



A catalog of the faculty's significant publications and presentations in 2008.

faculty FOOTNOTES

LARRY ALEXANDER
ROY BROOKS
KAREN BURKE
NANCY CAROL CARTER
LAURENCE CLAUS
DONALD DRIPPS
ROBERT FELLMETH
RALPH FOLSOM
C. HUGH PRIEDMAN
WALTER HEISER
GAIL HERIOT
YALE KAMISAR
ADAM KOLBER
WILLIAM LAWRENCE
BERT LAZEROW
ORLY LOBEL
LESLEY K. MCALLISTER
GRAYSON M. P. MCCOUCH
JOHN H. "JACK" MINAN
GRANT H. MORRIS
FRANK PARTNOY
MICHAEL PERRY
SAIKRISHNA PRAKASH
LISA P. RAMSEY
MICHAEL D. RAMSEY
MICHAEL B. RAPPAPORT
STEVEN D. SMITH
LESTER B. SNYDER
EDMUND URSIN
JORGE A. VARGAS
MARY JO WIGGINS
FRED ZACHARIAS



Three books by **Larry Alexander** were recently published: *Demystifying Legal Reasoning*, (with Sherwin) (Cambridge University Press, 2008),

A Defense of International Legal Interpretation (with Prakash) (Cambridge University Press, 2009) and *Crime & Culpability: A Theory of Criminal Law* (with Ferzan and Morse) (Cambridge University Press, 2009). Professor Alexander's published articles for 2008 include: "Tempest in an Empty Teapot: Why the Constitution Does Not Regulate Gerrymandering" in 50 *William & Mary Law Review* 1 (with Prakash) (2008); "What is Freedom of Association, and What Is Its Denial?" in 25.2 *Social Philosophy and Policy* 1 (2008), reprinted in *Freedom of Association* (Cambridge University Press, 2008); "Law and Philosophy at Odds" in *On Philosophy in American Law* (with Sherwin) (Cambridge University Press, 2008); "Constitutionalism and Democracy: Understanding the Relation" in *The Supreme Court and the Idea of Constitutionalism* (University of Pennsylvania Press, 2008); "Fletcher on the Fault of Not Knowing" in *Essays on Criminal Law* (with Ferzan) (Oxford University Press, 2008); "Constitutions, Judicial Review, Moral Rights and Democracy:

Disentangling the Issues" in *Interpreting the Constitution* (Cambridge University Press, 2008); "Culpable Acts of Risk Creation" in 5 *Ohio State Journal of Criminal Law* 375 (with Ferzan) (2008); "Scalar Properties, Binary Judgments" in 25 *Journal of Applied Philosophy* 85 (2008); and "Is There Logical Space on the Moral Map for Toleration? A Brief Comment on Smith, Morgan, and Forst," in *Toleration and Its Limits* (New York University Press, 2008).



Professor **Roy Brooks'** latest book, *Racial Justice in the Age of Obama*, will be published in fall 2009 by Princeton University Press. In 2008,

he published a third supplemental edition to *Civil Rights Litigation: Cases and Perspectives* (Carolina Academic Press, 2008). Two articles by Professor Brooks were published in the *Encyclopedia of Race and Racism, Volume 2* (Detroit: Macmillan Social Science Library, 2008): "Japanese American Redress Movement" and "Reparations for Racial Atrocities." His article, "Conley and Twombly: A Critical Race Theory Perspective," was also published in 52 *Howard Law Journal* 31 (2008). Brooks also wrote a paper for the law firm of Vinson & Elkins and gave a presenta-

tion at the law firm of Gordon & Rees, LLP on the Supreme Court's recent opinion in *Bell Atlantic Corp., et al., v. Twombly*, which deals with the question of federal pleading. In addition, Professor Brooks served as a referee for the Michigan Historical Review and the *W.E.B. Du Bois Review* at Harvard Law School. He presented "Toward a Post-Atonement America," the keynote address at the Law, Reparations & Racial Disparities Conference on October 31, 2008, at the University of Kansas Law School. His 1999 article, "The Age of Apology," was the subject of analysis in *The Age of Apology: Facing up to the Past* (Mark Gibney and Rhoda E. Howard-Hassmann, Eds.) (University of Pennsylvania Press, 2008).



