THE NATION. FOR WEEKS AND WEEKS, THE NATION WAITED WITHOUT KNOWING WHO WOULD BE PRESIDENT. NO CANDIDATE HAD A CLEAR MAJORITY OF THE ELECTORAL VOTES. THE ELECTORAL COLLEGE MIGHT HAVE BEEN DESIGNED TO INSURE A SMOOTH ELECTION OF THE PRESIDENT, BUT IT WAS NOT WORKING. THE NATION WAS IN CRISIS.... WITH NO CERTAIN WINNER, ONE OF THE CANDIDATES, WHO WAS THE OUTGOING VICE PRESIDENT, FEARED THE ELECTION WOULD BE “STOLEN” FROM HIM. THUS, THE VICE PRESIDENT OF THE UNITED STATES DISCUSSED WITH HIS FRIENDS THE POSSIBILITY OF CALLING ON SYMPATHETIC GOVERNORS TO MOBILIZE STATE MILITIAS TO SECURE HIS TRANSITION TO OFFICE. POLITICIANS MANEUVERED, RUMORS SPREAD, ANXIETY ROSE, AND THE OUTCOME OF THE ELECTION REMAINED IN DOUBT. THIS WAS HIGH-STAKES DRAMA, WITH THE FATE OF THE NATION IN BALANCE.

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This was not *Bush v. Gore* in the making. The year was 1800, not 2000. The candidates were initially the incumbent President, John Adams, and the incumbent Vice President, Thomas Jefferson. When the electors cast their ballots, Adams was the clear loser, with only sixty-five electoral votes to Jefferson's seventy-three. But Jefferson was not the clear winner. His putative running mate, Aaron Burr, also had seventy-three electoral votes, leaving the election deadlocked. This led to the crisis.

The crisis of 1800-01 almost destroyed the nation. It was high drama and a potential tragedy. The players—Jefferson, Adams, Burr, and Alexander Hamilton—were giants in their own age and remain so today. By contrast, the crisis of 2000, with its hanging chads and less than stellar characters, reminds us of Karl Marx's comment that "all facts and personages of great importance in world history occur, as it were twice . . . the first as tragedy, the second time as farce."

After the election the Democrats were in the majority, but were not well-coordinated. Jefferson was their candidate for President and Burr of New York was their choice for Vice President. Everyone, including Burr himself, knew that if the party won, Jefferson was to be President and Burr was to be Vice President. When the ballots in the Electoral College were counted, both Jefferson and Burr had seventy-three votes. Jefferson assumed that he was elected President, but the Constitution did not lead to that result. With a tie in the Electoral College between two candidates with a majority of the votes of the electors, the Constitution specified that the House of Representatives would choose the President, with each state delegation having one vote. This set the stage for the crisis. Jefferson expected Burr to step aside and allow him to be President. But Burr did not. Instead, he asserted the constitutionally (but not politically) legitimate claim that he was just as entitled as Jefferson to be President. Here was a conflict between politics and constitutional law. Surely most political leaders in the nation assumed that the Democratic electors had cast their ballots for Jefferson as President and Burr as Vice President. But the Constitution did not allow the electors to designate which candidate was their choice for President and which was for Vice President. The Constitution made no provision for such a distinction.

The Federalists could not elect their candidate—Adams—but they used the Constitution's confusing election provision to frustrate Jefferson's ambitions. With sixteen states in the Union, Jefferson needed to win nine House delegations. Eight state delegations had Democratic majorities and were solidly for Jefferson. The Federalists then rallied around Burr. The real impetus for supporting Burr may not have been to elect him, but rather to stalemate the election altogether, and perhaps to allow Adams to simply remain in office.

That Burr went along with this strategy underscores the complexity of politics at the time. In mid-January, Elbridge Gerry, who had been a delegate to the Constitutional Convention, believed the Federalists were trying to start a civil war over the election. But, in fact, Burr did not reject out of hand the idea that he should be President. Even if Burr had rejected the overtures of the Federalist Party, he might not have been able to stop the Federalists who supported him. Hugh Henry Brackenridge, a supporter of Jefferson, nevertheless told him that the right to withdraw from consideration for the presidency was "not a right of the individual exclusive and independent."

Jefferson's friends, and Jefferson himself, saw a massive Federalist conspiracy to overturn the will of the people. Meanwhile, there was a rumor that the Chief Justice-designee, John Marshall, had concluded that if the House could not choose a President under the system set out in the Constitution—with nine House delegations voting for one candidate—then the entire Congress could appoint a President until the next election. Another Jefferson ally pointed out that if no President was elected, the Speaker of the House might become President.

