

A photograph of three women standing in front of a classical building with large columns. The woman on the left is wearing a light-colored blazer and a patterned blouse. The woman in the center is wearing a dark blazer over a colorful patterned top. The woman on the right is wearing a dark blazer over a white polka-dot blouse and is leaning against a stone wall. They are all smiling at the camera.

# Preparing Lawyers for Practice

College of Law's Clinics  
Attract National Attention

3Ls Amy Shewan (left) and Oriene Shin (right) with  
Associate Professor Emily Chiang, Director of the Public Policy Clinic

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*3Ls Amy Shewan (left) and Oriene Shin (right) with Associate Professor Emily Chiang, Director of the Public Policy Clinic, on the steps of the Utah State Capitol. Photograph by Robert Mills.*

## Photography

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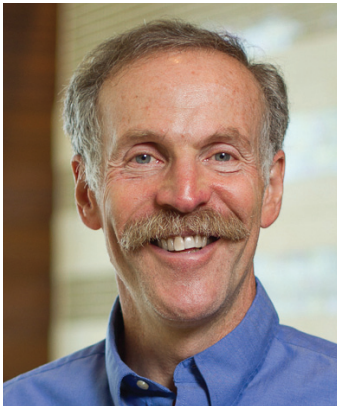
# Contents

Letter from the Interim Dean .....	page 2
News Notes .....	page 3
Faculty Briefs 2014.....	page 5
48th Annual Leary Lecture.....	page 10
Colloquium Series Explores Global Legal and Public Policy Issues.....	page 12
Stegner Symposium – National Parks: Past, Present, and Future .....	page 14
Clinics, Skills Training Earn Awards and Accolades .....	page 16
Help Us Create a More Sustainable College of Law by Giving Green .....	page 19
Fordham Debate – Experts Debate America’s Future as a Superpower .....	page 20
Inaugural Training at National Criminal Justice Academy .....	page 22
Women’s Law Caucus Retrospective.....	page 24
Kendell Encourages LGBT Supporters to Build Alliances .....	page 26
Overheard from Distinguished Visitors .....	page 28
Student News .....	page 30
Class Action .....	page 32
Distinguished Visitors.....	page 34
Historical View .....	page 36
Construction Perspective .....	page 38
From the President of the Alumni Board of Trustees .....	Page 40



Rendering of the plaza at the future College of Law, facing east from University Street.  
See more images, floorplans and video at [buildingjustice.law.utah.edu](http://buildingjustice.law.utah.edu).

# Letter from the Interim Dean



Interim Dean Robert Adler

*As exciting as the new building will be, we are even more proud of the remarkable accomplishments and awards our programs and students have earned this past year.*

If you have been near the southwest corner of the University of Utah recently, you've undoubtedly noticed the progress on the new College of Law building. If you haven't seen the progress, you can view it via live webcam at [law.utah.edu/construction](http://law.utah.edu/construction), and you can learn even more about the project at [buildingjustice.law.utah.edu](http://buildingjustice.law.utah.edu). I'm thrilled to report that the project is on schedule and within budget, and we continue to plan to move into the new building in May of 2015.

As the girders rise from what not long ago was a hole in the ground, anticipation in the community and on campus continues to climb over the College of Law's new home. But as exciting as the new building will be, we are even more proud of the remarkable accomplishments and awards our programs and students have earned this past year. With many law schools facing criticism for failing to provide students with practical training, these national awards show that the College of Law is achieving the opposite result. As reported in this issue of *Res Gestae*:

- ❖ The College of Law climbed to second in the nation for student clinical opportunities, according to data compiled by the *National Jurist* magazine and reported in the winter issue of the *National Jurist's* sister magazine, *Prelaw*.
- ❖ *National Jurist* magazine also awarded the College of Law an A rating as one of the "Best Schools for Practicing Training."
- ❖ Following on the heels of last year's award for Best Brief at the National Moot Court Competition, at this year's competition, held February 10-13 in New York City, the College of Law's team of Jeremy Christiansen and Stephen Dent won the award for Second-Best Brief in the nation.
- ❖ Only weeks later, our Environmental Law Moot Court Team of Haley Carmer, Doug Naftz and John Robinson won Best Overall Brief at the National Environmental Law Moot Court Competition and then reached the competition finals, placing them in the top three teams in the nation; and
- ❖ A 2L at the College of Law, Larissa Lee, recently won a nationwide student legal writing competition sponsored by *The National Law Review*.

Of course, these are just some of the capstone achievements that highlight the effectiveness of our skills training and writing programs. The past year has been filled with other major achievements by College of Law students, faculty and alumni, which are also highlighted in this issue. We couldn't be more proud of their many professional accomplishments. Likewise, we invite you to send us your news items for inclusion in a future issue, or to contact us with questions and ideas. **U**

Sincerely,

  
Interim Dean Robert Adler



# News Notes

## Anderson Named Christine M. Durham Utah Woman Lawyer of the Year

On April 2, 2014, Jensie Anderson, Clinical Professor of Law at the University of Utah S.J. Quinney College of Law, was honored as the 2014 Christine M. Durham Utah Woman Lawyer of the Year at the Women Lawyers of Utah Annual Fireside Chat.



Anderson, a 1993 graduate of the College of Law, has been a clinical professor at the college since 1999. Her extensive history of community engagement and volunteerism includes serving as the past president of the Rocky Mountain Innocence Center from January 2001 until 2011, and her current work as RMIC's Legal Director. She also has a long-standing practice of providing free legal advice to the indigent and homeless population in Salt Lake City. At the College of Law, Anderson is the director of the Innocence Clinic and administrative supervisor of the Criminal Clinic (both prosecutor and defender).

At the Fireside Chat, held at the Zions Bank Founder's Room, Justice Durham said she was in "complete

awe" of Anderson, and added that Anderson's work on behalf of the Rocky Mountain Innocence Center "so clearly demonstrates and defines the compassion and commitment of this truly amazing woman."

Upon receiving the award, Anderson said, "I feel so lucky to be able to do the work I love with the full support from the University of Utah S.J. Quinney College of Law and the Rocky Mountain Innocence Center."

## Kids' Court Program Honored with Pete Suazo Award

The University of Utah S.J. Quinney College of Law's Kids' Court program was honored by the Utah Minority Bar Association (UMBA) with the 2013 Pete Suazo Community Service Award, named after the late state legislator and community leader. Kids' Court is an afterschool program in which law student volunteers teach fifth- and sixth-grade students from underserved populations about the law

and civic engagement through weekly school visits.

"This award goes to a non-lawyer member of the community who serves minority communities. UMBA selected Kids' Court because of its impact on promoting diversity in the law," said UMBA President Jesse Nix, a 2010 College of Law graduate. "One of the reasons I became interested in law was my experience playing a lawyer in an elementary school play. When minority kids, who otherwise would not learn about the law at a young age, become interested in the Constitution, learn about civic responsibility, and play a part in a fictionalized legal case, their futures may forever be changed. I hope that Kids' Court will inspire some kids to go to college, go on to law school, and become leaders in Utah's legal community."

Gabriella Archuleta, '11, co-founded the program in 2008. She said she was "humbled and thrilled" when she heard the news that Kids' Court had won the award.



(left to right) Jesse Nix, Becca Buchert, and Gabriella Archuleta with the 2013 Pete Suazo Community Service Award.

Becca Buchert, Kids' Court Student Coordinator for 2013-14, explained, "In just five academic years, Kids' Court has had tremendous influence on classroom behavior, academic performance, and goals for higher education among the students that have participated with the Program. Approximately 150 students have graduated from the Kids' Court Program and one group even met and interacted with Chief Justice John Roberts when he made a visit to the College of Law in 2011."



### Thompson Wins Disability Law Center Award for Design of New Building

On November 2, 2013, Sean Thompson, a Senior Associate at VCBO Architecture, won the Community Justice Award in the Innovation in Design Category at the Disability Law Center's Community Justice Awards Gala. Thompson was the lead architect for the University of Utah S.J. Quinney College of Law's new building.

### Potter Convicted, Snape Acquitted in Mock Trial

On November 26, professors from the College of Law brought J.K. Rowling's celebrated characters Harry Potter and Severus Snape to trial in the College's Sutherland Moot Courtroom.

The verdict? Harry Potter was found guilty of obstruction of justice. Snape was acquitted of murdering Professor Albus Dumbledore.

The mock trial, which provided a



*The rooftop garden at the new College of Law will be shaded by a transparent solar photovoltaic array. See a live construction webcam at [law.utah.edu/construction](http://law.utah.edu/construction).*

"much-needed break from studying," according to one of the organizers, was well attended by students. Participating faculty included Clifford Rosky, who served as judge; Carissa Hessick and Amy Wildermuth, who acted as prosecutors; and Lincoln Davies and Andy Hessick, who served as defense counsel.

### Green Team Grows Sustainability Programs

The SJQ Green Team, a collaboration between faculty, staff, students, alumni and interested community members, has been working together since Summer 2013 to identify and implement programs that encourage sustainable behaviors to complement the green features of the new law building. Over the past few months, the Green Team has focused closely on Green Events, Green Purchasing, and Waste/Recycling. For each topic, the group compared current practices in the existing building to relevant sustainability standards, and developed recommended policy and behavior changes, many of which can and will be implemented before we move to the new building. One new behavior that has already been implemented is serving water from bulk containers at most events, rather than providing single-serving plastic bottles. Requests for proposals for the café and catering in the new building will incorporate

Green Event standards, to help the law school model and promote sustainable behavior. The Green Team had a terrific response rate from the survey sent to the greater law school community, which will help set priorities for the group's future efforts. Many respondents requested educational information, prompting the Green Team to initiate a blog at [GreenTeamBlog.org](http://GreenTeamBlog.org).

### Faculty and Practitioners Present Downtown CLEs

The College of Law revived its popular Downtown CLE series in 2013-14, hosting a series of events at downtown law firms on subjects ranging from filibuster reform in Congress and arguing before the U.S. Supreme Court on behalf of crime victims to understanding international charities. In each of the CLEs, a College of Law faculty member teamed with a downtown practitioner to provide a multifaceted perspective.

Associate Dean Christian Johnson said, "The Downtown CLE series provide a unique opportunity for members of the faculty to collaborate and work with members of the downtown bar to provide additional CLE opportunities. The combination of faculty teaching expertise and experience with skilled and knowledgeable practitioners has resulted in the development of unique CLE courses." **U**



# Faculty Briefs 2014

**Tony Anghie** published a chapter on “Human Rights and the Developing World,” in the *Routledge Handbook on International Human Rights Law*; he also published “Whose Utopia? Human Rights, Development and the Third World,” a review essay of Samuel Moyn’s book, *The Last Utopia*. In November 2013, Professor Anghie attended the Asian Society of International Law Conference in New Delhi where he was appointed a member of the Advisory Council of the Society. He gave various presentations throughout the year dealing with topics such as Human Rights and Developing Countries, and International Legal Education. He also gave a public lecture on “International Law in the Modern World” at the Salt Lake City Public Library.



**Shima Baradaran** presented her work this year at Fordham, University of Maryland and William & Mary Law Schools as well as at the Southwest Criminal Justice Conference and several other conferences. She presented on several panels on crime and prediction, the influence of big data in research and criminal justice, and the rights of individuals when searched and seized. Professor Baradaran published several articles including “Funding Terror,” *University of Pennsylvania Law Review*, 2014; “Rebalancing the Fourth Amendment,” *Georgetown Law Journal*, 2013; and “Race, Prediction and Pretrial Detention” (with Frank McIntyre) in the *Journal of Empirical Legal Studies*, 2013; a peer reviewed journal. She was also cited this year several times in *The Salt Lake Tribune*, in the *ABA Journal*, and other newspapers on criminal justice-related matters.



**Melissa Bernstein** taught a new course on corporate and securities law research to upper level students during Spring Semester 2014. The class included guest lectures by professors from the business and accounting departments at the University of Utah, a guest lecture by an attorney from the Salt Lake City office of the SEC, and a videoconference with a prominent Delaware law firm. She and the library staff are focusing their efforts



on streamlining the library collection and getting things ready for the move to the new building.