Karen Burke submitted the manuscript of her partnership casebook: *Partnership Taxation* (with Yin) (Aspen Law & Business, forthcoming 2009) in December 2008. Professor Burke's published articles for 2008 include: "Turning Slogans into Tax Policy," (with McCouch) 27 *Virginia Tax Review* 747 (2008); "Tax Avoidance as a Legitimate Business Purpose," 118 *Tax Notes* 1393 (2008); "Illusory DROs: At-Risk Lessons from Hubert," 118 *Tax Notes* 405 (2008); "Stobie Creek: Too Good to Be True?" 120 *Tax Notes* 705 (editorial with McCouch) (2008); "Collapsible Real Estate Partnership Proposal," 120 *Tax Notes* 593 (2008); "COBRA Strikes Back: Anatomy of a Tax Shelter", 62 *Tax Law* 59 (with McCouch) (2008); and "Is the Corporate Tax 'Broken?'," 28 *Virginia Tax Review* (forthcoming, 2009). In November 2008, Professor Burke spoke on tax shelters at the "Closing the Tax Gap" symposium held at Stanford Law School and presented "Corporate Tax Reform in the

Next Administration" at the annual meeting of the Virginia Tax Study Group, University of Virginia School of Law, Charlottesville, Va., in March 2008.



Nancy Carol Carter's article, "American Indian Water Rights: Law and Research," was published in 27 *Legal Reference Services Quarterly* 1 (2008).



Published articles by **Laurence Claus** for 2008 include: "Methodology, Proportionality, Equality: Which Moral Questions Does the Eighth Amendment Pose?" 31 *Harvard Journal of Law and Public Policy* 35 (2008); "Parliamentary Government" (a chapter in *Comparative Constitutional Law*) (Oxford University Press, 2009); and "The Empty Idea of Authority" in *University of Illinois Law Review* (forthcoming, 2009). Professor Claus also sat on the American Constitution Society–Federalist Society panel on Military Commissions Act in April 2008, and served as a moderator on the Guantanamo Bay panel held at the University of San Diego in November 2008.



Donald Dripps' updated book, *Criminal Law and Procedure*, 10th Edition (University Casebook Series) (with Boyce and Perkins) was published by Foundation Press in 2008. He presented an invited paper, "Regulating Recreational Drug Use: A Plea for Responsibility," on March 14, 2008, at a symposium organized by the University of Utah Law School. The article will be published in the *Utah Law Review* (forthcoming,

2009). Professor Dripps also presented, "The Priority of Politics Over Penal-Law Perfectionism, OR, Blackmail in Perspective," at the Rutgers Institute for Law and Philosophy on May 31, 2008. The article will appear in *Criminal Law and Philosophy* (forthcoming, 2009). He presented "The Exclusionary Rule in the Roberts Court: Normative and Empirical Dimensions of the Over-Deterrence Hypothesis," at the Criminal Procedure Forum, held at Emory University Law School on December 10, 2008. Dripps attended and presented at "The Fourteenth Amendment, the Bill of Rights, and the (First) Criminal Procedure Revolution," at the University of San Diego's Center for the Study of Constitutional Originalism on January 7, 2009; the article will be published in the *Journal of Contemporary Legal Issues* (forthcoming, 2009).



Recent published articles authored or co-authored by **Robert Fellmeth** include: "A Century of Government Antitrust Enforcement under the Cartwright Act," (with Greene, Papageorge and Tuttle) 17 *Competition* 173 (2008); "GOP and Conservative Principles," an opinion piece on the budget crisis, in the *Sacramento Bee*, December 24, 2008; and "State Secrecy and Child Deaths in the U.S.," (with Reinig) (2008). Professor Fellmeth also wrote the foreword to Kathleen Reardon & Christopher Noblet's *Childhood Denied: Ending the Nightmare of Child Abuse and Neglect* (Sage Publications, 2008). He contributed an amicus curiae letter for the Center for Public Interest Law to the California Supreme Court in *Turn v. PUC*. He presented, "The Status of Abused Children and the Right to Counsel, International Conference on Child and Family Maltreat-