The key to the Federalist strategy was two state delegations that were equally divided: Vermont and Maryland. On Wednesday, February 11, 1801, the House began to vote for the President. For twenty-seven ballots, through Thursday morning, Jefferson carried eight states, Burr carried six, and two remained divided, thus unable to cast a vote at all. The House voted six more times on Thursday afternoon, Friday, and Saturday, but after thirty-three ballots, the vote remained the same: eight states for Jefferson, six for Burr, and two equally divided. This continued for a total of thirty-five ballots. Jefferson blamed Hamilton for the crisis, and Jefferson urged his friends in various states to mobilize their militias to march on the new national capital in Washington, to install him as president. In the end the crisis was averted when Hamilton arranged for Federalist congressmen to skip a vote, thus allowing Jefferson to become President by carrying the two divided states. Jefferson went on to be President and Marshall became Chief Justice. Burr never forgave Hamilton, and later killed him in a duel. Meanwhile, Congress passed the 12th Amendment, which prevented such a crisis in the future. Sadly, the Congress did not propose an amendment to get rid of the absurdity that caused this problem in the first place: the Electoral College. ■

*Paul Finkelman is the President William McKinley Professor of Law and Public Policy and Senior Fellow, Government Law Center*

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*The full article originally ran in the NYU Annual Survey of American Law, volume 62, called, "Thomas Jefferson, Original Intent, and the Shaping of American Law: Learning Constitutional Law from the Writings of Jefferson." We have deleted the footnotes in these excerpts.*

**COVERSTORY**



**Karilyn Aley**  
**TIFFIN, OHIO**



**P. Ryan Lockamy**  
**ATHENS, GEORGIA**



**Sarah Diane Darnell**  
**SAN ANTONIO, TEXAS**



**Mitchell Chang**  
**ROWLAND HEIGHTS,**  
**CALIFORNIA**



**Samantha David**  
**VENICE, CALIFORNIA**



# As the School’s Reputation Continues to Cross State Lines, Its ’09 Students Do the Same—at a Higher Rate than Any Class Ever.....

Law school students are increasingly being drawn to Albany Law School from all corners of the country in record numbers: nearly half of this year’s incoming students—48 percent—are from outside New York.

“Albany Law School’s reputation around the country is definitely a strong point,” says David Leimgruber of Spokane, Wash. “Having prestigious alumni such as the N.Y. State Attorney General and Richard Parsons definitely helps the national image of the School.”

For many students, like Leimgruber, the School’s programmatic strengths drew their attention. The University of Washington graduate has interest in intellectual property law and was intrigued by the Science and Technology Law Center. He also found the School’s location a bonus: “Being in the Capital District with government options, while being close to New York City, was a big factor in my decision.”

Ohio native Karilyn Aley wants a career working overseas for an embassy or international relief agency. “Out of the schools I got into, Albany Law had the best international program and courses,” she says. “Plus I really wanted a school with alumni in government law, as opposed to strictly corporate.”

Lauren Prager of Morganville, N.J., wants a career in public policy. With the Government Law Center and many alumni in government, Albany Law was her first choice. The Boston University graduate feels good about her choice. “I like that the classes are small and the teachers are readily available.”

Other students describe their attraction to the “total package” that Albany Law offers. Caroline Sommers of Westlake Village, Calif., says, “I heard about the new program the School was implementing around lowering class sizes, and how much the bar passage rate was increasing. I also liked the fact that this is the only law school in the area,

making it easier to get a job.”

Sommers, who wants to be an assistant district attorney, attended UCLA for her undergraduate degree. When she visited Albany Law during finals, a group of students took two hours to give her and her family a tour of the School. “I had a friendly and comfortable feeling about the School that I didn’t get at other schools.”

Some cite the area as a major attraction. “I love living in the Capital District,” says Aley, who finished her undergraduate work at North Park University in Chicago. “Albany has great restaurants and movie theaters and galleries to explore, and the campus is really nice. There are places to go to be social as well as to have privacy.”

Exactly how are these students learning about Albany Law School? Law school reference books and Web sites have long been a source for comparing options. More than ever, the Internet has brought those far away within reach. Haohao

Song, who attended the Southwest University of Political Science and Law in China, first learned of Albany Law from the Internet. The financial aid Albany Law offered tipped the scales, and he is happy with the decision. “I love my classes and the School. I am really glad that I chose Albany Law School.”

Students typically named a half-dozen other schools that they considered before selecting Albany Law as their top choice. These included names like Rutgers, Loyola, Penn State, Hofstra, Seton Hall and Creighton.

