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Whitney Johns Martin '81



CLAYTON center

and the Business
Side of Law

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MAURICE STUCKE

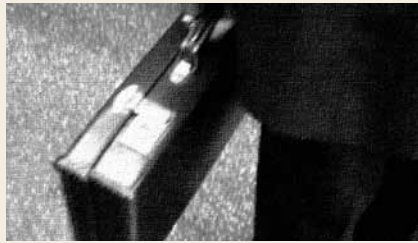
Antitrust Attorney

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FACULTY PROFILES

Davies, Hess & Higdon

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THE UNIVERSITY of
TENNESSEE **UT** College of Law
KNOXVILLE

TENNESSEELAW
Fall 2009

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A PEACEABLE KINGDOM

A few nights ago, the National Geographic Network ran a program about unlikely animal friends. The cast included an orangutan and a hound, roughhousing like schoolboys; an elephant and a muff of a dog the size of my wife's purse; a teenage hippo and a giant tortoise that doted on the hippo like a grandparent; a cat and a crow. The most endearing story was about a mother lion that adopted a baby oryx. I felt a little like both the lion and the oryx when I was appointed dean last year.

And what a year it's been. Last September, I didn't know if I was about to be eaten alive or become king of the jungle. What I did expect was a steep learning curve, and I've not been disappointed. I've learned an enormous amount, particularly from our alumni.

One of the great delights of the job has been reconnecting with former students, and I've been amazed at the range of career paths our alumni have pursued. You've become private-practice attorneys, government servants, teachers, policy wonks, business leaders, and airplane pilots. You've even written a novel or two. You've confirmed my long-held belief that the skills we impart—critical thinking, legal analysis, problem solving—are invaluable in both law and in life.

In this issue of *Tennessee Law*, we profile several accomplished alumni in the business world. While some graduates start, or continue, a business career right after graduation, many others take advantage of business opportunities developed in practice. A number of folks told me their law degrees were critical to their business success. Thanks to our innovative business concentration and the Clayton Center for Entrepreneurial Law, I expect the number of graduates heading into business will only increase.

I've also learned from you just how proud and supportive you are of our law school. Our challenge together is to help make the college even better. We know state support will continue to decline, and we can't maintain, much less improve, the quality of our educational programs without a broad base of financial support. We depend on you to help fund scholarships, student organizations and activities, and faculty research.

Last year 10 percent of our alumni made a financial contribution to the law school, and those gifts allowed us to increase by \$100,000 the scholarships awarded to our students. I'm proud of that commitment, but I know we can do even better. Last year 20 percent of University of Georgia grads contributed to their law school. Now I don't expect us to beat Georgia this year, but I believe we can get 15 percent participation. To reach that goal, of course, I'll need your help. The amount of the gift is not so important; your support is. The reality is that even small gifts add up. Collectively they can make a big difference to our future. Just think, if every alum who has not given in the past contributed just \$50, the impact would be enormous.

A year into this job, I'm still not sure if I'm the lion or the oryx, but I'm not concerned about which anymore. Thanks to all of you who have been so generous and gracious this past year. I believe we are, all of us, creating a college that Henri Rousseau—and Jean-Jacques, too—would be proud of.



“One of the great delights of the job has been reconnecting with former students.”

DOUG BLAZE

Doug Blaze

The Business Side of Law

Predictably, most people who enroll in law school intend to practice law. ☸ Quite a few, however, discover that their legal training has provided them with skills that lead to opportunities in many other careers, including those in business. Some move from traditional practice to business early in their careers while others make the change mid-career or later—often with former clients. ☸ But a number of entering law students have no intention of ever practicing law. Many of those have already embarked on career paths and want legal training in order to gain specific analytical and problem-solving skills that will enhance their opportunities in their chosen fields. ☸ In this issue, *Tennessee Law* highlights the paths of several UT alumni who have pursued careers that range far outside the traditional role of “lawyer.”

venture capitalist

Whitney Johns Martin '81 spent the early portion of her legal career working for a Nashville law firm doing mostly corporate and estate work. “I have been in a courtroom, but I am not a trial lawyer,” she says.

Instead, Martin is one of many UT College of Law graduates who have used the legal education, training and skills they obtained at Tennessee to forge successful careers outside the courtroom.