ment,” in San Diego on January 31, 2008, “The Children’s Advocacy Institute: Children and Public Policy Advocacy,” to the Board of Voices for America’s Children in June 2008, and “Pass or Fail? San Diego County Report Card on Children and Families,” to the Association of Foundations convened by Casey Family Programs on July 17, 2008. He also submitted the “Comment of the Children’s Advocacy Institute on the Draft Recommendations of the California Blue Ribbon Commission on Children in Foster Care,” on May 13, 2008, (with Howard, Weichel, Riehl and Delgado) and published the “Overview of the 2007 California Legislative Session, 2007 Legislative Report Card,” for the Children’s Advocacy Institute. Professor Fellmeth published a white paper, “True Presumptive Eligibility,” (health coverage for children) on March 31, 2008 and presented at a training program for juvenile dependency court attorneys on major federal statutes and leading cases relevant to dependency court jurisdiction. He testified to the subcommittee on Children and Families (Committee on Health, Education, Labor and Pensions/HELP) in the United States Senate, regarding the reauthorization of the Child Abuse Prevention and Treatment Act on June 26, 2008. Professor Fellmeth also presented, “Public Interest Law in the United States,” to a delegation from Slovakia, at the request of the U.S. Office of the Attorney General, November 18, 2008.



Recent published books authored or co-authored by **Ralph Folsom** include: the sixth edition of *European Union Law in a Nutshell* (Nutshell Series, 2008), the third edition of *NAFTA and Free Trade in the Americas* (Nutshell Series, 2008), the third edition of *Interna-*

tional Business Transactions Practitioner Treatise (Nutshell Series, 2008), and the fourth edition of *International Trade & Economic Relations Nutshell* (Nutshell Series, 2008). Professor Folsom also wrote, “Bilateral Free Trade Agreements: A Critical Assessment and Regulatory Reform Proposal,” San Diego Legal Studies paper No. 08-070 (September, 2008) and “State Antitrust Enforcement,” a chapter in Julian O. von Kalinowski’s *Antitrust Counseling and Litigation Techniques* (LexisNexis, 2008). He presented “Trading for National Security? U.S. FTAs in the Middle East and North Africa,” at the John Marshall Seventh Annual Folsom Lecture in January of 2008 and “U.S. Trade Law” at the University of Montpellier, France, in June 2008.



Professor **C. Hugh Friedman** completed and had published the 23rd edition of his *California Practice Guide - Corporations* (West) in April of 2008. The book is widely used by business lawyers and often cited by the California courts. Professor Friedman gave his annual presentation to the San Diego County Bar Association Business Law Section on “Developments in Business Law in 2007.” The University marked his 50th year of teaching law at the University of San Diego on October 31 with a celebration including a talk by California Supreme Court Chief Justice Ronald George on “Challenges Facing the Courts,” followed by a panel discussion and recognition luncheon.



Walter Heiser’s *California Civil Procedure Handbook: Rules, Selected Statutes and Cases, and Comparative Analyses* was published by LexisNexis in 2008. Heiser’s articles published

in 2008 include: “Forum Non Conveniens and Retaliatory Legislation: The Impact on the Available Alternative Forum Inquiry and on the Desirability of Forum Non Conveniens as a Defense Tactics,” 56 *Kansas Law Review* 609 (2008); and “Public Access to Confidential Discovery: The California Perspective,” 20 *Western State University Law Review* 55 (2008).



Gail Heriot’s “Parents Involved in Community Schools v. Seattle School District No. 1,” was published in the second edition of *Oxford Guide to United States Supreme Court Decisions*, (Oxford University Press, 2008). Other articles by Professor Heriot that were published in 2008 include: “Affirmative Action in American Law Schools,” 17 *Journal of Contemporary Legal Issues* 237 (2008 symposium issue); “The Equal Rights Amendment: Back for an Encore Performance?” in *Engage Magazine* (February 2008); and “The ABA’s ‘Diversity’ Diktat,” in *The Wall Street Journal*, April 28, 2008. Heriot also contributed to the commissioners’ statement, “Enforcing Religious Freedom in Prison” report of the U.S. Commission on Civil Rights (September 2008) and the commissioners’ statement “Minorities in Special Education” report of the U.S. Commission on Civil Rights (forthcoming, 2009). Heriot presented “How Free Is the University,” at a conference held by the American Freedom Alliance at the University of Southern California on June 16, 2008, and “Hate Crimes: What Is the Proper Federal Role?” at the Heritage Foundation in Washington, D.C., on May 8, 2008. She participated in Law and Liberty in the Judicial Practice of Robert H. Jackson, sponsored by the Liberty Fund, Sausalito, Calif., March 13-15, 2008, and served as moder-