For many, the decision is largely dollars and cents. Sarah Darnell of San Antonio, Texas, and Francis Liu of Ramsey, N.J., both came partly because of the scholarships they were offered, and both have been glad they did. —*Sharon Ballard*

### Percentage of Non-N.Y. Residents at Albany Law School

1980	12%
1985	8%
1990	13%
1995	17%
2000	18%
2005	29%
2006	48%



## Law School's Recruitment Efforts Increase Nationwide

The law school market continues to shrink every year across the nation. This year applicants are down 7% nationally and 10% in the Northeast. Yet again Albany Law School defies the trend, up 3% in applicants this year.

Last year Albany Law recruitment efforts were more aggressive nationally than ever before, hitting the West, Midwest, South and even the corners of New England—like Maine—harder than usual. Hence, a record number of out-of-state students, 48%, enrolled this year.

“We are responding to the market,” said President and Dean Thomas F. Guernsey. “As the applicant pool in New York state continues to shrink, we need to attract high-achieving students from all over the country. That’s what we’re doing.”

“We spend a lot of time engaging the pre-law advisors outside our regular markets,” said Richard Ludwick, vice president of enrollment management. “We also visit students at campuses, for instance, in Madison, Boulder and Nashville. In our local and regional markets we explain how we’re independent from the state university system, but in those areas across the country, they don’t know about us yet. To them we’re smart, ‘new’, independent,

intimate and of course, in the capital of New York.”

In terms of increased percentage of applicants, Ludwick said, the School ranks in the top one-third nationally. Applicants typically care about reputation, location and employment opportunities after school. “We’ve got two out of three categories sewn up,” said Ludwick. Reputation continues to improve as School-wide enhancement efforts fall into place.

“Whether the prospective student is from California or Washington, D.C., we emphasize the strength of our location,” said Gail Bensen, director of admissions. “Our applicants want to practice law in New York and they have their sights set on Albany Law School to learn how to do that.”

This year’s 249 first-year students were chosen from 2,010 applicants who came from 28 different states, making them the most geographically diverse group ever to attend Albany Law. Further, 22% identified themselves as a minority, coming from places like Nigeria, South Korea, Pakistan and United Arab Emirates.

“The larger the applicant pool, the more selective we can be,” Bensen said, “and the richer the experience for our students.”

# QUARE A CHAIRE?

It's said that Jesus stood to read. When commenting, he closed his book and sat down. He sat during his "sermon on the mount," according to Biblical scholars, a posture considered "the regular practice of his day" and "assumed by authorized teachers of law."

In 1235, a classroom in Bologna featured "the lecturer's seat elevated so that he may see and be seen by all." A description of 14th-century classrooms show the professor, or master, seated at a desk under a canopy on a raised platform.

By the mid-1400s the Middle English term "chaire"—descended from the Latin "cathedra" (an official chair)—referred to the seat or office of professors.

The term "endowment" has similarly early roots from the 13th-century "dower"—a gift—descending from the Latin "dotem"—dare to give—and evolving into "dotarium" and then the French "douarie," eventually advancing to the modern "dowry."

The Roman Empire endowed chairs for teachers of Greek and Latin, where they received annual salaries. Chairs of rhetoric were established in the 4th-century. In 1502 Oxford University established a Professorship of Divinity, as did Harvard College in 1721, marking its first—and the nation's first—chair.

## WHY THE FUSS?

So why all the commotion over chairs? Put simply, it's the highest honor an institution can give to a faculty member. With that chair comes research support independent of the institution's budget constraints and the freedom to pursue and teach the topics most dear to the chair-holder.



For the school, it offers a powerful tool to recruit and retain nationally known professors with stellar credentials. Its self-funding mechanism frees up salary budgets for other purposes, and serves as a central point—an anchor—to build larger programs. A well-respected endowed professorship goes a long way toward recruiting other professors—specifically rising stars—as it reflects a commitment from the institution to a specific area of law.

Albany Law School has three endowed professorships: The Governor George E. Pataki Professorship in International Commercial Law, The Harold R. Tyler Jr. Chair in Law and Technology, and the Kate Stoneman Chair in Law and Democracy.

The school also boasts five Distinguished Professorships, which represent positions funded significantly through endowed funds outside the school's annual budget. These positions are: President William McKinley Distinguished Professorship in Law and Public Policy, Justice David Brewer Distinguished Professorship, Albert and Angela Farone Distinguished Professorship, Justice Robert H. Jackson Distinguished Professorship, and the Raymond and Ella Smith Distinguished Professorship.

Albany Law School is currently looking to expand its endowed positions in an effort to deliver a stronger educational experience and enhance its reputation. The school expects to communicate soon its strategy for securing more endowed faculty positions.