In January 2014, **Paul Cassell** argued before the U.S. Supreme Court for crime victim “Amy,” a victim of child pornography crimes. Assisted by Professor Michael Teter, he urged the Court to award her full restitution, jointly and severally, from all defendants who have been convicted of harming her. Professor Cassell also published “Protecting Crime Victims’ Rights Before Charges Are Filed: The Need for Expansive Interpretation of the Crime Victims’ Rights Act and Similar State Statutes,” in the *Journal of Criminal Law & Criminology* (co-authored with Nathanael James Mitchell, class of 2013), and “Full Restitution for Victims of Child Pornography Crimes,” in the *George Washington Law Review* (co-authored with James Marsh and Jeremy Christiansen, class of 2014).



**Emily Chiang** was named the 2013 Utah Campus Compact-University of Utah Civically Engaged Scholar of the Year in recognition of her work supervising the Public Policy Practicum. She was also the recipient of the Fall 2013 University of Utah Tanner Humanities Center “Professors Off Campus” Grant, which she used to facilitate her clinic’s work to combat low graduation rates and over-use of school discipline in Utah high schools. Professor Chiang also completed work on her article, “The New Racial Justice: Moving Beyond the Equal Protection Clause to Achieve Equal Protection,” which will be published in the *Florida State University Law Review*.



In June 2013, **Robin Kundis Craig** — along with Interim Dean Robert Adler and Professor Noah Hall from Wayne State — published *Modern Water Law: Private Property, Public Rights, and Environmental Protections*, a new water law textbook. In addition, Professor Craig’s June 2012 book, *Comparative Ocean Governance: Place-Based Protections in an Era of Climate Change*, appeared in its paperback edition in Fall 2013. Craig has several book chapters on marine issues and climate change forthcoming in 2014, and over the last year she has published “Designing Administrative Law for Adaptive Management” in *Vanderbilt Law Review* with

Professor J.B. Ruhl; “Replacing Sustainability” with Professor Melinda Harm Benson in the *Akron Law Review*; and a series of articles on the intersection of water and energy in the *Idaho Law Review*, the *George Washington University Journal of Energy & Environmental Law*, and the University of Montana’s *Public Land & Resources Law Review*.



Craig currently serves as Co-Chair of the ABA SEER Water Resources Committee; on the Planning Committee for the ABA SEER 43rd Annual Spring Conference on Environment, Energy, and Resources Law; as Vice Chair of the ABA SEER 2014 Water Law Conference; and as Chair of the ABA SEER 2015 Water Law Conference.

In addition to serving as Associate Dean for Faculty Research and Development, **Leslie Francis** has continued her work in developing the College’s Center for Law and Biomedical Sciences. In Utah, she serves as president of the board of And Justice for All and as a member of the board of the Disability Law Center. Nationally, she co-chairs the Subcommittee on Privacy, Confidentiality, and Security of the National Committee on Vital and Health Statistics, serves as a member of the Tiger Team advising the Health Information Technology Policy Committee of the Office of the National Coordinator for Health Information Technology, and serves as a member of the ethics committee of the American Society for Reproductive Medicine.



Her law review articles this year include “Accommodating Every Body,” forthcoming in the *University of Chicago Law Review*; “Human Rights, Civil Rights: Prescribing Disability Discrimination Prevention in Packaging Essential Health Benefits,” in the *Journal of Law, Medicine, and Ethics*; “Infanticide, Moral Status, and Moral Reasons: The Importance of Context,” in the *Journal of Medical Ethics*; “HIV Treatment as Prevention: Not an Argument for Continuing Criminalization of HIV Transmission,” in the *International Journal of Law in Context*; “Adult Consent to Continued Participation in Patient Registries,” in the *St. Louis University Journal of Health Law and Policy*; and “Informatics and Public Health Surveillance,” *American Bar Association*.

**Erika George** continues to be active speaking on matters related to the obligations of private actors under public international law, corporate social responsibility and human rights, issues addressed in a book *Incorporating Rights* under contract with Oxford University Press. She served on an

expert panel on the impact and implementation of provisions of the Dodd-Frank Act regulating disclosure and reporting of conflict minerals at the University of Connecticut Dodd Research Center. She presented her research to faculty colloquia at University of Washington School of Law and Northwestern University Law School. She also delivered a guest lecture to students in the Cornell Law School Paris Summer Institute at Université Paris I Panthéon-Sorbonne. In addition, George published an article on the role of corporate social responsibility in efforts to end child sex trafficking and modern slavery, co-authored with Scarlet Smith, in the *NYU Journal of International Law and Politics*. Most recently, George was honored by the Inclusion Center for Community and Justice. She was awarded the Center’s Joseph Rosenblatt Humanitarian Award in recognition of her dedication to creating a more inclusive community. She moderated the community conversation “Beneath the Hoodie: A Look at Racial Profiling in America” with Sybrina Fulton, the mother of Trayvon Martin, for the University of Utah’s Martin Luther King, Jr. Celebration. The University’s Presidential Commission on the Status of Women recognized Professor George as a “Woman of Note.”



In June 2013, **Amos Guiora** testified before the Foreign Affairs Committee of the Dutch Parliament regarding the humanitarian crisis in Syria and in July 2013, he was invited as a subject matter expert by the United Nations Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions. Guiora was invited to an ad hoc American Bar Association Committee tasked with preparing a resolution to the ABA’s House of Delegates regarding U.S. Drone Policy; in particular, Guiora focused his efforts on establishment of a Drone Court. In addition, Guiora published four books in 2013: *Freedom from Religion: Rights and National Security* (Oxford U Press, second edition); *Legitimate Target: A Criteria Based Approach to Targeted Killing* (Oxford U Press); *Tolerating Intolerance: The Price of Protecting Extremism* (Oxford U Press); and *Modern Geo-politics and Security: The Strategies for Unwinnable Conflicts* (Taylor and Francis). In addition, Guiora was awarded a research grant by the European Union to study drones under the auspices of the University of Oxford (UK) Faculty of Law. Guiora’s op-eds appeared in a number of publications including *The New York Times*; in addition, he was interviewed by national and international media including the BBC, NPR and ABC.





**Carissa Byrne Hessick** joined the faculty at the College of Law in July 2013, after six years of teaching at Arizona State University's Sandra Day O'Connor College of Law. In November 2103, she was invited to participate as a featured speaker at the University of Houston Law Center's symposium on challenges facing the federal sentencing system. Hessick's remarks from that conference will be published in a forthcoming issue of the *Houston Law Review*. The *William & Mary Law Review* recently published an article that she co-authored on the administrative law consequences of recent changes in federal sentencing, and the *Texas Tech Law Review* recently published her remarks from a symposium last spring on juvenile sex offenders.



**Jim Holbrook** co-authored the book *Advanced Negotiation and Mediation* and its accompanying Teacher's Manual, which were published by West Academic Publishing in May 2013. He is co-authoring a book on lawyer's skills to be published by West in 2015. He co-authored the article, "Addressing Twin Crises in the Law: Underserved Clients and Underemployed Lawyers," which was published in the *Utah Bar Journal* in 2013. His article, "A Path to Meaning and Purpose: A Critique of 'Zen and the Art of Motorcycle Maintenance,'" was published in the *Legal Studies Forum* in 2013. Holbrook's article "Reflections on the Future of Legal Education" will be published in *Utah Law Review OnLaw* this year. He received the Peter W. Billings Award for Excellence in Teaching at the College of Law's commencement in May 2013.



In addition to his duties as the Associate Dean for Academic Affairs, **Christian Johnson** last June lectured on reforms to the global derivative markets at Oxford, the University of Stockholm and to the Central Banks of Ireland and Latvia. He also continues to write on capital markets, publishing articles in the *Futures & Derivatives Report* and the *Nevada Law Journal*.



**Bob Keiter** is serving as President of the Rocky Mountain Mineral Law Foundation for a one-year term through July 2014. Professor Keiter's sixth book, *To Conserve Unimpaired: The Evolution of the National Park Idea*, was recently published by Island Press. He has made several

slide show presentations on his new book, including appearances at the University of Wyoming, BYU, University of Colorado, the Tattered Cover, Friends of Marriott Library, Utah Humanities Council, and the Entrada Institute. He has also addressed "Federalism, State Sovereignty, and Public Lands" at an "And Justice for All" CLE program and examined "The National Park Idea and the Future of the National Park System" at the biennial George Wright Society conference. Keiter continues to serve as Vice-Chair on the National Parks Conservation Association Board of Trustees and as Vice-Chair of the Greater Yellowstone Coalition Board of Directors. He also spent the past two years participating on a National Park Service Advisory Board subcommittee on new parks and landscape conservation.



In the past year, **Laura Kessler** gave six presentations related to her research on employment and labor law and family law. "Negotiating Identities at Work" was presented at two conferences, at Emory Law School and the UNLV William Boyd School of Law. Kessler also presented her research on the history of the EEOC's enforcement of Title VII's sex discrimination provisions at a University of Denver law symposium. In fall 2013, Kessler gave a retrospective on Family Law and Gender Studies Scholarship at the College of Law as part of the Centennial Celebration Symposium. Last summer, as part of the Law and Society Association's Annual Meeting, she served as the Discussant and Chair of a panel on Family Law Foundations. She also participated in a panel on Gender and the Market with Angela Harris (Univ. of California, Davis) and other critical legal scholars, in which Kessler addressed the question of whether Marxist-socialist inspired feminism might contribute to current discussions of the problem of work and family conflict. In spring 2013, Kessler put together a major symposium at the College of Law with Professor Debora Threded on The Other Side of Reproductive Rights: The Untold Story and Ethics of Modern Eugenics."



In 2013, **Benedict Kingsbury** became joint Editor-in-Chief of the *American Journal of International Law* (founded in 1906), for a five-year term. At the end of 2013, the *Chicago Journal of International Law* published his co-authored article on the standards set by manuals of the World Bank and the OECD for national regulation of electricity, water, and telecommunications, and separately he contributed to an Oxford University Press book on The Regulatory State of the (global)

South. He also co-authored a paper on why and with what effects international organizations such as the United Nations adopt formal access to information policies, published in the *Annual Review of Law and Social Science* and (in abridged form) in a Cambridge University Press book *Transparency in International Law*.



He delivered the keynote speech at a University of Michigan conference on new theoretical approaches to international law, and continued work on a follow-up volume to his co-edited book *Governance by Indicators* under two National Science Foundation grants.

**Chibli Mallat's** main scholarly activity in the past year has focused on the completion of *Philosophy of Nonviolence*, a book which should appear from Oxford University Press later this year or in early 2015. Mallat gave two keynote lectures at conferences in Libya at the invitation of the Democracy Reporting Institute in Tripoli in June and at the Max Planck Institute in Hamburg, Germany in October. He also assisted the UN Special Envoys in Libya and Yemen on various constitutional and judicial problems in the construction of post-dictatorship societies. Two extensive profiles/interviews appeared in *Shiawatch*, a magazine published in Beirut ("The Lawyer of the Cedars," July 2013); and in *Continuum*, ("The Nonviolent Revolutionary," Fall 2013).



**John Martinez** had his most productive publication year to date in 2013 with five articles accepted for publication: "Graceful Losers" in the *Alabama Civil Rights and Civil Liberties Law Review* (forthcoming 2014); "From Lark Rise to Storied City," in the *British Journal of American Legal Studies* (forthcoming 2014); "Discarding Immunity From Service of Process Doctrine," in the *Ohio Northern University Law Review* (forthcoming 2014); "Bikinis and Efficient Trespass Law," in the *Utah Law Review OnLaw*; and "The Dynamic Cycle of Legal Change," in the *Tennessee Journal of Law and Policy*. These articles were in addition to publication of updates for his two national treatises, *Local Government Law* (Thomson-Reuters/West, 2d ed. 2012) and *Government Takings* (Thomson-Reuters/West); summaries of United States Supreme Court decisions (United States Supreme Court Cases in State & Local Government Law, Urb. St. & Loc. L. P (Annual Reports)); and weekly summaries of Utah Supreme Court

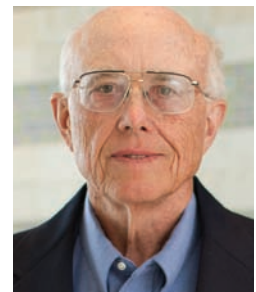


decisions in the *Utah Intermountain Commercial Record*.