ator and symposium organizer of *Direct Democracy: The Courts and the Legislature v. The People: Who is in Charge?* at the second annual Western Conference, Federalist Society held at the Reagan Library in Simi Valley, Calif., on February 23, 2008. She lead a discussion, “The Federalist, the Anti-Federalists and the Constitution They Created,” for the Liberty Fund, in San Diego, January 24-26, 2008, and spoke on “Proposition 209’s Effect on Student Admissions, Race and Gender Preference at the Crossroads,” at the California Association of Scholars held at the University of Southern California on January 18, 2008.



Yale Kamisar and his co-authors published the 12th edition of *Modern Criminal Procedure* (West Group Publishing) in the summer of 2008.

This work, which first appeared in 1965, was the first casebook on constitutional/criminal procedure ever published. Journal articles authored or co-authored by Kamisar that were published in 2008 include: “Can *Glucksberg* Survive *Lawrence*? Another Look at the End of Life and Personal Autonomy,” 106 *Michigan Law Review* 1453 (2008); and “What a Police Training Manual Has to Say about Torture,” in the *National Law Journal* (March, 2008). The article also constituted the foreword to a symposium on the 10th anniversary of the U.S. Supreme Court’s cases on physician-assisted suicide. In October 2009, at “The Graying of America: Challenges and Controversies,” a two-day medical ethics conference to be held at the Medical University of South Carolina, Professor Kamisar will debate Dr. Timothy Quill, one of the nation’s best-known proponents of physician-assisted dying.



Published articles authored by **Adam Kolber** include: “Freedom of Memory Today,” 1 *Neuroethics* 145 (2008) and “The Unreliability of Proportional Punishment Intuitions,” *Brooklyn Law Review* (forthcoming, 2009) (symposium on the universality of morality). Professor Kolber was named the Laurance S. Rockefeller Visiting Fellow at Princeton University’s Center for Human Values and he spoke at the Neuroimaging, Pain, and the Law conference at Stanford University Law School. His talk was later discussed in the journal *Science*. Kolber also spoke at the Neuroethics Society annual meeting at the American Association for the Advancement of Science (AAAS) in Washington, D.C., November 13-14, 2008, and at the Subjective Experience of Punishment, held at Cardozo Law School, Yeshiva University, on October 27, 2008. He participated in the Comparative Nature of Punishment, Criminal Law Professors conference at the George Washington University Law School on August 8, 2008, and in the Comparative Nature of Punishment, Prawfsblawg conference, at Hofstra University on July 24, 2008. Kolber also participated in the Subjective Experience of Punishment, New Voices in Legal Theory conference at Cardozo Law School, Yeshiva University, on May 16, 2008, and presented “Legal and Ethical Implications of Emerging Neurotechnologies” at Neuroscience for Judges held at Stanford University Law School, June 5-6, 2008. He presented the “Equality of Punishment” at the Dartmouth College Sapientia Lecture on March 25, 2008, and again at the University of San Diego, Arizona State University, and Rutgers School of Law – Camden.



William Lawrence published an annual supplement to the legal treatise *The Law of Personal Property Leasing* (with J. Minan) (West Group, 2008) as well as a cumulative supplement to *The Law of Sales Under the Uniform Commercial Code*, (West Group, 2008).



Bert Lazerow moderated a seven-professor panel at the Association of American Law Schools meeting in San Diego in January 2009 titled, “Law Schools Promoting Reform of Legal Education and Legislation Abroad.”