—David Singer

## Publications

**Professor Ira M. Bloom** has published the following: *Fundamentals of Trusts and Estates* 3rd ed. (Lexis Publishing, 2007) (with Andersen); and *Teacher's Manual for Trusts and Estates* 3rd ed. (LexisNexis, 2007) (with Andersen).

**Professor Vincent M. Bonventre** has published the following: "Aristotle, Cicero and Cardozo: A Perspective on External Law," was published in the *Albany Law Review* 2006 symposium issue on "'Outsourcing Authority?'" Citation to Foreign Court Precedent in Domestic Jurisprudence;"

together with law student Jason Cherna and Assistant Albany County District Attorney Jessica Blain-Lewis '05, completed a study for the Center for Judicial Process on the Appellate Division Justices' track records when reviewed on appeal by the Court of Appeals. The study entitled, "Appellate Division on Appeal: The Justices' Rates of Agreement, Rejection, and Vindication by the Court of Appeals" was featured in *The New York Law Journal's* August 3, 2006, issue and is scheduled to be published in the *Albany Law Review* in early 2007. The study is currently available online on the *Albany Law Review* website, [www.albany-lawreview.org](http://www.albany-lawreview.org).

**Professor Robert H. Bowmar** has authored *Mechanics' Lien in New York* (West 2nd ed. 2007) and *Lien Priorities in New York* (West 2nd ed. 2007).

**Professor Melissa Breger** co-authored the 2006 cumulative supplement to *New York Law of Domestic Violence* (Thomson-West, 2006). She also published "Introducing the Construct of the Jury into Family Violence Proceedings and Family Court Jurisprudence," 13 *Michigan Journal of Gender & Law* 1 (2006).

**Professor Beverly Cohen** has published the following articles: "Reconciling the HIPAA Privacy Rule with State Laws Regulating Ex Parte Interviews of Plaintiff's Treating Physicians: A Guide to Performing HIPAA Preemption Analysis," 44 *Houston Law Review* (2006) and "The Controversy Over Hospital Charges to the Uninsured: No Villians, No Heroes," 51 *Villanova Law Review* (2006).

**Professor Patrick M. Connors** has published the following: "The Appellate Division is Confronted With HIPAA," in the *New York Law Journal*, January 17, 2007; "Perfect Information, Internet Filing and Public Review," in the *New York Law Journal*, November 20, 2006 (co-authored by T. Gleason '78); *McKinney's CPLR Supplementary Practice Commentaries* (2007) (various sections); *McKinney's SCPA Supplementary Practice Commentaries* (2007) (various sections); *McKinney's New York Lawyer's Code of Professional Responsibility Supplementary Practice Commentary* (2007) (various sections); "The Two Sides of Inadvertent Disclosure," in the *New York Law Journal*, May 15, 2006 (co-authored by T. Gleason '78); and "The

Settlement Game Theory," the *New York Law Journal*, July 17, 2006 (co-authored by T. Gleason '78).

**Professor Wendy B. Davis'** article "The Fox is Guarding the Henhouse: Enhancing the Role of the EPA in FONSI Determinations Pursuant to NEPA," was published in 39 *Akron Law Review* 35 (2006).

**Professor Norman T. Deutsch** published the article, "Prof. Nimmer meets Prof. Schauer (and Others): an Analysis of 'Definitional Balancing' as a Methodology for Determining the Visible Boundaries of the First Amendment," in 39 *Akron Law Review* 483 (2006).

**Professor Harold Dubroff** published the article "The Implied Covenant of Good Faith in Contract Interpretation and Gap-Filling: Reviling a Revered Relic," in 80 *St. John's Law Review* 449 (2006).

**Professor Paul Finkelman** has published the following: "Lemuel Shaw: The Shaping of State Law" in *Noble Purposes: Nine Champions of the Rule of Law* (Ohio University Press, 2007) (Norman Gross, ed); "The Significance and Persistence of Proslavery Thought," in *The Problem of Evil: Slavery, Freedom, and the Ambiguities of American Reform* 95 (University of Massachusetts Press, 2007) (Steven Mintz and John Stauffer, eds.); "Paul Robeson (1989-1976)" in *Harlem Speaks: A Living History of the Harlem Renaissance* 361 (Sourcebooks MediaFusion, 2007) (Gary White, ed.); "E. Nathaniel

Gates" in 28 *Cardozo Law Review* 1037 (2006); *Encyclopedia of American Civil Liberties* (3 vols.) (Routledge 2006) (editor); "Commonwealth v. Aves; Tucker, St. George; Antislavery in United States; and United States Constitution and Antislavery," in *Encyclopedia of Antislavery and Abolition* (P. Hinks & J. McKivigan Eds. (2006).