**Wayne McCormack** submitted manuscripts for new editions of *Understanding the Law of Terrorism* and *Legal Responses to Terrorism* (teaching materials) both to be published by Lexis. He published the 8th edition of *American Constitutional Law: Cases and Materials* with Lexis and "Models of War and Crime in Confronting Organized Violence," in *International Prosecutorial Discretion* (Oxford University Press 2012). McCormack presented a paper at an international conference that became the article "Judicial Independence: Victim of the 'War on Terror'" in the *Washington & Lee Law Review* due out Spring 2014. He gave numerous media interviews on issues of Supreme Court cases and local matters such as same-sex marriage. He participated in a panel discussion on the NSA at Utah Valley University, and initiated and contributed several pieces to the "Global Justice Blog" at the College of Law.



**Arnold Reitze's** publications in the past year include *The International Law of Air Pollution and Climate Change*, *International Law: A Practitioner's Guide to the Laws of the Planet* (ABA pending 2014); "Federal Control of Air Emissions From New Heavy-Duty Road Vehicles," in the *Environmental Law Reporter*; "King Coal, R.I.P.," in *The Environmental Forum*; "Carbon Capture and Storage (Sequestration)," in the *Environmental Law Reporter*; "Air Quality Regulation Basics," *Air Quality Issues Affecting Oil, Gas, and Mining Development in the West* (Rocky Mountain Mineral Law Institute); and "Regulating Air Pollution and Greenhouse Gases Using International Law," available on SSRN. He was a speaker at the 2013 Rocky Mountain Mineral Law Foundation's program on Air Quality Issues Affecting Oil, Gas, and Mining Development in the West and at the University of Utah Department of Geology's 2014 lecture series on Global Changes and Society.



**Jeff Schwartz's** article, "The Twilight of Equity Liquidity," was reprinted in the *Corporate Practice Commentator*. He also wrote "The Law and Economics of Scaled Equity Market Regulation," which is forthcoming in the *Journal of Corporation Law*, and "The Corporatization of Personhood," which is forthcoming in the *Illinois Law Review*. In addition, Schwartz





again supervised students participating in the Transactional LawMeet, a competition for aspiring corporate-law attorneys.

On September 19, 2013, **Alex Skibine** presented testimony at a hearing of the Committee on Natural Resources of the U.S. House of Representatives on the subject of taking land into trust for the purpose of tribal gaming. In January 2013 and January 2014, Skibine presented papers at the annual conference of the Association of American Law Schools (AALS). The 2013 presentation was on a paper later published with the *Federal Lawyer*, “The Indian Gaming Regulatory Act at 25: Successes, Shortcoming, and Dilemmas.” The 2014 presentation was on a forthcoming article: “Constitutionalism, Federal Common Law, and the Inherent Powers of Indian Tribes.” Skibine also posted a paper on SSRN which made the top ten list of most downloaded papers in Federal Indian law for the year: “Hot Pursuit Into Indian Country: What are the Limits.”



**Michele Straube** continued to direct the Environmental Dispute Resolution (EDR) Program during its second year as the program continued focus on academics, capacity-building, public education and modeling collaborative problem-solving best practices. Four students and Jamie Pleune (Environmental Clinic Director) worked with Straube to conduct a Situation Assessment on homeless issues in downtown Salt Lake City. Results of 60 personal interviews across stakeholder groups were synthesized into a final report addressing issues related to homelessness downtown. Salt Lake City Mayor’s Office and Department of Community & Economic Development are implementing many of the report’s suggestions, including hosting a Homeless Summit to develop a strategic vision for serving all homeless sub-populations in every stage of homelessness. Straube provided process design and facilitation assistance on regionally significant environmental and natural resource issues (Utah prairie dogs and sage grouse), as well as institutional priorities (University of Utah Air Quality Task Force and the College of Law’s Green Team). Finally, Straube has been a core developer of the Cross-Watershed Network (XWN), an emerging peer-to-peer learning network of watershed partnerships across the Southwest.



**Michael Teter** helped organize the Utah Law Review’s fall 2013 symposium, *Governing the United States in 2020*, which brought together a group of legal scholars, political scientists, and public officials to discuss the current chal-

lenges facing American Governance and to propose practical solutions to those problems. In addition to contributing a piece to that symposium, Professor Teter published two additional articles. “Congressional Gridlock’s Threat to Separation of Powers,” came out in the *Wisconsin Law Review* and “Gridlock, Legislative Supremacy, and the Problem of Arbitrary Inaction” was published in the *Notre Dame Law Review*. Teter has also maintained a busy pro bono practice. He joined Professor Paul Cassell in a case argued before the United States Supreme Court, representing a victim of child pornography who was seeking restitution. He had two matters before the United States Court of Appeals for the Ninth Circuit. And in October 2013, his long-time client Sara Kruzan was released following 19 years in prison, after originally being sentenced to life without parole for killing her pimp at the age of 16.



In April 2013, **Debora Threedy** was awarded a Teaching & Learning Technologies (TLT) grant by the Faculty Senate Committee for Technology Enhanced Curriculum. The purpose of the grant was to hire a student teaching assistant to help develop online assessments for use in first year Contracts. The assessments were developed over the summer and were used in last fall’s classes. In June 2013, she and Aaron Dewald, on behalf of the Center for Innovation in Legal Education, participated in a conference on “Hybrid Law Teaching,” sponsored by the Institute for Law Teaching and Learning, in Topeka, Kansas. They presented on “Designing and Implementing a Hybrid Course in Legal Education.” In February 2014, Threedy was invited to participate in a conference on legal pedagogy, “Igniting Law Teaching,” sponsored by LegalED, which was held in April 2014 at American University in Washington, D.C. She spoke on the development of the “flipped” or blended Contracts classes. Also in February 2014, Debora and Professor Laura Kessler organized a half-day symposium, *The Other Side of Reproductive Rights: The Untold Story and Ethics of Modern Eugenics*. The symposium included a reading of Threedy’s one-act play, *Stumped*, based on the 1978 U.S. Supreme Court case of *Stump v. Sparkman*. Some of the papers from the symposium, as well as the play, have been published in the *University of Missouri-Kansas City Law Review* under the title of “Stumped: The Story of *Stump v. Sparkman*.” **U**



❖ For a complete list of faculty, visit [law.utah.edu/faculty](http://law.utah.edu/faculty)

# 48th Annual Leary Lecture

## The Endless Battle for State Immigration Crimes

by Jonelle White



Gabriel "Jack" Chin

*"The past decade or so has been one of nearly universal dissatisfaction with federal immigration policy."*

*— Jack Chin*

"Once I thought to write a history of the immigrants in America. Then I discovered that the immigrants were American history." This quote is found in the Pulitzer Prize-winning book *The Uprooted*, by historian Oscar Handlin. As a nation of immigrants, the United States has always been keenly interested in issues involving immigration, and Gabriel "Jack" Chin, a professor of law at the University of California, Davis School of Law, whose specialties include criminal law and immigration law, stated in the 48th Annual Leary lecture address that indeed, "The character of a state's population, or a nation's population, determines its fate. It matters a lot. Whether a population is large or small, community-minded or isolated, rich or poor, religious or not, highly educated or unskilled, ambitious or complacent." Chin argued that the immigration system "is not designed to stamp out immigrants altogether," but instead, "it is designed to wind up with good immigrants."

According to Chin, immigration has long been an area of conflict between the federal and state powers. This conflict has been exacerbated by recent developments. "The past decade or so has been one of nearly universal dissatisfaction with federal immigration policy," Chin said, adding that the cause of this dissatisfaction includes "economic challenges, demographic changes in the immigration stream, and . . . the presence of 10 million or more unauthorized migrants mostly from Mexico and other Spanish-speaking countries." He noted that these concerns evoke strong emotions and pose challenges

to the states: "To some, these people represent rampant illegality and invasion, an intolerable affront to the rule of law, and an unreasonable imposition on states and localities on the cost of education, policing, and providing medical care, to people who should not be here." But others, he said, "see the failure to accommodate the 10 million as an unjustifiable cruelty to people who came here for honest labor, who have a long history of working in America at our invitation, and are often part of mixed families which include U.S. citizens and lawful permanent resident members."

In attempting to address some of these challenges, many states have tried to control and restrict immigration by enacting laws through their criminal justice systems. However, Chin explained, "Direct regulation of immigration, deciding who can come in and who has to go, is an exclusive federal power. States simply



cannot issue visas or deportation orders ... our Constitution was designed to keep states out of immigration. The core idea is that immigration involves other countries and thus foreign policy."

This being the case, Professor Chin then posed a question: "What's wrong with states helping the federal government enforce their own laws?"

In response to his own question, he continued, "The Immigration and Nationality Act, or INA, is a complex regulatory regime which involves a number of discretionary decisions when dealing with an undocumented person." "The act authorizes a number of dispositions for somebody found in the United States who has absolutely no claim to lawful presence, somebody who is here clearly illegally," he explained. "There is bitter and there is sweet. They may be subject to criminal prosecution if they've entered the country without authorization. They may be subject to formal deportation. They may be required to voluntarily depart, but there are also a number of methods of relief, asylum, or cancellation of removal. There are visas for people who are in the United States with no claim of lawful presence that nevertheless allows them to stay if they are witnesses to crimes, or victims of crimes."

Chin argued that states can only respond to undocumented citizens in one way—prosecution, whereas the INA offers a wider range of responses: "There is no reason to think that the response the state chooses is the one that would have been made by the federal agencies to which the statute commits the decision."


He proceeded to explain that total enforcement is not the goal. "I propose to you that it is naïve to suggest that just because there has been a violation of law that there must be an arrest and prosecution. That's just not how the law works... Congress and the state legislatures understand, they know that the police will take rape, robbery, and murder very seriously but they are going to exercise discretion with speeding and other regulatory crimes. It's unobjectionable; it's fine that sometimes people who go seven miles per hour over the speed limit are not prosecuted. Traffic laws are designed to achieve safe streets not to be enforced for their own sake."

With this enforcement discretion in mind, it is worth noting that being in the United States without authorization is not in itself a crime, Chin said. Rather, it is classified as a petty offense. Chin argued that less than total enforcement of unauthorized entry is hardly an affront of the law. To reinforce this point, he quoted Louis B. Schwartz, the University of Pennsylvania law professor who drafted the model penal code with Herbert Wexler: "The paradoxical fact is that arrest, conviction, and punishment of every criminal would be a catastrophe. Hardly one of us would escape, for we all have at one time or another committed acts that the law regards as serious offenses."

Building on Schwartz's quote, Chin opined, "that at least from the perspective of traditional criminal justice policy and traditional immigration policy, there is nothing wrong with some significant level of reasoned, selective, under-enforcement of the law."

The United States' immigration system is amnesty-driven, he continued. "As a whole, it's clear that Congress has no tradition that merely because somebody is here unlawfully, the law must be vindicated by their deportation. The United States has always had a two-tier immigration system. Some come legally, and some come through an extra-legal tryout process, and those who come without authorization but behave like the type of immigrants that we want — they work, form families, do not egregiously disobey the law —those people are often allowed to stay."

Chin then quoted an 1876 U.S. Supreme Court case: "Has the Constitution done so foolish a thing as to leave it in the power of the states to pass laws whose enforcement renders the general government liable to just reclamations which it must answer while it does not prohibit to the states the acts for which it is held responsible? The Constitution of the United States is no such instrument. The passage of laws, which concern the admission of citizens, and subjects of foreign nations to our shores, belongs to Congress and not to the states. A silly and obstinate or a wicked commissioner may bring disgrace upon the whole country, the enmity of a powerful nation, or the loss of an equally powerful friend."

Perhaps befitting a complex topic that evokes a strong range of emotions, as Chin approached the end of his lecture, he acknowledged the inherent contradictions and complexities of the subject. "The Constitution prohibits states from directly deporting non-citizens," he said. "Given that, I don't see how the Constitution could be so loop-holed that it allows states to accomplish the same end by saying 'we can't make you leave but we can make it illegal to be here.'" 

*"What's wrong  
with states  
helping the federal  
government enforce  
their own laws?"*

*— Jack Chin*

❖ To view this event online, visit [ulaw.tv](http://ulaw.tv)

# Colloquium Series Explores Global Legal and Policy Issues

by Jacqueline Morrison and Tess Graham



*"We hope [the Colloquium] gave students an understanding of the important real-world issues from some of the most prominent scholars working in these fields and... a sense of core theoretical and methodological challenges that serious scholarship must deal with."*

*– Professor Tony Anghie*

Spring 2014 marked the second year of the International Law Colloquium organized by Visiting Professor Benedict Kingsbury and Professor Tony Anghie. The Colloquium is a formal College of Law course, and also serves as a vehicle for scholarly engagement with the broader community. Alumni, visitors from other departments, and community members are all invited to attend and participate. This year's Colloquium featured speakers exploring contemporary issues ranging from human trafficking to climate change.