Martin is a cofounder of the Texas Women Ventures Fund and currently serves as the managing member of the fund’s general partner. She is a charter investor in the Dallas-based fund, which invests capital in women-led companies in Texas and the Southwest, and a member of the Investment Committee. Prior to the TWVF, Martin created the first Small Business Investment Company in Nashville, with its focus also on women-led companies.

“My UT law degree has been one of the secret elements to my success—it has been an invaluable tool,” Martin said. “Tennessee is a tough law school. They don’t just pass you. You have to earn your way through. But the UT law school taught me to be



a critical thinker, and when you are making a decision to invest millions of dollars in a company you need to be a critical thinker.”

Reviewing companies and their management teams and forecasting what the future holds for a business or industry are key elements in decisions made daily by TWVF. “Knowing how to think about a deal and knowing what to watch out for when drafting documents. Knowing how to be a problem solver when problems do arise. These are all things I learned at the UT College of Law,” Martin said.

“I love my UT law degree because it was a great bargain for the level of training I received.”

FRIED CHICKEN EMPIRE

Like Martin, Ken Cutshaw '78 joined a law firm after graduation. He credits his experience at the UT College of Law for providing “a wide spectrum of work-life experiences.” His UT law degree has helped take him from the halls of the Tennessee General Assembly to the chambers of the executive branch of the U.S. government and the offices of several foreign governments, from the challenges of the 1982 World’s Fair to the management of national political campaigns, and from an international law practice in Washington, DC, and Atlanta to general counsel for a global retail food brand.

In 2006, Cutshaw left the Atlanta office of Holland & Knight to become the executive vice president and general counsel for the Cajun Operating Company in Atlanta. Cajun Operating Company manages 1600 company owned and franchised operations of Church’s Chicken in the United States and nearly two dozen other countries. Cutshaw manages the companies’ legal affairs and is responsible for global expansion of the brand.

“My UT law experience prepared me for the business role of leading the expansion of our quick service restaurant brand to the 20 new countries we have added during my time being responsible for global growth,” Cutshaw said. “A law degree from UT prepares one for more than just practicing law—it prepares one for life’s challenges and career opportunities.”



BUILDING KIRKLAND’S

Robert Alderson intended to pursue a traditional legal career. In the early 1970s he was 24 years old, recently discharged from the Army, married, and “ready to go to work.” The West Tennessee native, who had an undergraduate degree from Union University in Jackson, Tennessee, had always planned to go to law school. He chose the University of Tennessee largely because of the College of Law’s reputation for preparing lawyers to practice immediately following graduation.



“Tennessee was the school of choice for me,” Alderson said. “Law school is not meant to be easy, and Tennessee was demanding. But they did a great job of preparing me to take the bar exam and to practice law.”

“Tennessee was the school of choice for me,” Alderson said. “Law school is not meant to be easy, and Tennessee was demanding. But they did a great job of preparing me to take the bar exam and to practice law.”

Early on Alderson found he liked the business side of the law. While the UT College of Law did not have a business concentration then as it does now, Alderson found ample courses and opportunities to pursue his goal.

“I found I enjoyed management and business development and the business side of running a law firm as much as I enjoyed the actual practice,” he said. “I enjoyed the challenge of trying to grow the business to be profitable and to be of value to clients.”

After earning a law degree in 1973, Alderson returned to West Tennessee where he eventually became a senior partner in the Jackson

firm of Menzies, Rainey, Kizer & Alderson. He spent 13 years with the firm before accepting an offer in 1986 from one of the cofounders of home décor retailer Kirkland's to help take the company from a local to a regional company.

"I wanted to see what could be done with the company, so I became a partner," he said. The first two Kirkland's stores were in Jackson and Nashville. Today, Kirkland's is a national company with 291 stores in 32 states. The company headquarters remains in Jackson.

During his 20-plus years with Kirkland's, Alderson has been senior vice president, chief executive officer, chief administrative officer, and president. He has been CEO since 2006.

"I have been fortunate in 23 years to have done many things with Kirkland's," he said. "It has been a challenge working with what has become a national company. There have been ups and downs, of course, but it has been a wonderful experience. And my experience at Tennessee has been a great help. I have very fond memories of the College of Law."

WALT DISNEY WIZARD

Ali Safavi '02, however, never had any intention of stepping into a courtroom when he enrolled at the UT College of Law as a dual J.D.-M.B.A. student. His career goal was to eventually become the CEO of a Fortune 500 company, and that hasn't changed since graduation.