**Professor James Gathii** authored the chapter, "Approaches to Accessing Essential Medicines and the TRIPS Agreement," in Peter K. Yu, (ed.) Vol 4 *Intellectual Property and Information Wealth: Issues and Practices in the Digital Age/International Intellectual Property Law and Policy*, 393 (2007). Professor Gathii has published the following articles: "Post Conflict Constitution Making in Africa," in 49 *William and Mary Law Review* (2007); "Historical Dispossession through International Law: Iraq in a Historical and Comparative Context," in Branwen Gruffydd Jones, (ed.) *Decolonizing International Relations* (Rowman & Littlefield) (2006); "The American Origins of Liberal and Illiberal Regimes of International Economic Governance in the Marshall Court," 54 *Buffalo Law Review*, 765 (2006); "Necessity Precludes State Responsibility for Compulsory Licensing Under the TRIPS Agreement," in 31 *North Carolina Journal of International, Commercial Law and Regulation* 943 (2006); "Commerce, Conquest, and Wartime Confiscation," in 31 *Brooklyn Journal of International*



*Law* 709 (2006); and “The Sanctity of Sovereign Loan Contracts and Its Origins in Enforcement Litigation,” in 38 *George Washington International Law Review* 251 (2006).

**Professor Sheldon W. Halpern** wrote a revised and updated Second Edition of *Fundamentals of United States Intellectual Property Law: Copyright, Patent and Trademark*, published by Kluwer Law International.

**Professor Lenese C. Herbert** published the following articles: “Facial Profiling” in 4 *Ohio State Journal of Criminal Law* (2007) and “Et in Arcadia Ego: A Perspective on Black Prosecutors’ Loyalty Within the American Criminal Justice System” in 49 *Howard Law Journal* 601 (2006).

**Professor Michael J. Hutter** published the articles “Pommells: The Facts, Nothing But the Facts” in 78 (no. 5) *New York State Bar Association Journal* 42 (2006) and “Honor The Craft: The Judicial Legacy of Judge Matthew J. Jasen” in 69 *Albany Law Review* 403 (2006).

**Professor Kathryn D. Katz** published the article “Parenthood from the Grave: Protocols for Retrieving and Utilizing Gametes from the Dead or Dying,” 2006 *University of Chicago Legal Forum* 289 (2006).

**Professor Timothy Lytton** has published the following: Afterword, Federal Gun Industry Immunity Legislation, *Suing the Gun Industry: A Battle at the Crossroads of Gun Control and Mass Torts* (University of

Michigan Press) new to the 2006 paperback edition; “Legal Legacy: Five Years After the Clergy Sexual Abuse Scandal,” *Boston Globe* (February 4, 2007), E1; and “Clergy Sexual Abuse Litigation: The Policymaking Role of Tort Law,” 39 *Connecticut Law Review* 809 (2007).

**Associate Dean Gregory Mandel** published an article with **Professor James Gathii** called “Cost-Benefit Analysis versus the Precautionary Principle: Beyond Cass Sunstein’s Laws of Fear” in the *University of Illinois Law Review* (Fall 2006). He has also published the following articles: “Patently Non-Obvious II: Experimental Study on the Hindsight Bias Issue before the Supreme Court in *KSR v. Teleflex*,” 9 *Yale Journal of Law and Technology* 1 (2007); “The Generic Biologics Debate: Industry’s Admission that Biotech Patents Fail Enablement,” in 11 *Virginia Journal of Law and Technology* \_\_\_\_ (2006); and “Patently Non-Obvious: Empirical Demonstration that the Hindsight Bias Renders Patent Decisions Irrational,” in 67 *Ohio State Law Journal* \_\_\_\_ (2006).

**Professor Joan Leary Matthews** has published “Environmental Law (2005-2006 Survey of New York Laws) in 57 *Syracuse Law Review* \_\_\_\_ (2007).

**Professor Nancy Ota** authored *Contracting Law* (Carolina Academic Press 4th ed. 2006) (with A. Kastely and D. Waire Post).

**Professor Alicia Ouellette** and **Professor David Pratt’s** article

about “Health Care Reform” was published online in The Hastings Center’s Bioethics Forum. Professor Ouellette also published the article “Termination of Life-Support for a Never-Competent Patient: The Case of Sheila Poulriot” in *Ethical Issues in Modern Medicine*, 7th ed. (McGraw Hill, 2007).