The format of the Colloquium included working drafts of scholarship prepared by speakers in advance of their sessions, student responses to these drafts, and commentary by Professors Kingsbury and Anghie. Student responses were distributed to the presenters prior to each session, and provided additional substance to the discussions. Through these responses, students developed their ability to critically engage in cutting-edge academic debate. Professor Anghie said of the Colloquium "We hope this gave students an understanding of the important real-world issues from some of the most prominent scholars working in these fields and... a sense of core theoretical and methodological challenges that serious scholarship must deal with."

The semester kicked off with a keynote address for the human trafficking conference organized by Professor Erika George. Keynote Sally Engle Merry, Professor of Anthropology at New York University, shared her research and debated with students on the rise of indicator culture. She argued that the focus on quantification (of trafficking prosecutions, victims, etc.) through indicators oversimplifies the variety within human trafficking. Even the definition of a trafficked person involves choices, and these choices impact public perception and the response of governments, according to Merry. Regarding indicators such as the U.S. State Department's Trafficking in Persons Report and the Global Slavery Index, she remarked, "They both have questionable accuracy; [but] on the other hand, they also bring visibility to a problem. Countries hate to be ranked and measured in this way, but... it might spur them to do something about it."

Next, James Gathii, an acclaimed international law scholar from Kenya now teaching at Loyola University Chicago, presented his research on the East African Court of Justice. Gathii described the "doctrinal innovativeness" of the EAC. The East African Community designed the court to rule on economic integration, yet the court has positioned itself instead as an arbitrator of human rights with budding powers of judicial review. This development is unique among international tribunals and, as Gathii's noted, resists the existing literature on delegation to these types of courts.

Patricia Bromley, a Stanford University-trained sociologist of organizations who recently joined the University of Utah's Department of Political Science, presented her path-breaking work on the growth of formal organization in various social sectors across the globe. Bromley highlighted the expansion and replication of this particular form—the organization—across disparate sectors, from charities to



corporations to churches. She argued that this convergence of form in response to diverse problems cannot be explained by current literature that emphasizes either the power-preserving elements of this form, or its perceived economic efficiency. Bromley tentatively proposes a cultural explanation instead for this move toward “organization.”

Professor Odette Lienau’s presentation gave participants a peek into her newly published book, *Rethinking Sovereign Debt: Politics, Reputation, and Legitimacy in Modern Finance* (Harvard University Press). A former student of Professor Kingsbury, now a law professor at Cornell, Lienau challenged the conventional argument that governments cannot repudiate debt without incurring reputational costs that impact their access to credit. She demonstrated that access to credit after repudiation has been mediated by historical and political factors, including the competitive structure of the credit market and understandings of state continuity.

Professor Karen Knop of the University of Toronto shared her research on the 19th century Scottish scholar James Lorimer and the value of reviving the notion of “private citizens of the world.” Knop asserted that Lorimer’s category of “private citizen of the world” had been lost to modern international law, subsumed by public citizens defined by their nationality on one hand and citizens of humanity, subject to and protected by human rights, on the other. She argued that this lost category still has analytical value on the conflict and possible cooperation of laws.

Throughout the spring semester, the College of Law was fortunate to host Visiting Associate Professor Rene Uruena of Universidad de Los Andes in Bogota, Colombia. Uruena participated in the Colloquium as a commentator, a presenter, and a mentor to students. He also presented his research, “Relations Between Institutions in Global Governance,” which uses Colombia’s interaction with the International Criminal Court as a case study to explore ways in which different legal regimes and institutions interact, and the ways politics (national and international) influence these interactions.

Professor Daniel Bodansky of Arizona State University and formerly the U.S. State Department’s Climate Change Coordinator, offered the penultimate Colloquium presentation as part of the ABA-supported Natural Resources Law Forum’s conference. Bodansky’s keynote address, “Climate Change: Law and Science in Global Negotiations,” explored the role of science in policy and negotiations on global climate change. Professor Bodansky described the evolution of legal regimes from the top-down, legally binding approach of the Kyoto Protocol to the bottom-up, soft law method of the Copenhagen Summit. He argued that the next round of climate change negotiations should adopt a hybrid approach.

Finally, Kingsbury and Anghie presented their own research, which they dubbed “Ventures in Global Legal Theory.” Anghie’s work explored how practices of colonialism are



Professor Odette Lienau

reproduced in the form and operation of international law. Kingsbury’s current research brought his ongoing work on Global Administrative Law into conversation with deliberative democracy, and investigated the normative status of GAL.

The Colloquium provided students a taste of the vigorous research required in international law. The sessions were marked equally by the graciousness of Professors Anghie and Kingsbury, and by the demanding nature of their analysis. Visiting presenters engaged in lively discussion and answered thoughtful challenges from both professors and students. Through this process, students enjoyed a behind-the-scenes peek at the process of legal scholarship.

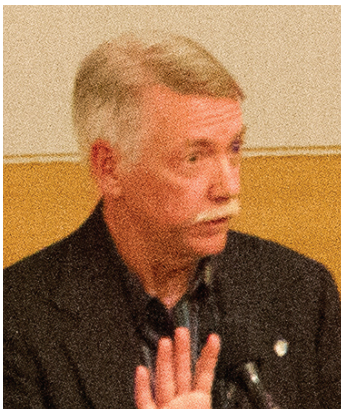
Students have developed original projects in the Colloquium, as well. One examines the historical significance of polygamy in cultures colonized by the United States. Another examines the legal landscape of international adoptions, finding complex moral questions in the “supply and demand” of vulnerable children. A third explores international regulations on pornography from competing feminist perspectives. The Colloquium’s informal but rigorous character stimulated the development of these and other exciting projects, including a paper on the subject of foreign investment authored by one of last year’s students, Griffin Weaver, that was just published in the *Creighton International Law Journal*. Professors Kingsbury and Anghie anticipate that some of this research will be published in turn, bringing students full circle as legal scholars in their own right. **U**

❖ To view many of these events online, visit [ulaw.tv](http://ulaw.tv)

# National Parks: Past, Present, and Future

## 19th Annual Stegner Center Symposium

by Kayla Bernard



*“The National Parks idea is a uniquely American idea. They are the Declaration of Independence applied to the landscape, and highlight the values that bind us together as people.”*

*— Jon Jarvis,  
Director,  
National Park Service*

The 19th annual Stegner Center Symposium, “National Parks: Past, Present, and Future,” celebrated the nearly 100 years since President Woodrow Wilson signed the National Parks Act of 1916. On March 27 and 28, 2014, an esteemed group of resource managers, scientists, authors, and academics gathered at the Salt Lake City Public Library to reflect on the current status of what conservationist, author and educator Wallace Stegner (the namesake of the Stegner Center) once described as “the best idea we ever had” — the national park system.

The symposium assembled a collection of high-caliber speakers, who as a group focused not only on the history of the national parks, but also provided ideas about how parks and park management might evolve in the future. Environmental historian Mark Fiege, the opening speaker, explored the history of the parks and how, as the parks have grown and our understanding of the environment has matured, management of the parks has shifted from a theory of absolutist conservation — man over nature — to a more inclusive, holistic approach he referred to as, “elegant conservation,” a theme that many of the speakers also touched upon over the course of the two-day event.

One of those speakers was Gary Machlis, Science Advisor to the Director of the National Park Service. Machlis first led the audience through an evaluation of what has come to be called the Leopold Report, named in honor of Starker Leopold, the celebrated scientist who chaired the committee responsible for the report. As Machlis recounted, this report has played a significant role in directing national park management for the past 50 years. In 2012, a new NPS chartered committee revisited and updated the Leopold report, concluding that today’s parks must be managed with “prudence and restraint” using the “best available and sound science” to make decisions that have “the long-term public interest” in mind.

The first day of the symposium concluded with the highly anticipated keynote address by Jon Jarvis, Director of the National Park Service. “The National Parks idea is a uniquely American idea,” Director Jarvis said. “They are the Declaration of Independence applied to the landscape, and highlight the values that bind us together as people.” Jarvis then offered the crowd his “field guide of American values as found in the National Parks” and conducted a virtual tour of many of the nation’s 401 National Parks and the values they represent.

Many of the places Director Jarvis described in his presentation are not the sites that commonly come to mind when thinking of our national parks. The value of independence, he noted, is expressed through the White House and Independence Hall, both of which are part of the National Park System. The value of equality is remembered at National Battlefield Park in Manassas; civil rights at National History Trail, Selma to Montgomery; equality at Women’s Rights National Park in Seneca Fall, NY; and democracy at Federal Hall, the Statue of Liberty, and Ellis Island in New York City. These values, Jarvis said, “are the values that bring us together as a nation and are reflected in our National Parks, the things that make us



uniquely American.”

The symposium's second day commenced with science on climate change. Healy Hamilton, lead scientist at NatureServe, a network of public-private organizations operating across the United States that provide a scientific basis for effective conservation action, explained how to think like a park manager by analyzing current climate change evidence to help manage the potential changes that will impact the environment in the future. “The National Parks are not on the sidelines of this issue,” Hamilton stated. “Out of all the federal agencies, the parks are taking a leadership role in how to confront climate change.” She explained that the National Park Service's leadership role is reflected in efforts such as the Climate Change Response program that is working aggressively to deal with the effects of climate change and what that means for the parks in terms of changing temperatures reflected in higher highs and lower lows, changing precipitation patterns, such as wetter winters and drier summers, and how these changes are currently and will continue to effect biodiversity and ecosystems within the parks.

The second day of the symposium concluded with a local perspective on national parks. Utah is home to five parks—Arches, Bryce Canyon, Canyonlands, Capitol Reef, and Zion. Panelists Kate Cannon of Southeast Utah National Parks, Ashley Korenblat of Western Spirit Cycling, Vicki Varela from the Utah Office of Tourism, and David Nimkin from the National Parks Conservation Association, discussed the particular challenges and opportunities facing Utah's natural treasures. “[Protecting open spaces] is a complex situation, particularly in Utah, because of the historic dissonance over land use,” said Vicki Varela. “The good news is that Utahns are unifying around the fact that Mother Nature played favorites with her natural resources.” The “Big 5” as Varela referred to Utah's national parks, are a major economic driver in the state. David Nimkin put the economic benefits of Utah's national parks in context when he discussed the nearly \$14 million that was lost collectively across the five parks during the government shutdown in October of 2013. Nimkin said that those losses played an important role in motivating Governor Gary Herbert and NPS Director Jarvis to strike a deal to reopen Utah's parks before the shutdown officially ended. Nimkin also reviewed many of the other substantial



challenges facing Utah's parks including air quality, energy development, mining, and climate change.

Shortly after the curtain fell on the event's final presentation, a tired but happy Professor Robert Keiter, director of the Stegner Center and the chair of this year's symposium, reflected: “As we approach the 2016 centennial of our national park system, I wanted to create a forum to explore how the system has evolved over the past 100 years and to gain a better understanding of the management challenges ahead in the face of changing demographics, climate changes, and development pressures. Our speakers accomplished this by drawing upon their diverse and extensive experience to discuss the critical scientific, political, economic, and legal issues facing the parks and to highlight the opportunities to continue expanding the system to meet tomorrow's needs.”

Through an inspiring combination of analysis and interpretation, personal anecdotes, and images of stunning landscapes, the 18 presentations that made up this year's symposium examined and attempted to clarify the many challenges the National Park Service must confront and overcome. As noted by presenters, these challenges include seasonal visitation pressures, competing and often incompatible recreational demands, intense political and economic pressures from adjoining communities, potentially destructive external development activities (including climate change), an aging and non-diverse visitor pool, and diminished financial support. And yet another issue is whether, and how, the system should grow in the future. Director Jarvis summed up the collective feeling of the event by saying, “The first century of the National Parks was about bringing the people to the parks. The challenge of the new century will be bringing the parks to the people. We must rise to the challenge of the new century while continuing the best traditions of the past.” **U**

❖ For more information, visit [law.utah.edu/stegner](http://law.utah.edu/stegner)

# Clinics, Skills Training Earn Awards and Accolades

College of Law's Programs Attract National Attention

by Barry Scholl

*"The College has done a great job of integrating our stellar academic offerings with practical hands-on skills training"*

– Emily Chiang

With many law schools facing criticism for failing to train students to practice law, a long series of recent national awards shows that the College of Law achieves the opposite result. Recent accolades include a second-place clinical program ranking in *National Jurist* magazine, an A grade on a separate *National Jurist* list of the Best Schools for Practical Training, awards in two different national moot court competitions, and a national student legal writing award, to name just a few of the College of Law's recognitions.