Orly Lobel’s forthcoming book, *The Encyclopedia of Employment Law and Economics* (with Dauschmidt and Harris) will be published in 2009. Her empirical study, “Behavioral Versus Institutional Antecedents of Decentralized Enforcement: An Experimental Approach,” was published in *Regulation & Governance* (with Feldman) (2008). “Stumble, Predict, Nudge: How Behavioral Economics Informs Law and Policy,” was published in 108 *Columbia Law Review* 2098 (with Amir), and “Lawyering Loyalties,” 77 *Fordham Law Review* 1245 (2009). Other forthcoming publications include: “The Role of Lawyers in Democracy; Citizenship, Organizational Citizenship, and the Laws of Overlapping Obligations,” *California Law Review* (forthcoming, 2009); and “The Overlaying of Fair Trade Systems on Other Regulatory Approaches,” in *Fair Trade, Corporate Accountability and Beyond* (Ashgate, 2009). Her article “The Paradox of

'Extra-Legal' Activism: Critical Legal Consciousness and Transformative Politics," *Harvard Law Review* (2007), one of the 2007-08 winners of the Thorsnes Prize for Faculty Scholarship, is forthcoming in Hebrew in *Is Law Important* (Menny Mautner, ed.) and was reprinted this year in the *Tel-Aviv University Journal of Law and Social Change*.



Lesley K. McAllister's book, *Making Law Matter: Environmental Protection and Legal Institutions in Brazil*, was published by Stanford

University Press in June 2008. Her published 2008 articles include: "Sustainable Consumption Governance in the Amazon," in 38 *Environmental Law Reporter* 10873 (2008); and "Revisiting a 'Promising Institution': Public Law Litigation in the Civil Law World," in 24 *Georgia State University Law Review* 693 (2008). Professor McAllister was invited to become a member scholar of the Center for Progressive Reform, and she also became the faculty advisor to the new *San Diego Journal of Climate and Energy Law*. In April 2008, McAllister spoke at Vanderbilt's Interdisciplinary Conference on Climate Change and Consumption, and in September 2008, she presented her paper, "Enforcement Style in the Global South," at a University of California, Berkeley, Boalt Hall School of Law conference honoring the work of Professor Robert A. Kagan. She presented her research on the over-allocation of pollution allowances in cap and trade regulatory programs at the Law and Society Association Meeting in Montreal in May 2008, at the IUCN Academy of Environmental Law in Mexico City in November 2008 and to a San Diego citizen group, Citizens Coordinate for Century 3 (C3), in December 2008. Her

lecture on this research was also featured as part of the nationwide Environmental Law Virtual Guest Speaker Series during spring semester 2008. Also, in her role as chair of the Environmental Law Committee of the ABA Section on state and local government, McAllister organized and chaired a panel on coastal conservation in Charleston, S.C., in March 2008.



Grayson M. P. McCouch's article, "Probate Law Reform and Nonprobate Transfers," was published in 62 *University of Miami Law Review*

757 (2008). Also published in 2008 were, "A Comment on Unification," in 43 *Real Property, Trusts & Estate Law Journal* 499 (2008); "Turning Slogans Into Tax Policy," in 27 *Virginia Tax Review* 747 (with Burke) (2008); "Stobie Creek: Too Good to Be True?" in 120 *Tax Notes* 705 (with Burke) (2008); "The Empty Promise of Estate Tax Repeal," in 28 *Virginia Tax Review* 369 (2008); and "COBRA Strikes Back: Anatomy of a Tax Shelter," in 62 *Tax Law* 59 (with Burke) (2008). Professor McCouch also presented: "A Comment on Unification" at the symposium on Inheritance Law in the 21st Century, sponsored by the American College of Trust and Estate Counsel at the University of California, Los Angeles School of Law in February 2008; "The Empty Promise of Estate Tax Repeal," at the annual meeting of the Virginia Tax Study Group, at the University of Virginia, Charlottesville, Va., in March 2008; and "An Analysis of Section 2036 and the Leading Valuation Cases" at the Valuation Conference on Discounts for Lack of Marketability at the University of San Diego School of Law in September 2008.



Following up the success of his 2007 book, *The Little Green Book of Golf Law* (American Bar Association, 2007), **John H. "Jack" Minan's** *The*

Little White Book of Baseball Law: The Real Rules of Baseball has been accepted for publication in 2009. In 2008, Professor Minan had published an annual supplement to the legal treatise *The Law of Personal Property Leasing*, (with Lawrence) (West Group, 2008). In the summer of 2008, Minan presented papers on desalination at the California Coastal Commission in Santa Rosa, Calif., and at the State Lands Commission in Sacramento, Calif.