**Professor David Pratt** has published the following articles: “Too Much of Nothing: Increasing Pension Coverage and Benefits,” in 2006 *New York University Review of Employee Benefits and Executive Compensation* 14-1 (Matthew Bender, 2006) and “Standards of Practice for Pension Practitioners,” 39 *John Marshall Law Review* 677 (2006).

**Professor James Redwood** wrote “The Stamp Collector” in 125 *Triquarterly* 159 (2006).

**Associate Dean Patricia Salkin** has published the following: “Eminent Domain Legislation Post Kelo: A State of the States,” 36 *Environmental Law Report* 10864 (November 2006); “Modernizing Zoning for Home Occupations,” 9 *Zoning Practice* 2 (September 2006); “New York Adopts Mandatory Training Law for Members of Planning and Zoning Boards: Implementing the New Law,” *New York Zoning Law and Practice Report* (September/October 2006); and “Ethical Considerations in Land Use Decision Making: 2006 Annual Review of Cases and Opinions,” 38 *The Urban Lawyer* 669 (Summer 2006). Dean Salkin also co-authored an article with student Amy Lavine entitled, “Measure 37

and a Spoonful of Kelo: A Recipe for Property Rights Activists at the Ballot Box,” which was published in 38 *The Urban Lawyer* 1065. She also co-authored the book *Land Use in a Nutshell*, published by Thomson-West. Salkin’s article, “States Begin to Recognize that Training is Essential for Members of Planning and Zoning Boards and Local Legislative Bodies,” appeared in the 33 *Real Estate Law Journal* 315 (Fall 2006).

**Professor Sandra M. Stevenson** has published *Antieau on Local Government Law* (LexisNexis 2nd ed. 2006).

**Professors Evelyn Tenenbaum** and **Jenean Taranto’s** commentary, “Body Worlds, Choosing to be Immortalized as an Educational Specimen,” has been accepted for publication by the *American Journal of Bioethics*.

## Awards and Achievements

**Professor Paul Finkelman’s** book *Encyclopedia of African American History* (Oxford University Press, 2006) was named best book in the humanities and social sciences by the Professional and Scholarly Publishing Division (PSP) of the Association of American Publishers. His book *A History of Michigan Law* (Athens: Ohio University Press, 2006) was one of 20 books selected for a place on the Library of Michigan’s “2007 Michigan Notable Books” list.

**Associate Dean Gregory Mandel's** article "Patently Non-Obvious: Empirical Demonstration that the Hindsight Bias Renders Patent Decisions Irrational," 67 *Ohio State Law Journal* (2006), caught the attention of leading patent law blogs such as IPKat ([www.ipkitten.blogspot.com](http://www.ipkitten.blogspot.com)) and Patently-O ([www.patently-obviousblog.com](http://www.patently-obviousblog.com)).

## Professional Service

**Professor Vincent M. Bonventre** spoke at a public policy forum presented by The Nelson A. Rockefeller Institute of Government on November 29 called "Filling Vacancies on the NYS Court of Appeals: Selection Under the 'Nonpolitical Merit' Appointment System." He also delivered a three hour lecture on "Developments at the New York Court of Appeals: The Pataki Court" at a program for lawyers working in the state legislature and the attorney general's office on December 14, 2006.

**Professor Wendy B. Davis** organized a one-day conference called "In the Aftermath of Enron: Legal Issues and Strategies in Mergers and Acquisitions," presented at Albany Law School on September 8.

**Professor Paul Finkelman** spoke about the history of the Dred Scott decision at the New York Historical Society on November 28. Prof. Finkelman also was a commenter at a conference entitled "Reclaiming the First Amendment: A Conference on Constitutional Theories of Media Reform" at Hofstra Law School on January 19.

**Professor Sheldon W. Halpern** presented a two-day interdisciplinary conference on the "Impact of Technological Change on the Creation, Dissemination and Protection of Intellectual Property" in New York City on October 26-28. At the fall meeting of the New York State Bar Association Intellectual Property Section, Halpern served as moderator/organizer for two panel discussions on issues in trademark law. He also spoke at the Association of American Law School's Intellectual Property Section program on moral right in Vancouver, British Columbia, Canada.

**Professor Jeffrey Pearlman** spoke about the importance of pro bono recruitment in academic clinics with national taxpayer advocate Nina E. Olson at the 2006 Low Income Taxpayer Clinic Conference in New Orleans on December 6.