Associate Professor Emily Chiang, who oversees the College of Law's public policy clinic, said she isn't surprised by the College's growing list of recognitions and awards. Increasingly, she says, the College is becoming known for the breadth and depth of the education it provides and for producing students who are prepared to be lawyers when they graduate. "The College has done a great job of integrating our stellar academic offerings with practical hands-on skills training. We are providing



*Professor Ken Chahine addresses the New Ventures Clinic, one of the College of Law's many applied learning opportunities.*



the sort of legal education I wish I had received when I was in law school,” Chiang said.

### Importance of service learning

The College of Law climbed to second in the nation for student clinical opportunities, behind Yale Law School, according to data compiled by the *National Jurist* magazine and reported in the winter issue of the *National Jurist's* sister magazine, *Prelaw*. Law schools were ranked in order of most clinical opportunities and the rankings were calculated by dividing the number of clinical course positions filled by the number of students in the school. The data combined both faculty-supervised clinics and field placements of 200 law schools.

In 2012-2013, the College of Law provided 320 Clinical Program placements to its 381 students. As a result, College of Law students devote more than 40,000 hours annually to clinical work in the community.

Professor Linda F. Smith, Director of the Clinical Program, commented that the College's long history of service learning serves multiple objectives, including better-trained attorneys. “It is important for students to have community-engaged learning opportunities to prepare them for their careers, but it also fills important needs in our community for those who lack access to legal services and the justice system.”

Smith also noted that because the College of Law draws on external placements as well as clinics supervised by faculty members, it can accommodate all students who want a lawyering experience each and every semester beginning their



*Lenora Babb, '13, is currently clerking with an appellate judge. As a student, she completed internships in the College of Law's Judicial and Appellate Clinics.*

second year. “Taking advantage of the school's vast range of clinical opportunities, many students enroll in several different clinics during law school,” Smith said.

In the March issue of the *National Jurist*, the College of Law was given an A rating for its practical training. Although generally pleased with the College's grade, Smith pointed out that the College of Law's popular faculty-supervised clinics in environmental law, innocence and public policy work, were coded as “externships” in the magazine's methodology because the students often work with both faculty and supervisors from partnering non-profit agencies. Had those clinics been coded as in-house clinics, Smith believes the College's grade would have been even higher.

### Moot court successes

The effectiveness of the College of Law's advocacy training is also demonstrated by high-level awards from national moot court competitions. Following on the heels of last year's award for Best Brief at the National Moot Court Competition, at this year's competition, held February 10-13 in New York City, the College of Law's team of Jeremy Christiansen and Stephen Dent won the award for Second-Best Brief in the nation. Team coach Troy Booher said, “To put things into perspective, there were 194 briefs submitted in this competition, and the brief by our team was better than 192 of them.”

Only weeks later, the College's Environmental Law Moot Court Team of Haley Carmer, Doug Naftz and John Robinson won Best Overall Brief at the National Environmental Law

*“Taking advantage of the school's vast range of clinical opportunities, many students enroll in several different clinics during law school,”*

*– Linda Smith*



*The College of Law's Environmental Law Moot Court Team of Haley Carmer, Doug Naftz and John Robinson recently won Best Overall Brief at the National Environmental Law Moot Court Competition.*

Moot Court Competition in White Plains, New York.

That team also made the finals of the competition, meaning that they were one of the top three teams in the nation this year. "This is a terrific accomplishment, because advancement to the finals is based on the students' oral arguments at the competition," said Professor Lincoln Davies, one of the team's coaches. "Thus, the Utah team was deemed the best writers in the competition and one of the top three in terms of oral advocacy."

Finally, a second-year law student at the College of Law, Larissa Lee, recently won a nationwide student legal writing competition sponsored by *The National Law Review*. Lee's article, which won that publication's Fall 2013 Student Legal Writing Contest, focused on climate change and securities law disclosure.

### **Balancing substance and skills**

Interim Dean Bob Adler attributes the College of Law's slate of impressive and increasingly consistent results to several factors. "To begin, we must credit a very capable and hard-working student body," he said. "Our students contribute extraordinary levels of service while gaining valuable skills that will help them become better prepared for practice upon graduation."

Adler also lauded the school's "very strong" legal research, writing and analysis program, which begins with the first-year Legal Methods course that teaches students to think, read, research, write, speak, and problem-solve like a lawyer. The

emphasis on developing practical skills continues through the College's upper-division curriculum and is embodied in clinical and pro bono opportunities, simulations, advanced document drafting classes, interdisciplinary research centers, and moot court and competition teams, among others, he said.

"At a time when some law schools are under attack for not teaching students how to practice law and others are being criticized for moving in the direction of becoming trade

schools, our curriculum is designed to provide students with a carefully structured balance of substance and skills. Based on these recent recognitions and results, we believe we are moving in the right direction," Adler said.

Chiang agreed, noting that, "Students in my public policy clinic have done their share of research memos, but they have also testified before the state legislature, published op-ed

*"Our curriculum is designed to provide students with a carefully structured balance of substance and skills. Based on these recent recognitions and results, we believe we are moving in the right direction,"*

*— Interim Dean Bob Adler*

pieces, and held policy meetings with state and local officials. I can think of no better preparation for the real world than the real world." **U**



# Help Us Create a More Sustainable College of Law by Giving Green

As construction progresses on the College of Law's new building, the Alternative Visions Fund of the Chicago Community Trust provided a \$4 million gift and the opportunity for an additional \$500,000 in a matching grant. This generous gift will help create a premier facility that promotes environmentally reasonable construction and supports the College of Law's efforts to create the second law school in the U.S. to achieve LEED (Leadership in Energy and Environmental Design) Platinum Certification.


To encourage others to support the sustainability efforts in the new building, until June 30, 2014, the Alternative Visions Fund will match all donations made to the Green Building Fund, up to \$500,000! The practical effect of this matching gift is that you can double the value of your contribution to the new building!

## **The Green Building Fund supports over \$9,000,000 in sustainability features**

- ❖ Cutting-edge exterior insulation and sun shades to increase energy efficiency
- ❖ A chilled beam HVAC system and radiant floor heating
- ❖ Regenerative elevators to convert the excess energy generated by an elevator into electricity that can be used elsewhere in the building
- ❖ Efficient irrigation, on-site stormwater retention and detention
- ❖ Site landscaping accommodating both adapted and native vegetation that thrives in our desert environment
- ❖ Interior secured bicycle storage
- ❖ See more features at [buildingjustice.law.utah.edu](http://buildingjustice.law.utah.edu)

*"The sustainability features of the new College of Law building employ innovative design, materials and technology to achieve operating cost efficiencies rarely seen in even modern buildings. Sustainability is key to managing our resources and environment for the future. I urge everyone to get behind the Green Building Fund to enable the law school to accept the challenge grant from the Cultural Vision Fund and fulfill the promises this new building holds."*

*— Steven Clyde, '75*



The courtyard of the new College of Law features an innovative storm water surge system that captures runoff, allowing the water to seep back into the aquifer that heats and cools the building.

**To Give Green visit [buildingjustice.law.utah.edu](http://buildingjustice.law.utah.edu) or call Kevin Carrillo at 801-585-5500**

# Experts Debate America's Future as a Superpower

30th Annual Jefferson B. Fordham Debate

by Barry Scholl



*"If the United States does not intervene to protect the liberal and open rules-based architecture ... there is no other country that has the capability to do so."*

– Nora Benshel



*"Remaining a superpower will inevitably reinforce the most dysfunctional tendencies in American foreign policy."*

– Tom Farer

Described by Interim Dean Bob Adler in his introductory remarks as covering a "critically important" topic, the 30th Annual Fordham Debate, held on October 24, 2013, was informed by the ongoing national conversation about the United States' role in a fast-changing world.

Even the resolution itself, "Be it Resolved: That Aspiring to Be a Superpower is No Longer in the Best Interests of the United States," prompted strong reactions, according to the debate's co-organizer, Professor Wayne McCormack, who said afterward that he was "genuinely thrilled to have had the opportunity to hear distinguished experts debate the United States' role in relation to global enterprises in a civil and thoughtful manner."

Tom Farer, University Professor at the Josef Korbel School of International Studies at the University of Denver and the former president of the Inter-American Commission on Human Rights of the Organization of American States (OAS), began by observing that the topic was not "entirely free of ambiguity."

In his remarks, Farer preferred to use the term "unipower," rather than "superpower," because, he said, it "sharpens the issue." "The organizers saw [the topic] as an opportunity to reinvigorate the long-running debate over U.S. foreign policy," Farer noted. He said that debate about the United States' role in international affairs flowered after the collapse of the Soviet Union, when the U.S. "found itself alone" as a superpower in the world, but that the debate was overtaken by the events of 9/11. "And now," he said, "I think there is a chance to renew that debate."

Farer then proceeded to offer a critique focusing on the negative consequences of remaining a unipower.

"It will inevitably reinforce the most dysfunctional tendencies in American foreign policy," he opined, using the current relations between the U.S. and Iran as an unfortunate example.

"The second dysfunctional tendency . . . is what I call Manicheanism, the view that the world is divided into good and evil," Farer continued. "We don't have conflicts of interest, we have conflicts of good and bad people and governments." He said this makes compromise difficult because it's difficult to compromise on moral issues, and it make collaboration difficult. "It also leads to obsession, such as the U.S. preoccupation with the Soviet Union, which wasn't the only long-term threat to American interests. So when the Soviet Union invaded Afghanistan and we decided to make them leave by working with the Saudis to organize a Jihad against the Soviet Union, thousands of young Muslims from all over the world came to fight against the Soviet Union. Well, we did make them leave, but there were consequences which are felt to this day," Farer said.

"The third problem is that the pursuit of unipower status is at war with the institutionalization of great power collaboration," Farer said, a statement that flowed into his hypothesis that "for the first time in history, the most important interests of all of the great powers coincide." Farer said he believes that all nations





*(left to right) Nora Bensahel, Moderator Kirk Jowers, Director of the University of Utah Hinckley Institute of Politics, and Tom Farer contemplate a point during the 30th Annual Fordham Debate.*

today are faced with threats that are unique to this time in history, including mass migration, strain on water resources, state collapse, transnational terrorism, and the fragility of the global economic system. “And the only way to address these problems is through institutional leverage,” he said.

Nora Bensahel, Deputy Director of Studies and a Senior Fellow at the Center for a New American Security and an Adjunct Associate Professor in the Security Studies Program at Georgetown University, began by presenting her perspective on why, at least in the short term, the U.S. has little choice but to remain the world’s sole superpower. Early in her remarks, she clarified that the definition of “superpower” “can mean a whole lot of things in different contexts [and] brings up a cold war mentality.”

But under her definition, she emphasized, “The United States must remain a superpower.”

Bensahel then proceeded to recite a list of what superpower doesn’t mean. Among the items she included were the U.S. dominating the international system, the U.S. dictating actions to other nations, and the U.S. preferring unilateral action above all else. “It doesn’t mean the U.S. should be the world’s policeman, and it doesn’t mean military power is necessarily more important than economic power, political power, and diplomatic strength,” she clarified.

What does it mean? Put simply, she said, “The ability to project power and influence anywhere in the world and to be able to do so potentially in more than one region of the world at a time.”

“The U.S. benefits greatly from the current global order,” Bensahel noted. “Three things that are absolutely in the U.S. national interest: to deter and defend against external threats, such as maintaining the U.S. strategic nuclear deterrent; maintaining strong conventional military forces to deter at-

tacks by potential adversaries against the United States; and addressing emerging threats by non-state actors, including preventing the spread of nuclear weapons, terrorist threats, and the potential for cyber attacks on U.S. infrastructure.”

Military power and the ability to project power around the world is a critical component of protecting U.S. allies from direct attacks, Bensahel said, pointing out that the U.S. has mutual defense treaties to come to the aid of its allies. Citing examples of the NATO alliance, as well as agreements with Australia, Japan and Korea, she said, “In order to maintain those commitments with our allies around the world, we need a strong military.”