Grant H. Morris's "Civil Law: Structures and Procedures," a chapter in *International Handbook on Psychopathic Disorders and the Law*

(John Wiley & Sons), was published in 2008. Also published were: "Preparing Law Students for Disappointing Exam Results: Lessons from 'Casey at the Bat,'" in 45 *San Diego Law Review* 441 (2008); and "Let's Do the Time Warp Again: Assessing the Competence of Counsel in Mental Health Conservatorship Proceedings," in 46 *San Diego Law Review* (forthcoming, 2009).



Frank Partnoy's critically acclaimed book, *The Match King: Ivar Kreuger, the Financial Genius Behind a Century of Wall Street Scandals* (Public

Affairs) was published in April of 2009. Also due out in 2009 is a new textbook (with Palimenter) titled, *Corporations: A Contemporary Approach* (Thomson West, forthcoming, 2009). In 2008, Professor

Partnoy's published articles included: "Hedge Fund Activism, Corporate Governance, and Firm Performance," 63 *Journal of Finance* 1729 (2008) (with Brav, Jiang and Thomas); "The Returns to Shareholder Activism," 64 *Financial Analysts Journal* 45 (2008) (with Brav, Jiang and Thomas); "Shapeshifting Corporations," 76 *University of Chicago Law Review* 261 (2009); and "The Role of Ratings," *Federal Reserve Bank of Chicago, International Conference Papers* (forthcoming, 2009). He also wrote or co-wrote "Citigroup Bailout Is Smart But Not Risk-free," *Financial Times* (November 27, 2008); "Hedge Fund Managers Are the Heroes of this Crisis," *The Daily Beast* (November 18, 2008); "Buy the Loans," *New York Times* (September 26, 2008); "Hubris – Is Thy Name Richard Fuld?," *Financial Times* (September 14, 2008); "Do Investors Have a Right to Know about a CEO's Illness?," *Financial Times* (July 30, 2008); "Do Away with Rating-Based Rules," *Financial Times* (July 9, 2008); "The Gamble of Short-Term Pain for Long-Term Gain," *Financial Times* (February 4, 2008); and "Kerviel Is Just Part of a Global Rogues' Gallery," *Financial Times* (January 28, 2008). Partnoy's presentations for 2008 include: "Credibility and Financial Markets," keynote address at the Conference on Credibility at Shenzhen University in Shenzhen, China, in December 2008; "The Role of Ratings," at the Federal Reserve Bank of Chicago International Conference in Chicago, Ill. In September 2008; "Over-the-Counter Derivatives Regulation and Reform," at the Derivatives Summit of the Global Fixed Income Institute held in London on July 8, 2008; "Credit Ratings Regulation and Policy," at the University of Amsterdam on July 4, 2008; "Re-Modeling Ratings" and "Financial Innovation and the Roots of the Crisis," keynote address at the Euromoney Global Borrowers and

Investors Forum 2008, held in London, England, on June 25, 2008; "Shapeshifting Corporations," at the University of Chicago Law School, on June 20, 2008; and "How Should Directors Deal with Derivatives and Innovative Structured Financing?" at the Directors Forum 2008, in San Diego, on January 14, 2008.



Michael Perry joins the law school this fall for a three-year term as University Distinguished Visiting Professor in Law and Peace Studies.

Perry is currently the Robert W. Woodruff Professor of Law at Emory University and is one of the country's leading authorities on international human rights law and theory. He has written more than 60 articles and 10 books, most recently *Constitutional Rights, Moral Controversy, and the Supreme Court* (Cambridge, 2008). Professor Perry will be in residence at USD in the fall semesters of 2009, 2010 and 2011. He will be teaching two classes during those semesters, one of which will be on international human rights and will be open to both law students and students of the Joan B. Kroc School of Peace Studies.



Saikrishna Prakash was appointed the James Madison Fellow by the James Madison Program in American Ideals and Institutions. He also served as a visiting professor of law at the University of Virginia Law School in Charlottesville, Va., in spring of 2008. He received the 2008 Paul M. Bator Award, which is awarded annually by the Federalist Society to a young scholar (under 40) for excellence in legal scholarship and teaching, and delivered the James Gould Cutler Lecture on Constitutional Law at