**Associate Dean Patricia Salkin** was appointed by U.S. Environmental Protection Agency (EPA) Administrator Stephen L. Johnson to serve on the National Environmental Justice Advisory Council (NEJAC) for a two-year term. Salkin has also been appointed to the transition teams for the N.Y. Attorney General Andrew Cuomo '82 and N.Y. Governor Eliot Spitzer. She was also elected Treasurer of the State and Local Government Law Section of the American Association of Law Schools, and First Vice Chair of the N.Y. State Bar Association's Municipal Law Section during the Annual Meeting of the Association in January 2007.

**Professor Laurie Shanks** spoke about judicial selection in New York state at a community forum presented by the League of Women Voters of Schenectady County in April.

**Professor Sandra M. Stevenson** appeared at a "Meet the Authors" event at the American Association of Law School's annual conference for her books, *Understanding Local Government Law* and co-authored text, *State and Local Government in a Federal System*.

## Presentations

**Professor Vincent M. Bonventre** spoke on the relationship between the U.S. Supreme Court and state supreme courts in the protection of rights and liberties at a symposium sponsored by the *Albany Law Review* on February 16 entitled "The Reemergence of State Constitutional Law and the State High Courts in the 21st Century" and featuring several state supreme court chief justices.

**Professor Paul Finkelman** presented "Why the Jews Lose: Jewish Issues and the U.S. Supreme Court" to the Brandeis Baruch and Chaim Weizmann Societies on December 3 at Congregation Beth Emeth in Albany, N.Y.

**Professor James Gathii** presented a paper, "The History and Politics of Constitutional Reform in Kenya," at the Kennesaw State University 2006-2007 Year of Kenya Lecture Series on September 21. On October 27, he presented "The Last Frontier: Intellectual Property Rights and Least Developed Countries" at

the 2006 International Law Weekend of the American Branch of the International Law Association in New York City, and "The High Stakes of WTO Reform" at the Globalization Workshop at the University of Toronto Law School on November 1.

**Professor Peter Halewood** was a panelist at Prof. Halpern's interdisciplinary conference on the "Impact of Technological Change on the Creation, Dissemination and Protection of Intellectual Property" in New York City on October 26-28.

**Associate Dean Patricia Salkin** delivered a presentation at the annual meeting of the New York Conference of Mayors on the government attorney-client privilege of confidentiality on October 5. She delivered two presentations at the annual meeting of the New York Planning Federation on October 10. The topics covered ethics in land use planning and intermunicipal cooperation in land use planning and zoning. On December 7, she presented a session on ethics for the Center for American and International Law's Annual Land Use Institute in San Francisco. Salkin also presented a teleconference for the ALI-ABA Land Use Institute on ethical considerations for land use lawyers on December 18.

**Professor Laurie Shanks** will present a paper titled "Whose Story Is It, Any Way? Teaching Client-Centered Representation and Trial Advocacy through the Use of Storytelling" at an international legal writing conference at City University in London this summer.

## News from the National Alumni Association

Today an active and supportive body of alumni comprises Albany Law School's National Alumni Association. The (NAA) is governed by a Board of Directors and committees which serve the School in an advisory capacity in areas such as career planning, admissions recruitment and alumni involvement. Regional activities, located throughout New York state and the country, bring alumni together to socialize, network and build support for the School.

The NAA Executive Committee is comprised of Larry P. Schiffer '79, President; Ruth E. Leistensnider '88, Vice-President; James T. Potter '80, Second Vice-President; John M. Bagyi '96, Secretary/Treasurer; Betty Lugo '84; Hon. Christine M. Clark '96; Hon. Ryan T. Donovan '01; and Lisa M. Penpraze '98.

NAA Committees and Co-Chairs include:

*Alumni Involvement Committee:* Jason N. Cooper '99, Mary Ann Berry '94

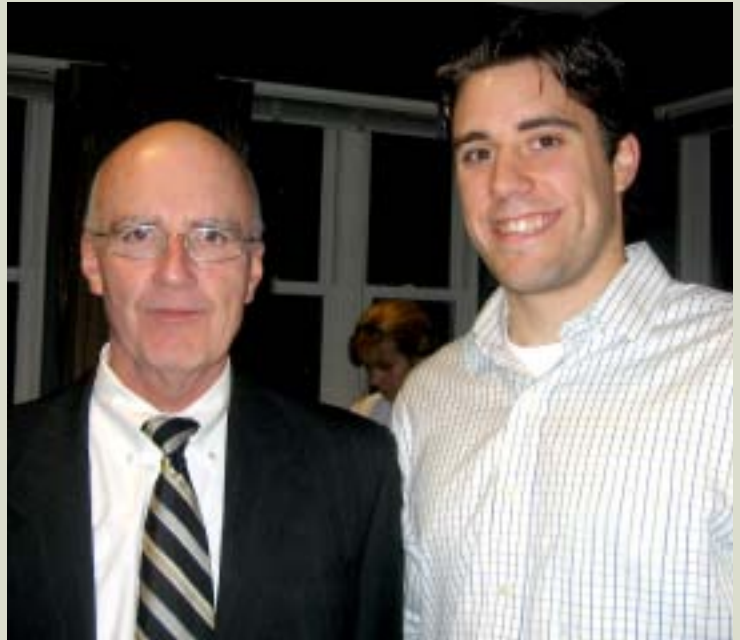
*Diversity Committee:* Thania Bradley Fernandez '85, Betty Lugo '84, Heena Shaikh '04