Then Bensahel moved onto what she called “the most underappreciated key national security interest of the United States,” which she said is to “promote an open and rules-based global order to protect the global economy.”

“This global order does not only benefit the United States — it directly benefits many other states in the international system, as well,” Bensahel said, quoting figures that the system of alliances and coalitions includes 60 countries accounting for more than 80% of the global Gross Domestic Product. “This unprecedented network of cooperation across many different issue areas has steadily provided the greatest levels of prosperity, security and freedom in world history, including for nations outside that network.”

As she neared the end of her comments, Bensahel said, “If the United States does not intervene to protect the liberal and open rules-based architecture . . . there is no other country that has the capability to do so.” There are many ways to do this, she said, including “trade agreements, promoting global norms of transparency and cooperation, and active political and diplomatic leadership to protect global commerce, but both of these require a strong military to deter threats.” **U**

# Inaugural Training at National Criminal Justice Academy

## Advanced Prosecutor Training at the College of Law

by Barry Scholl

*"We bring in seasoned, nationally renowned prosecutors to teach and mentor young prosecutors and, in many cases, the young prosecutors learn in a week invaluable skills that complement what they learned in law school."*

*– NDAA Executive Director  
Scott Burns*

From March 10-14, the College of Law and the National District Attorneys Associate (NDAA) hosted the first advanced prosecutor training session at the new National Criminal Justice Academy. The College of Law was selected to house the Academy by the NDAA's 105-member board after a national search. The U was chosen for its combination of excellent skills training and expertise in criminal law, as well as its easily accessible location.

College of Law administrators and faculty have worked with NDAA Executive Director Scott Burns for the past three years to make this partnership a reality. While housed in South Carolina, the NDAA had an annual budget of \$5 million and provided training to as many as 1,000 prosecutors annually in areas ranging from courtroom skills to the prosecution of homicide, child abuse and domestic violence.

Interim Dean Bob Adler said, "We are delighted that NDAA has chosen to partner with us to provide training for prosecutors across the country. America's prosecutors face difficult challenges in an increasingly complex system of criminal justice. Working in tandem with the NDAA, the College of Law can help provide training to meet these challenges. At the same time, these training programs will benefit our faculty and students as we bring both veteran and newer prosecutors to our campus."



*(left to right) NDAA faculty members Sylvia Lafferty and Veryl Gambino, with student and Missouri Prosecutor Nicholas Hinrichs.*





(left to right) Professor Paul Cassell, NDAA Executive Director Scott Burns, Salt Lake County District Attorney Sim Gill and Interim Dean Robert Adler.

As the initial session neared its conclusion, Professor Paul Cassell reflected, “Having 30 prosecutors from all over the country at the College of Law was certainly exciting. And it was particularly interesting to watch the interactions with some of our students, who played a role in the mock trials of the prosecutors. The students were all defense witnesses, who were then cross-examined by prosecutors as part of their training. This gave our students some experience in what criminal trials are like and the challenges that attorneys face in extracting information from witnesses. I’m excited to continue building on our joint work together with the NDAA, to provide both great training for prosecutors and learning opportunities for our students.”

Like Cassell, Scott Burns welcomes the new partnership: “The first course at the new National Criminal Justice Academy was a great success. Young prosecutors from 30 different states came together on a Sunday night as strangers and left a week later as colleagues and friends for life.” Burns added that, “The best part of these courses is that we bring in seasoned, nationally renowned prosecutors to teach and mentor young prosecutors and, in many cases, the young prosecutors learn in a week invaluable skills that complement what they learned in law school.” Burns also praised the College of Law staff and, in particular, Professor Paul Cassell for his tireless work to make this Academy a reality.

Salt Lake County District Attorney Sim Gill is also an enthusiastic supporter of the new joint effort. “This opportunity for our state and local prosecutors brings world-class training

to our doorstep. As the head of the largest criminal prosecuting agency in the state of Utah who has committed his office to invest in the professional development of our attorneys, this facility will be an incredible asset to us and our community,” Gill said.

The National Criminal Justice Academy is currently funded by a \$1.175 million grant from the Department of Justice, which pays for participants’ airfare, lodging and per diem while they are in Salt Lake City. The NDAA, University of Utah, National Association of Attorneys General, American Bar Association and district attorneys from across the country are currently working to sustain permanent funding for the academy and to make Salt Lake City the training home of America’s prosecutors. **U**

❖ To learn more about this program, visit [law.utah.edu](http://law.utah.edu)

*“I’m excited to continue building on our joint work together with the NDAA, to provide both great training for prosecutors and learning opportunities for our students.”*

*– Professor Paul Cassell*



# The Women's Law Caucus:

Realizing Achievement and Equality for Women Lawyers Since 1975

by Matthew Pierce

*The Women's Law Caucus was formed in 1975 "to make sure that women were being included and promoted in the legal profession."*

*– Judge Judith Billings, '77*

*This is the first in a series of features on some of our longstanding student organizations.*

The Women's Law Caucus (WLC) at the College of Law has been advocating and providing support for women entering law school and the legal profession for nearly 40 years. The organization began during a time of great social change in the legal profession, mirroring a national movement for women's equality in the workforce. According to the Honorable Judge Judith Billings, an early WLC member, the organization was founded "to make sure that women were being included and promoted in the legal profession" by "encouraging young women to apply to law school" and "meet[ing] with local law firms" to "encourage them to hire and promote women." Over its lifetime, the group has addressed numerous social issues, and it contributes to a legacy of pioneering women in the legal profession by annually awarding the Reva Beck Bosone Scholarship, named in honor of the College of Law's first woman graduate and Utah's first woman elected to Congress. The group's role of support and advocacy remains strong today, encouraging continued progress for women in the law.

The WLC was launched in 1975, just as women were establishing a greater presence in the legal profession, which was male-dominated until the last half of the twentieth century. Billings, '77, recalls that "no woman was a major partner at a law firm at that time" in Salt Lake City, and although "it wasn't necessarily more difficult for women to get jobs, it was harder for women to accommodate having a family and working in a law firm." From 1970-1980, the percent of first-year

women students in law schools nationally rose from 10% to 37%, according to *Women in the Law: A Look at the Numbers*, a 1995 report published by the American Bar Association Commission on Women in the Profession, and the percent of practicing women lawyers rose from 3% to 8% the following decade. The percent of women lawyers is at one-third today, according to *A Current Glance at Women in the Law*, a 2013 report from the same commission. Providing support and advocacy for this new generation of professional women has been and continues to be a point of focus for the WLC.

Desire Allen, the WLC's current president, points to the group's relationship with Women Lawyers



*(left to right) 2013-14 WLC officers Kyler O'Brien, Blake Van Zile, Brit Merrill, Desire Allen and Aenon Johnson.*

of Utah, a group established in 1981 to promote the advancement of women in Utah's legal profession, as particularly important in this regard. "WLU has warmly welcomed WLC members into their community of outstanding women, significantly enhancing law students' opportunities for networking and support," Allen says, offering this year's WLU Spring Social, attended by more than 25 WLC members, and a recent standing invitation to the WLU Retreat at the St. Regis in Park City, as examples. Allen also highlights the WLC's current activities: recent and future events include a panel discussion on work-life balance held last fall and an upcoming event inviting recent women graduates to talk about their post-law school career experiences. Opportunities for professional advancement emerge from associations at these events. "Both then and now," Billings says, "women who group together develop support and friendship among one another, which is very important for their lives and careers."

The Women's Law Caucus also has a legacy of addressing social issues of interest to women. It has presented conferences on topics such as *Sex, Violence, and the Law* (1984), *The Criminal Justice System: Pressures and Problems* (1985), and a seminar on rape law in 1987, after which it drafted a bill that changed the consent provision in Utah's rape law to require lack of consent rather than earnest resistance. Other presentations have addressed topics such as professional parenting, juggling families and careers, and the obstacles faced by professionals with disabilities.

The group also encourages leaders by awarding the Reva Beck Bosone Scholarship, first offered in 1984 and named after the College of Law's first woman graduate (Class of '30), to outstanding first- or second-year members of the caucus. Recent scholarship recipient Scarlet Smith (Class of 2014) was both inspired and empowered by receiving the award: "Reva Beck Bosone worked for what she felt was right and . . . used her legal training to improve the world around her," Smith said. Receiving the award introduced Smith to "a network of incredible women lawyers in the Salt Lake community who were ready to stand as mentors" and help her accomplish her goals. She was able to present her work on sex trafficking and exploitation at a human trafficking conference at the University of Nebraska thanks in part to the Reva Beck Bosone scholarship.

Although much progress has been made when it comes to gender equality in the legal profession, persistent challenges remain. The WLC, in partnership with other groups like the WLU, is addressing these challenges by continuing to encourage the professional and personal development of the remarkable women it supports. In 1978, when Billings earned her J.D., Christine M. Durham had just been appointed to the Third District Court. Since that time, other women have ascended to the bench and achieved prominence in local law firms. As more women follow these paths and break new ones, the WLC and its members continue to lead the way. **U**

❖ To learn more, visit [history.law.utah.edu](http://history.law.utah.edu)



(left to right) 1987 WLC officers Meg Miller, Kathryn Wiser, Kate Kendell, Susan Barnum, Lisa Jones.



# Kendell Encourages LGBT Supporters to Build Alliances

1988 Graduate Urges Tolerance and Understanding

by Barry Scholl

*"I was not out when  
I was in law school.  
There were no openly  
gay law professors.  
Gay rights and progress  
for LGBT people were  
something that happened  
somewhere else."*

– Kate Kendell, '88



In a wide-ranging January 21 lecture that encompassed personal experience, political activism and legal analysis, Kate Kendell, Executive Director of the National Center for Lesbian Rights and a 1988 College of Law graduate, encouraged the near-capacity audience in the Sutherland Moot Courtroom to build alliances and repeatedly voiced her view that same-sex marriage will one day be legal in Utah, opining at one point that, "Justice and equality and dignity and humanity will always win out."

Speaking at the invitation of the LGBT-focused OUTlaws student organization and with the ongoing debates in Utah over same-sex marriage as a backdrop, Kendell described how moving it was to be back in her home state at this moment and said that she asked herself "How in the world is it that Utah has leapt to the forefront of the vanguard of the LGBT civil rights movement?" After allowing a moment for audience applause to dissipate, she proceeded to answer her own question by pointing to Utah's emphasis on family relationships.

"There are many of you here who I know ... and there are many of you here who I am meeting for the first time. But if we had just a little time together, all of us, in very short order, we would all be family. That is why Utah is in the place that it is." She described Utah as a state that values and puts a premium on "meaningful, deep relationships. That trumps everything."

Given the state's family focus, Kendell predicted that, at some undetermined time in the future, "Utah . . . will be a state that fully values and provides protection for and dignity for every single married couple in the state."

## A sea change

Kendell then traced the development in LGBT civil rights since 1988, the year she graduated from the College of Law. "I was not out when I was in law school. There were no openly gay law professors. Gay rights and progress for LGBT people were something that happened somewhere else," she said.

Despite the existence of a supportive LGBT community in Utah, "You knew there was enormous peril in coming out," she continued. "I was convinced that if I came out during law school, I





*OUTLaws Vice President Amy Shewan (left) and President Jeffery Mathis (right) with '88 alumni Kate Kendell (center).*

would not get a job, so I didn't, but around the country it was not all that much different."

Even in popular culture, Kendell said, there was no representation. "There was no *Glee*, there was no Jane Lynch, there was Elton John, but he was still in the closet," she quipped, prompting laughter from the audience.

In the past quarter-century, by contrast, Kendell said there has been tremendous progress. "Look where we are now. We live in a country . . . where tens of thousands of conversations happen every single day about the realities of our lives, we live in a country where 18 states . . . recognize the rights of same-sex couples to marry. It has been a sea change, in what feels to me like the blink of an eye in my life."

Kendell then outlined the course of the changes she described. During the first phase of the modern LGBT movement during the 1970s and '80s, "We were organizing ourselves. We were fighting back against injustice." During the second phase, which began in the 1980s and continued into the '90s, "people who love the people who are marginalized, who are stigmatized . . . stand up and speak out for us—our parents, our siblings, our friends, our coworkers." The next phase, "the phase we're in right now," in Kendell's words, is when the "unlikely allies show up. The people you did not expect would stand up for you." By way of example, she pointed to President Obama coming out in support of the rights of same-sex couples to marry.