"What I was seeking from law school were the analytical skills that would give me an advantage over my peers in business," he said. "In business you always have imperfect information. You have to take the data you receive, convert it into the information you need to form a plan, and then use the information to execute a plan.

"That is what I picked up in law school—the thinking skills I needed to compete in business."

Currently, Ali is executive director of global account management for the Walt Disney Company in Los Angeles. He provides strategic oversight to Disney's global accounts such as Costco and Amazon worldwide. Previously, he held multiple positions at Disney, as the global director of sales strategy, global director of Latin America and Asia-Pacific sales, and global director of brand management for Disney's Worldwide Home Entertainment division. In these various roles, he helped shape commercial plans for Disney's global home entertainment markets.

Prior to joining Disney, Ali spent over three years at Procter & Gamble in brand management roles. Before P&G, Ali worked five years in brand management roles at Tier 1 companies such as Hewlett-Packard, Sara Lee, Levi's and Haagen-Dazs. He also wrote the nation's first student-to-student MBA Career Development Manual, which is used at over 60 M.B.A. programs internationally by over 10,000 students.

"I want to learn as much as I can along the way," Ali said. "The UT College of Law helped me start thinking about how to achieve my goals. Specifically, the program rounded out my skill set by giving me breadth and depth of experience in over 30 cross-functional disciplines. I had access to the world's most impressive scholars, students, faculty, staff, and industry professionals." 🌟



FOR MORE ON THE BLENDING OF LEGAL AND BUSINESS CAREERS, SEE PAGE 20 FOR A PROFILE OF THOMAS LAURIA '86, WHO PLAYED A PROMINENT ROLE IN THE RECENT RESTRUCTURING OF CHRYSLER, AND ALSO PAGE 15 TO MEET THIRD-YEAR LAW STUDENT JORDAN MOLLENHOUR, WHO JUGGLES RUNNING HIS BUSINESS WITH HIS LEGAL STUDIES.

Courtney Rogers '06 remembers George Kuney's course in business reorganizations as the class that began her current career path.

"It opened my eyes to the field of corporate bankruptcy," she said. "I had no idea that such a hybrid practice—mixing business and law and transactional and litigation work—even existed, and now I practice in that field."

Rogers completed the concentration in Business Transactions, a curriculum designed for law students interested in careers in business law, both transactional work and commercial litigation.

"I presently work in New York City at Orrick, Herrington & Sutcliffe LLP as a restructuring associate. My primary area of practice is corporate reorganization and bankruptcy, which involves transactional and litigation work," she said. "I work on asset sales that occur within a bankruptcy case, assist clients in assessing their exposure to marketplace risk, analyze and revise credit agreements, and assist clients in reducing risk through restructuring deals or papering deals differently."

"As a litigation associate, I defend proofs of claim filed on behalf of clients ranging from banks to parts suppliers."

Second- and third-year law students at UT can choose to focus their studies in one of two areas—advocacy and dispute resolution or business transactions.

CLAYTON CENTER: TAKING CARE OF BUSINESS— AND LAW

BY AMY BLAKELY



3L Katie Atkins discusses mergers with Professor George Kuney

The Clayton Center for Entrepreneurial Law administers the concentration in Business Transactions. The center, started in 1995, is named after James L. Clayton '64, founder of Knoxville-based Clayton Homes Inc., now a subsidiary of Berkshire Hathaway.

Kuney, who came to UT in 2000 to lead the center, said the concentration provides students with a road map of core courses to help them become well grounded in the substantive knowledge and skills necessary to become an effective business lawyer.

The courses include Introduction to Business Transactions, a course that is more business than law; courses on real property finance and per-

sonal property finance that provide a grounding in secured loan transactions; courses on basic and business organization income tax; a class on business associations, such as corporations and partnerships; and a class on basic contract drafting.

The capstone courses—Representing Enterprises and Transactional Tax Planning—feature simulations in which students negotiate, structure, and document varied transactions. While some students take the full concentration curriculum, others take just a few of the courses.

Kuney said the full slate of courses is essential for anyone aspiring to be a business lawyer, but he added, "All lawyers in commercial litigation should have some training in all of these areas."

Students who complete the concentration get a special notation to that effect on their diplomas.

Kuney said the center, having now been around for 15 years, has begun to gain brand recognition with regard to its graduates—something that is true of UT Law graduates in general.