*Recent Graduate Committee:* Clorisa L. Cook '04, Peter J. Glennon '04

*Student Engagement Committee:* Crystal A. Doolity '04, Amy J. Kellogg '02

*Development Liaisons:* Dave A. Ehrlich '01, Darius Shahinfar '97

If you are interested in getting involved in the NAA, contact Christina Sebastian, Director of Alumni Affairs, at [cseba@albanylaw.edu](mailto:cseba@albanylaw.edu) or 518-445-3361.



*The Student Engagement Committee held a reception for alumni mentors and first-years who are participating in the Alumni Initiative in Mentoring (AIM) Program at the Law School. Pictured are Robert C. Batson '75 and Thomas O'Gara '09.*

*The Alumni Involvement Committee sponsored a community service activity at the Regional Food Bank in Latham, N.Y., this winter.*



## Alumni Gatherings Held Around the Country

Alumni are gathering with faculty and staff in cities around the country to reconnect with Albany Law School.

Contact the Office of Alumni Affairs ([alumni@albanylaw.edu](mailto:alumni@albanylaw.edu) or 518-445-3220) to get involved in your area.

### Utica, N.Y.—October 4, 2006 *Fort Schuyler Club*



*Hon. Norman I. Siegel '66 and his wife Ann Siegel*

### New York, N.Y.—January 25, 2007 *Waldorf-Astoria*



*Linda J. Cohen '82, David J. Cohen, Esq. and Joanne Casey, Director, Career Center*



*Lisa A. Gootee '04, Heena Shaikh '04, Jacqueline Zore-Smrek '03 and Connie Mayer, Associate Dean for Academic Affairs*

### Los Angeles, Calif.—November 28, 2006 *Los Angeles Marriott Downtown*



*Paul A. Gomez '01, John J. Welsh '88 and Mary Elizabeth McCaffrey '91*

### Chicago, Ill.—November 8, 2006 *One North Kitchen & Bar*



*Richard L. Kellner '86, Michelle L. Fivel '00 and Dean Guernsey*



*Robert A. McCann '90, Nicholas J. Kauffman '95 and David M. Boon '91*

**Washington, D.C.—January 3, 2007**  
**Wardman Park Marriott Hotel**



*Mark S. Zaid '92 and Karen A. Kennerly '02*

**Troy, N.Y.—December 5, 2006**  
**River Street Café**



*Paul M. Macari '87, Derrick A. Filley '53  
 and Hon. Christopher T. Maier '91*

## Reunion Weekend 2006

Alumni and guests, faculty, staff and students came together on September 29 and 30 to celebrate their reunion from Albany Law. A variety of reunion activities were held, including the 11th annual golf tournament at Albany Country Club, a continuing legal education course “Baseball and the Rule of Law” featuring Paul Finkelman, the President William McKinley Distinguished Professor of Law and Public Policy, the Barrister Ball, breakfast and toast to our Senior Partners (Classes of 1956 and prior), annual alumni versus student rugby game and alumni picnic, culminating with dinner and dancing in the Law School’s Foyer for classes with graduation years ending in “1” or “6”.



Save the Date,  
 Reunion Weekend 2007  
 Friday, October 12 and  
 Saturday, October 13



The 2007 Alumni Awards were presented to the following alumni during the Barrister Ball.



Distinguished Alumni:  
*Katherine M. Sheehan '94*

Trustee’s Gold Medal:  
*Frank H. Penski '74*

Outstanding Young Alumnus:  
*Hon. Christine M. Clark '96*

Donald D. DeAngelis  
 Excellence in Alumni Service:  
*Harold C. Hanson '66*

**SAVE THESE DATES**

**May 18— 156th Commencement  
Saratoga Performing Arts Center (SPAC)  
Saratoga Springs, N.Y.**

**July 12—Evening with the Tri-City Valley Cats  
Joe Bruno Stadium, Troy, N.Y.**

**October 12 & 13—  
Reunion Weekend 2007  
Albany Law School**



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