### **Tolerance and understanding**

As she concluded her remarks, Kendell encouraged supporters of same-sex marriage rights to practice tolerance and understanding.

"I know there is very toxic opposition here in Utah," Kendell said. But she exhorted her audience, "not to give [opponents'] power. Do not give any of them power, because we know how this ends."

Rather, she encouraged supporters to focus their efforts on those who might still be struggling with LGBT rights. "Your part of seeing to it that this ends the way we know it's going to, sooner rather than later, is to engage them. You have a conversation, no matter how threatening it is, no matter how much it might hurt, you continue to believe that truth and joy and embrace will win out," Kendell said. **U**

❖ To view this event online, visit [ulaw.tv](http://ulaw.tv)

*"How in the world is it that Utah has leapt to the forefront of the vanguard of the LGBT civil rights movement?"*

*— Kate Kendell, '88*

# Overheard from Distinguished Visitors



*“I would like to see a freer discussion of philosophical questions; a broader, more tolerant attitude; a deep respect for others; and a truly strong intellectual atmosphere.”*

– Michael McConnell, (quoting longtime College of Law Dean William H. Leary) suggesting a slogan he would like to see emblazoned on the College’s new building.  
College of Law Centennial Symposium,  
September 20, 2013

❖ To view these events online, visit [ulaw.tv](http://ulaw.tv)



*“Law and public policy increasingly turn to social science to provide guidance as to the real world on which policies can be made. We need to start to talk more accurately about what the science shows and try to formulate policies and laws that accurately reflect the nature of the population.”*

– Lisa Diamond, “Fluidity & Sexual Orientation”  
Changing Sex/Changing Sexuality Symposium,  
January 31, 2014

*“If you want to determine whether something is patentable ask yourself, where did it originate? Where did the thing being patented originate? Did it originate in someone’s blood or did it originate in someone’s mind and did they use a chemical or machine to create it? I would argue those are two very different things, even if the two molecules ultimately look very similar, or even the same.”*

– Benjamin Jackson, Panelist  
A Delicate Balance of Innovation and Access: The Future of Gene Patenting, November 1, 2013





“To maintain a strong and prosperous country we need a well functioning government. We also need a well functioning private sector...

We don't get much done in our system of government and our economy without the two working together. We require men and women in government who understand the importance of understanding disputes and achieving consensus.”

– Former U.S. Sen. Jeff Bingaman, Keynote Address  
Law Review Symposium: Governing the U.S. in 2020,  
November 8, 2013

“I believe it's our jobs as lawyers, as law students, as teachers of the law, to constantly remind our colleagues, our students, and ourselves that the law is not a brooding omnipresence in the sky but rather it is the voice of power.”

– Paul Lombardo, Panelist  
The Other Side of Reproductive Rights: The Untold Story  
and Ethics of Modern Eugenics, February 28, 2014

“Watch for moments when taking a risk is worth it, when the potential to connect on a human level might open the door to common ground. Academic education and professional training can provide a good foundation, of course, but it is your own stories of your struggles in conflict that will mean the most.”

– Lucy Moore, “Common Ground from Hostile Turf:  
Stories from an Environmental Mediator”  
Wallace Stegner Center Lecture, February 6, 2014



“I argue our courts and our legal advocates, and our political and regulatory systems, will not and cannot be enough. They will not be what saves our fresh waters for future generations and ecosystems. So courts, lawyers, and rules all have their vital roles but I have come to see the most important solution as the embrace of a water ethic in the United States.”

– Cynthia Barnett  
Blue Revolution: Unmaking America's Water Crisis.  
Wallace Stegner Center Lecture, January 29, 2014

# Student News



Larissa Lee

2L **Larissa Lee** recently won *The National Law Review's* Fall 2013 Student Legal Writing Contest. Her winning submission, "We're Getting Warmer: Why Advising Clients to Disclose Material Risks Associated with Climate Change is Best Practice," deals with climate change and securities law disclosure.

2L **Rebekah**

**Wightman** published an op-ed in *The Salt Lake Tribune* titled "Legislature should protect girls in polygamy." She was inspired to write the editorial by Professor Amos Guiora's guest lecture in her Human Rights class when he discussed the issues with protecting vulnerable women and children within the polygamous communities in Utah.



Rebekah Wightman

In January, Professor Paul Cassell argued before the United States Supreme Court in a case involving the restitution for victims of child pornography crimes. Third year students **Jeremy Christiansen** and **Taylor Mosolf** traveled with Cassell for the argument. Both were also involved in helping to draft the brief in the case.

On October 20, four students in Professor Emily Chiang's Public Policy Clinic, 3L **Trace Downey**, 3L **Mary Milner**, 3L **Maureen Minson** and 2L **Christopher Pieper**, published an op-ed in *The Salt Lake Tribune*. The editorial, "Don't suspend kids for behavior; it makes them drop out," focuses on the "overuse of discipline in schools" a practice that the authors argue contributes to high dropout rates and other societal ills.

2Ls **Mark Arrington** and **Shaun Mathur** advanced to the national AIPLA Giles Sutherland Rich Memorial Moot Court

Competition with a second-place finish at the regional competition in Silicon Valley. The team's briefs won third-place overall. In oral arguments, they defeated teams from the University of San Francisco, the University of Pennsylvania, and George Washington University. Arrington and Mathur lost in the finals to a strong University of Washington team.

2L **Jason Chandler**, 3L **Liesel Le Cates**, 2L **Amanda Mendenhall**, 2L **Jess Morrison** and 2L **Stephanie Pitcher** turned in a superior performance at the Jessup International Law Regional Mooting Competition. The team very narrowly missed out on advancing to the final rounds.

An article written by 2L **Brett Hastings** as a "self-imposed research and writing project" was accepted for publication in *The Marquette Elder's Advisor Law Review*. The article, "Taxation without Limitation: The Prohibited Pretext Doctrine v. The Sebelius Theory," is scheduled to appear in the journal's Spring 2014 edition.

3L **Scarlet Smith** received the Pi Alpha Alpha Master Student Manuscript of the Year Award for a



Brett Hastings



Scarlet Smith



Liesel LeCates





Douglas Naftz

paper she wrote in Professor Teneille Brown's Health Law and Human Rights class.

3L **Liesel LeCates** published an article in *The Jurist* titled "A Fair Judiciary Amidst Egyptian Turmoil."

A paper 3L **Douglas Naftz** wrote for Professor Robin Craig's Water Law course, "Transboundary Deposition of Naturally Occurring Asbestos from the United States

into Canada: A Case Study and Analysis of Possible Legal Responses," was recently awarded third place in the Smith-Babcock-Williams Writing Competition.

The weekend of February 8, the College of Law participated for the first time in the Saul Lefkowitz Trademark Moot



Daniel Black

Court Regional Competition in Dallas, TX. Facing well-prepared competition, team members **Tom McCosh** and **Adam Pritchard**, both 2Ls, performed very well.

Working alongside an attorney mentor, 3L **Daniel Black** a student volunteer in the Pro Bono Initiative's Street Law Clinic, provided relief for a client who faced eviction from her home based on a misunderstanding

ing compounded by a language barrier.

Students in the Wallace Stegner Center Environmental Dispute Resolution Program (EDRP) contributed to the writing, editing and research on a new report addressing homelessness and related issues in downtown Salt Lake City. The EDRP's Situation Assessment Team included faculty members



Maureen Minson

Michele Straube and Jamie Pleune, as well as 2L **Melissa Reynolds** and 3Ls **Jason Steiert**, **Haley Carmer** and **Shane Stroud**. The report was produced for the Salt Lake City Mayor's Office and Community and Economic Development.

The College of Law's 2014 ABA Advocacy in Mediation Competition Team **Logan Daniels**,

**Hillary Pavia**, **Blake Johnson**, and **Thomas Parkin**

ably represented the College of Law March 1-2 in a regional competition at the University of Houston.

2L **Ashley Biehl**, 3L **Haley Carmer**, 2L **Jason Chandler**, 3L **Scott T. Hutchins**, 1L **Alexandra Mareschal**, 3L **Douglas Naftz**, 1L **Margaret Osswald**, 2L **Melissa Reynolds**, 3L

**John Robinson** and 2L **Kathryn A. Tipple** were selected as Law Student Scholars at the ABA SEER 43rd Annual Spring Conference on Environment, Energy, and Resources Law, which was held in March in Salt Lake City.

3L **Maureen Minson** was the recipient of the Utah State Bar's 2014 Pro Bono Public Law Student Award. In its notification, the Bar cited Minson's "hard work furthering access to justice to all of those in our community." Minson served as the Volunteer Student Director of both the Street Law Legal Clinic and Rainbow Law Clinic.

2L **Mark Capone** co-authored a paper in the journal *Micronesica* documenting new species on coral reefs in Guam. Using mixed gas deep diving techniques, Capone and his co-author identified over 100 species that were previously unrecorded from the area, in addition to many species not previously recorded for the entire island.

2L **Kate Tipple**, the 2013-14 president of the College of Law's Natural Resources Law Forum, was the spotlighted student member in the ABA's Seer (Section of Environment, Energy, and Resources) Newsletter for April 2014.

2L **Jade Fisher**, a student in the College of Law's Public Policy Clinic, published a letter in *The Salt Lake Tribune* titled "Racism is apparent in school suspension data." The letter dealt with data that suggests minority students are disproportionately disciplined in schools. **U**



Mark Capone



Kate Tipple

# Class Action

## Alumni News



John Carpenter

**John O. Carpenter**, '13, joined Workman Nydegger, where he will focus on U.S. patents. In addition to his law degree, he was the first blog editor of the Student Intellectual Property Law Association.

**Richard Burbidge**, '72, served as the dean of the International Academy of Trial Lawyers from February 2013 to February 2014, and is currently the Academy's vice president. The Academy is an "by invitation only" organization of the finest trial lawyers in the country. Membership is limited to 500 active trial lawyers in the U.S.A. and a membership of Fellows in 32 foreign countries who are leading trial lawyers. Burbidge is the Managing Partner of the Salt Lake City firm Burbidge Mitchell & Gross.



Richard Burbidge

**David R. York**, '97, and **Andrew L. Howell**, '02, have opened a Park City office of their firm, York Howell Attorneys at Law. Both York and Howell received their undergraduate business degrees, as well as their law degrees, from the University of Utah.

**George Haley**, '78, a litigator at Holland & Hart, has been elected as a Fellow of the International Society



Scott Wyatt

of Barristers, an honor society of outstanding trial lawyers chosen by their peers on the basis of excellence and integrity in advocacy. Fewer than 700 lawyers are members of the International Society of Barristers.

**Scott Wyatt**, '90, was named the 16th president of Southern Utah University by the Utah Board of Regents. Previously, he was the president of Snow College, and prior to that, a partner in the Logan firm of Daines & Wyatt.

**Scott Beckstead**, '91, was profiled in the Winter 2013-2014 Issue of *Continuum* magazine. The article, written by Associate Editor Ann Floor, focuses on Beckstead's work on behalf of animal rights, as well as his expertise in the field of animal law.

**Bryant Keller**, '07, was elected a shareholder at the law firm of Kirton McConkie. He is a member of the firm's Intellectual Property section.

**David K. Heinhold** and **Cory D. Sinclair**, both '06, have been named shareholders in the Salt Lake City office of Parsons Behle & Latimer. Heinhold is a member of the firm's litigation department and concentrates his practice on commercial, banking and real estate law. Sinclair is a member of the litigation department and concentrates his practice on anti-trust, intellectual property, commercial litigation and damage-related issues.

**Lisa Ramsey Adams**, '86, is serving her first term as a Salt Lake City Council Member. She was elected by voters to represent District



Scott Beckstead



Paul Taylor



Seven in November 2013.

**Paul N. Taylor**, '05, has been named equity shareholder at Workman Nydegger. Taylor, a registered patent attorney, is secretary of the Utah State Bar Intellectual Property Law Section.

**Alex Natt**, '96, was named VP and General Counsel for the U.S. Ski and Snowboard Association (USSA), the national governing body for Olympic skiing and snowboarding. A native of Yonkers, New York, he attended the University of Chicago and University of Vermont, where he earned his undergraduate degree, before attending the College of Law.

**Carolyn McHugh**, '82, was appointed to the Tenth Circuit Court of Appeals on March 17, 2014. McHugh was nominated by President Barack Obama on May 16, 2013 and renominated on January 16, 2014. Her nomination was confirmed by the U.S. Senate on March 12. After graduating from the College of Law, McHugh clerked for Judge Bruce S. Jenkins of the U.S. District Court for the District of Utah. She then entered private practice and was later appointed to the Utah Court of Appeals, most recently serving as presiding judge.