the William and Mary School of Law in March of 2008. Articles by Prakash published in 2008 include: "The Separation and Overlap of War and Military Powers," 87 *Texas Law Review* 299 (2008); "The President's Duty to Disregard Unconstitutional Laws," 95 *Georgetown Law Review* 1613 (2008); "A Taxonomy of Presidential Powers," 88 *Boston University Law Review* 372 (2008); "The Constitutional Status of Customary International Law," 31 *Harvard Journal of Law and Public Policy* 66 (2008); "Imperial or Imperiled: The Curious State of the Executive," 50 *William and Mary Law Review* 1021 (2008) (originally delivered as the James Gould Cutler lecture at William and Mary); "Exhuming the Seemingly Moribund Declaration of War," 77 *George Washington Law Review* 89 (2008); and "Tempest in an Empty Teapot: Why the Constitution Does Not Regulate Gerrymandering," 50 *William and Mary Law Review* 1 (with Alexander) (2008). Prakash also lectured at the University of Virginia, William and Mary Law School and the University of Texas. He participated in conferences at Willamette, Ore., and at the Association of American Law Schools conferences in New York and Cleveland.



In summer 2008, Professor **Lisa P. Ramsey's** article, "Increasing First Amendment Scrutiny of Trademark Law," was published in 61 *South-*

ern Methodist University Law Review 381. She presented her article, "Free Speech and International Obligations to Protect Trademarks," at the Eighth Annual Intellectual Property Scholars Conference at Stanford University Law School in August and at the 2008 Works in Progress Intellectual Property Colloquium at Tulane Law School in October. In November 2008, at the Annual Intellectual Prop-

erty Institute meeting, put on by the California State Bar's intellectual property law section, Professor Ramsey was on a panel that discussed the potential conflict between intellectual property law and the First Amendment's free speech clause. Later that month, she commented on two papers at the conference about user-generated content, social networking, and virtual worlds at Vanderbilt Law School in Nashville, Tenn.



A book co-edited by **Michael D. Ramsey**, David Sloss and William S. Dodge, *The U.S. Supreme Court and International Law, 1789-2009*,

was accepted for publication by Cambridge University Press in December 2008 with publication anticipated in 2010. Ramsey's book, "The Story of the Prize Cases: Executive Action and Judicial Review in Wartime," in *Presidential Power Stories* (with Lee) (Foundation Press, 2008) was published in the fall of 2008. Published journal articles in 2008 included: "Missouri v. Holland and Historical Textualism," 73 *Missouri Law Review* 969 (2009); "Presidential Originalism?" 88 *Boston University Law Review* 353 (2008). Professor Ramsey's book review, "Dogs that Didn't Bark," was published in 2009 *Review of Politics* 71. He reviewed William G. Howell and Jon C. Pevehouse's, *While Dangers Gather: Congressional Checks on Presidential War Powers* (Princeton University Press, 2007).



In January 2008, **Michael B. Rappaport** presented "The Supermajoritarian Case for Originalism" at the annual American Association of Law Schools conference, Constitutional Law Section, in New York City. Rappaport's 2008 journal articles included: "Originalism and Regulatory Takings: Why the Fifth Amendment May Not Protect Against Regulatory Takings, but the Fourteenth Amendment May," 45 *San Diego Law Review* 729 (2008); and "A Pragmatic Defense of Originalism," 31 *Harvard Journal of Law and Public Policy* 917 (with McGinnis) (2008).



Recent published articles authored by **Steven D. Smith** include: "Our Agnostic Constitution," 83 *New York University Law Review* 120 (2008); and "De-Moralized: Glucksberg in the Malaise," 106 *Michigan Law Review* 1571 (2008). His essay, "What Does Constitutional Interpretation Interpret?" was included in the book *Expounding the Constitution: Essays in Constitutional Theory* (Cambridge University Press, 2008). His solicited essays, reviewing books and articles by other authors, were published in *First Things*, the *Journal of Law, Philosophy and Culture*, and *PENumbra*, the University of Pennsylvania's on-line journal. Professor Smith presented "Multiculturalism, Religion, and the Constitution," at a conference at Harvard Law School in February 2008. Later that month, he introduced and presented a paper at a conference at Pepperdine Law School in which participants engaged with his book *Law's Quandary*. In March, Professor Smith participated in a conference at the University of Southern California discussing a

work-in-progress on personalism by sociologist Christian Smith, presented a paper at a conference at the University of California, Davis on the First Amendment in the schools, and gave a presentation on religious freedom at the University of Nevada Las Vegas. In July, Professor Smith participated in a debate before the Secular Humanist Association of San Diego. In October, he presented a paper at a conference at Notre Dame Law School discussing a recent book on religious freedom by Kent Greenawalt as well as another paper at a conference on originalist interpretation at the University of Western Ontario. In December, Smith taught a seminar about his book *Law's Quandary* to an interdisciplinary faculty group at Arizona State studying transhumanism; he also presented a chapter of his forthcoming book *Conversations in the Cage* in a workshop at Arizona State University Law School.



Lester B. Snyder published "Taxation of the New Era 'Family Unit'" in 118 *Tax Notes* 417 (January 21, 2008). The article discussed changes in the concept of "family unit" over the past century, and how tax law has not kept up with these changes. This has resulted in discriminatory tax rates for singles, unmarried cohabitants (including elderly siblings), widows and at-home housewives and househusbands. It also describes how a flat-rate tax structure would be more equitable to working people with modest income, while also removing the ban on shifting income for college education.



Edmund Ursin's article, "Clarifying Duty: California's No-Duty-for-Sports Regime," was published in 45 *San Diego Law Review* 383 (with Carter) (2008).

Jorge A. Vargas authored *El Derecho de México y su Terminología Legal (Mexican Law and Its Legal Terminology)* (Carolina Academic Press, forthcoming, 2009). The



book contains a current and comprehensive set of Mexican legal materials. Professor Vargas also participated in a bi-national empirical research project financed by the University of San Diego's Transborder Institute with Professor Jorge Alberto Silva of Universidad Autónoma de Ciudad Juárez in Chihuahua, Mexico. The results of both surveys are being processed and will appear as part of a book titled *Enforcement of U.S. Judgments in Mexico*.



Mary Jo Wiggins was a distinguished lecturer at Southern Vermont College in Bennington, Vt. as a part of the college's Distinguished Lecture Series. She gave a public lecture titled "Race, Gender & Change in Contemporary Life," discussing how changes in American racial and gender dynamics have affected both our culture and the American legal system during each of the civil rights eras from the 1950s to today. Dean Wiggins received an academic fellowship to attend an interdisciplinary academic symposium on debt at the University of Illinois College of Law. She continued work on the *Collier on Bankruptcy* treatise as well as her work

on a bankruptcy book for Lexis-Nexis. She gave a presentation on legal ethics and professionalism to incoming first-year students and was a commentator for the USD Law & Social Justice Film Series. Wiggins served on the USD EEO/Affirmative Action Office Search Committee and the USD Institutional Conflict of Interest Policy Committee. She also served as coach and advisor to USD's Conrad Duberstein Bankruptcy Moot Court team for the fourth year in a row.



Fred Zacharias's published journal articles for 2008 include: "Fitting Lying to the Court into the Central Moral Tradition of Lawyering," 58 *Case Western Reserve University Law Review* 491 (2008); "The U.S. Attorney's Scandal and the Centralization of Prosecutorial Power," 69 *Ohio State Law Journal* 187 (with Green) (2008); and "The Effects of Reputation on the Legal Profession," 65 *Washington & Lee Law Review* 173 (2008). In 2008 Professor Zacharias' presentations included: "True Confessions about the Role of Lawyers in a Contemporary Democracy," at a colloquium titled "The Role of Lawyers in a Contemporary Democracy" at Fordham Law School in September 2008 and "The Self-Regulation Misnomer," at the Third International Legal Ethics Conference in Gold Coast, Australia, in June 2008.



In Memoriam: Professor Richard Speidel

Professor Richard Speidel passed away on September 6 after an extended battle with cancer. He was surrounded by friends and family at his summer home in Michigan.

As one colleague put it, Dick was "a towering figure in the field of contracts," one of the leading scholars of his generation. He was also one of the nation's leading experts on arbitration. He authored numerous influential books and articles, and he also played a central role in several law reform projects related to his field.

Dick began making annual, one-semester visits to the University of San Diego in the spring 2000 semester, and he became a member of our tenured faculty in 2006, holding a half-time appointment. Dick joined the Northwestern Law School faculty in 1980, and in 1987 became the Beatrice Kuhn Professor of Law at Northwestern. Prior to his time at Northwestern, Dick had been the Grace N. and Henry L. Doherty Professor of Law at the University of Virginia and the dean of the Boston University School of Law.