**Daniel Jensen**, '88, was named president of Parr Brown Gee & Loveless. He practices natural resources law focusing on helping clients with water, mining, oil and gas, public land and administrative law matters. He has served as Chair of the Utah State Bar's Energy, Natural Resources and Environmental Law Section as well as Chair of the Water Law Committee and Chair of the Mining Law Committee within that section.

**Zaven Sargsian**, '13, published an op-ed in *The Salt Lake Tribune* titled "Will government's new crowdfunding rules help or hurt Utah?" Sargsian explained that he was inspired to write the editorial by his desire to "increase public understanding." **U**



Carolyn McHugh



Daniel Jensen



## In Memoriam

### Rita Fordham

Rita Fordham died at home on December 5, 2013. Rita was hired in 1957 as the administrative assistant to Daniel Dykstra, Dean of the College of Law. She managed the Dean's office, maintained the law school's records, and supported a demanding faculty. In the summer of 1963, she met Jefferson B. Fordham when he was a visiting Professor at the College of Law. Rita and Jeff were married on March 21, 1964 and they lived in Philadelphia while Jeff was Dean of the University of Pennsylvania Law School. In 1970 Rita and Jeff returned to Salt Lake City where Jeff began his 19-year tenure as Distinguished University Professor of Law at the University of Utah.

Rita and Jeff endowed the annual Fordham Debate at the College of Law and the College's Fordham Loan Forgiveness Program to help law school graduates employed in the public sector to repay their student loans. Rita also was a proud member of the University Women's Club.

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## Distinguished Visitors 2013-2014

**Katrina Kuh**, Hofstra University School of Law • **Bob Inglis**, George Mason University

**Franita Tolson**, Florida State University College of Law • **Michael McConnell**, Stanford Law School

**Darren Rosenblum**, Pace Law School • **Former Chief Justice Michael D. Zimmerman**, Zimmerman Jones Booher LLC

**Judge William B. Bohling**, Bohling Mediation, LLC • **Judge Royal I. Hansen**, Third District Court

**Senator Stephen H. Urquhart**, Utah State Senate • **Curtis M. Jensen**, Snow Jensen & Reece, P.C.

**Rodney G. Snow**, Clyde Snow • **Brett G. Scharffs**, Brigham Young University, J. Reuben Clark Law School

**Keith A. Call**, Snow, Christensen & Martineau • **Linda M. Jones**, Zimmerman Jones Booher LLC

**Mary Jane Ciccarello**, Utah State Courts Self-Help Center

**Beth A. Hansen**, Brigham Young University, J. Reuben Clark Law School

**Abby M. Dizon-Maughan**, Arnold & Wadsworth • **Jacque M. Ramos**, J. Ramos Law Firm P.L.L.C.

**Courtenay Strong**, University of Utah • **Tage Flint**, Weber Basin Water Conservancy District

**Vicki Bennett**, Office of Sustainability, Salt Lake City • **Jerry D. Spangler**, Colorado Plateau Archaeological Alliance

**Sandra S. Park**, American Civil Liberties Union • **Sim Gill**, Salt Lake County District Attorney

**Nora Bensahel**, Center for a New American Security • **Tom Farer**, Josef Korbel School of International Studies

**Kirk Jowers**, University of Utah • **Bob Rubin**, Hollywood2Go • **Jeffrey A. Korchek**, Mattel, Inc.

**Julie Spielberg-Senet**, Van Cott, Bagley, Cornwall & McCarthy • **Roger L. Armstrong**, Roger L. Armstrong, Esq.

**Paul H. Robinson**, University of Pennsylvania School of Law • **D. Brian Dawson**, Mayo Clinic • **Elaine Lyon** ARUP

**Wendy Kohlmann**, Huntsman Cancer Institute • **John Mejia**, ACLU of Utah • **Benjamin Jackson**, Myriad Genetics

**Jon Michaels**, UCLA School of Law • **Jason Mendenhall**, Switch • **Tom Thomas**, Thomas & Mack

**Justice Christine M. Durham**, Utah Supreme Court • **Holly Fechner**, Covington & Burling LLP; Harvard Kennedy School

**Lou Fisher**, The Constitution Project • **Michael Gerhardt**, University of North Carolina School of Law

**Roderick Hills**, NYU School of Law • **Leslie Pollner-Levey**, Holland & Knight

**David Menefee-Libey**, Pomona College • **William P. Marshall**, University of North Carolina School of Law

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# Historical View

The College of Law's legacy in photos



(Clockwise from the top) 1: First Fordham Debate with Jefferson Fordham and Donald Hoaglund. 2: Mike Zabriskie and Mike Glover, 1992 SBA Elections. 3: (left to right) D. J. Baxster, Valerie Warner, Kathryn Lamat, Jerry Petty. 4: 1985-86 SBA Officers, (left to right) George Ventura, Michael Duncan, Robbie Riley, Andy Stone, Nelda Bishop, Chris Mancini.



Correction: In the Winter 2014 issue of Res Gestae, the photo of Jon Harper unveiling a black velvet painting of John Belushi was misidentified. Res Gestae regrets the error.





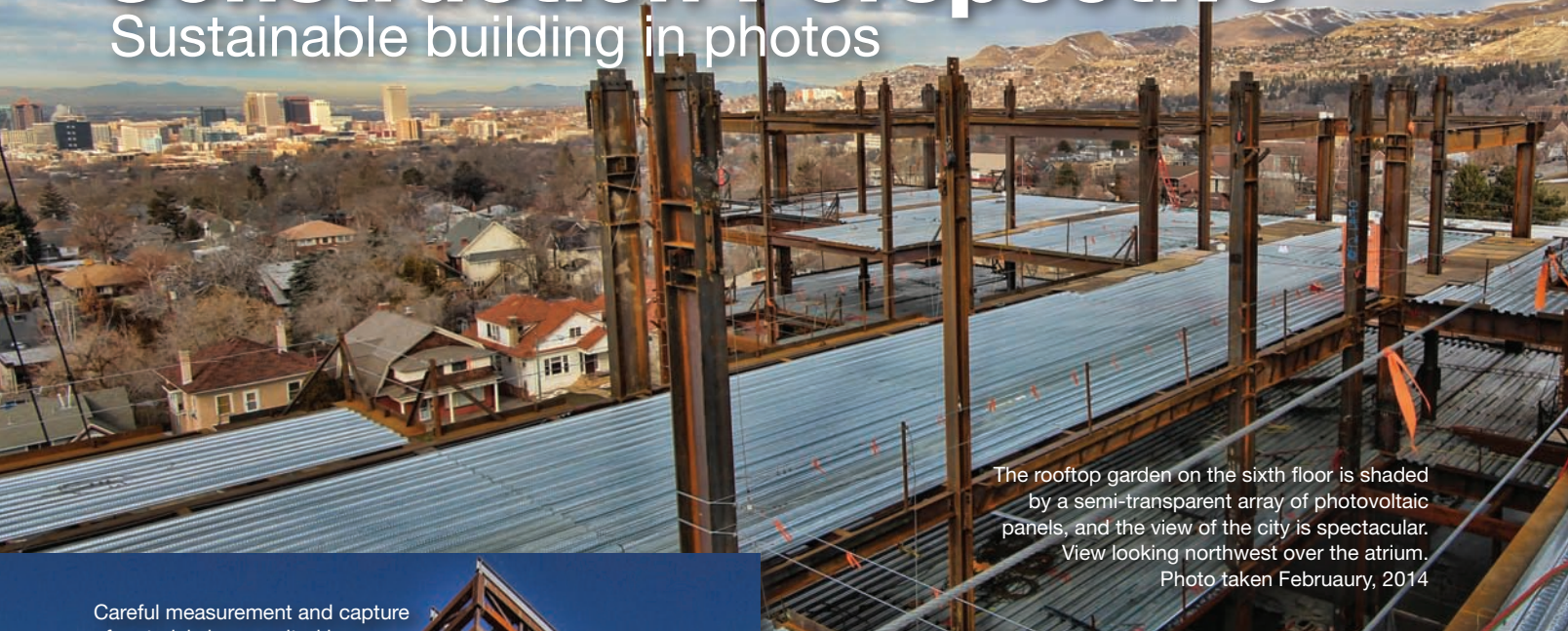
*(Clockwise from the top) 1: Robert Swenson and Rita Fordham 2: Victoria Garcia '93 and her sister. 3: Jerry Anderson and Jefferson Fordham 4: Robert Swenson. 5: Class of '88 Graduates celebrate at Senior Breakfast, Snowbird, Utah. 6: Chili cook-off sponsored by the Native American Law Student Association (NALSA) and the Public Interest Law Organization (PILO).*





# Construction Perspective

Sustainable building in photos



The rooftop garden on the sixth floor is shaded by a semi-transparent array of photovoltaic panels, and the view of the city is spectacular. View looking northwest over the atrium. Photo taken February, 2014

Careful measurement and capture of materials has resulted in a current recycle rate of 82 percent of construction waste. Photo taken April 2014.







The main entry and grand stairs on the first floor skylight a six-story atrium in view of the study areas, library and advanced research areas.  
Photo taken April, 2014



The rooftop garden and Moot courtroom will offer incomparable views of the Salt Lake Valley.  
Photo taken March, 2014



Construction of a gray water capture tank under the first floor. Water from the lavatories and showers sinks will be captured, treated and used to flush low-flow toilets in the building.  
Photo taken April, 2014





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# From the President



Dear Alumni and Friends,

The College of Law continues to make us all proud with its accomplishments. On March 10, 2014, the National District Attorneys Association (NDAA) announced that the new National Criminal Justice Academy will be located at the College of Law. The academy was established to train district attorneys and assistant prosecutors from across the country and was formerly located in Columbia, South Carolina. After a nationwide search, Salt Lake City and our College of Law were selected by the NDAA's 105 board members for its combination of excellent skills training, expertise in criminal law, and easily accessible location. Nine different weeklong courses are currently scheduled at the Academy over the next year and participants will receive instruction from a faculty drawn from the best prosecutors in the nation. The NDAA, University of Utah, and district attorneys from across the country are currently working to secure permanent funding and to make our law school the training home of America's prosecutors.

In addition, the Law School was ranked second in the nation for student clinical opportunities, just behind Yale Law School. The rankings were reported in the winter 2014 issue of the *National Jurist's* sister magazine, *PreLaw*. As noted by Professor

Linda Smith, Director of the College's Clinical Program, "[t]his recognition affirms our long-standing commitment to preparing students for practice by providing myriad opportunities for hands-on learning." In recent years, the College of Law has expanded its well-regarded externship program by adding international experiences, work with new ventures, and appellate practice opportunities. The college has also added faculty-supervised clinics in environmental law, innocence, and public policy work. As a result of these programs, our relatively small student body dedicates more than 45,000 hours of service per year to our community while learning critical practice skills.

*"The College of Law continues to make us all proud with its accomplishments."*

The College of Law's Environmental Moot Court team performed exceptionally well in the Pace National Environmental Law Moot Court Competition held February 20 – 22 in White Plains, New York. This year, 76 schools competed. The College of Law team won the award for Best Overall Brief in the competition and also made the finals. This means they were one of the top three teams for oral arguments in the nation this year. Thus, the team was deemed the best writers and one of the top three in terms of oral advocacy. The competition uses cutting-edge issues of environmental law and the students in the competition are required to argue all three sides of the problem, an environmental plaintiff, an industry defendant, and the government. This approach encourages the student to see all sides of the issues and advocate from multiple perspectives. This achievement is further evidence that the College of Law has one of the very top environmental law programs in the nation.

As a result of achievements such as these, the College of Law retained a strong position in the 2014 *U.S. News* rankings, staying in the top tier of law schools. For schools with fewer than 500 students, the College ranked 9<sup>th</sup> in the nation overall. The Wallace Stegner Center for Land, Resources and the Environment maintained its strong position and was ranked the 13<sup>th</sup> best Environmental Law program in the nation.

I would like to thank all of you who continue to support the College of Law. Your contributions allow the College to adapt to the changing needs of legal education.

Sincerely,

A blue ink signature of Vicki M. Baldwin, written in a cursive style.

Vicki M. Baldwin

President, Alumni Board of Trustees



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