"Members of law firms tell me that they like to hire our graduates because, even when newly hired, they already know how to do many of the things that need to be done in actual practice," Kuney said, adding that

CONTINUED ON PAGE 22



The Evolution of an Antitrust Attorney

Understanding Competition and Behavioral Economics

By Dennis McCarthy

MAURICE STUCKE DIDN'T ALWAYS WANT TO BE A LAWYER. He didn't always want to be a teacher either, and when he was an undergraduate at Georgetown University his interest in economics was mostly confined to juggling personal finances. And yet, today, he is one of the University of Tennessee's rising stars, as an antitrust lawyer and a scholar in the emerging field of behavioral economics.

When Stucke graduated from Georgetown in 1987 with a degree in English literature and philosophy, he was at loose ends. A stint at Bloomingdale's in women's fashions only closed off a potential career path.

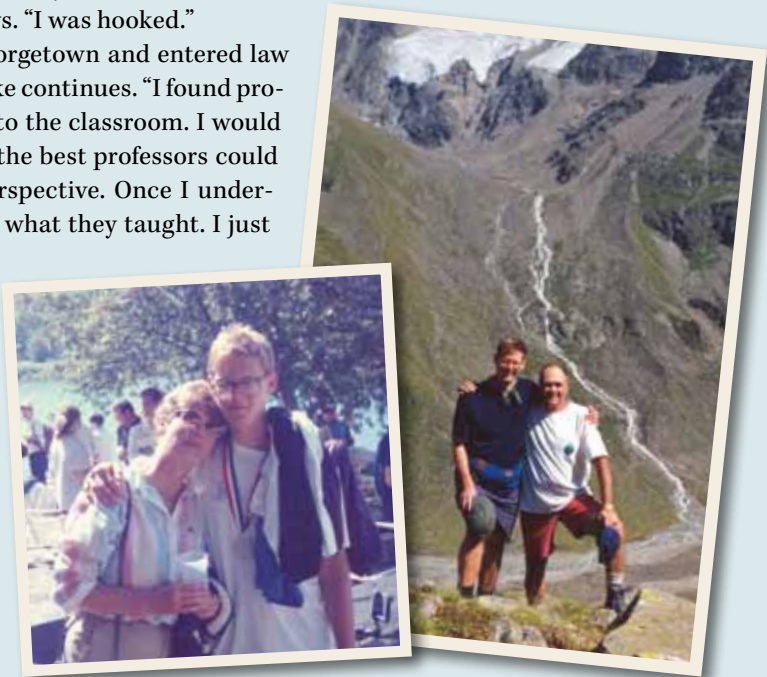
His next job, however, in the Office of Consumer Affairs of the U.S. Securities and Exchange Commission, was revelatory. The late 1980s were heady days in the SEC, when names like Drexel Burnham, Michael Milken, and Ivan Boesky regularly graced the front pages of the *Washington Post* and the *New York Times*. Stucke saw lawyers in action in high-profile cases and was fascinated. "I read depositions and internal memoranda about trial strategy, I saw how lawyers collected evidence and made objections at trial, and I got to see how cases were put together," Stucke says. "I was hooked."

With the blessing of the SEC, he returned to Georgetown and entered law school. "Law school was thought-provoking," Stucke continues. "I found professors who consistently brought something new to the classroom. I would read cases and think I had figured them out, but the best professors could bring up an idea that completely changed my perspective. Once I understood who the great professors were, I didn't care what they taught. I just wanted in."

One of those professors, Robert Pitofsky, who later became chair of the Federal Trade Commission, taught antitrust law. Stucke had no special interest in antitrust, but he had heard that Pitofsky was one of the great professors, so he signed up.

Stucke also had the opportunity to work one summer as a research assistant for Lynn Stout, who was preparing a case book on law and economics. "That was a great summer," he recalls. "Not only was I collecting and reading materials,

Right: Stucke's parents were a major influence in his decision to become a teacher





Celebrating admission to the bar

I got to have these great conversations with her about the role of law and economics.”

Pitofsky and Stout proved to be highly influential in shaping Stucke’s career. Pitofsky recommended him for the honors program in the Department of Justice. Stucke got the job and began working in the antitrust division after graduating from law school in 1994.

“That was an exciting time,” Stucke says. “Antitrust was a big deal during the Clinton administration. I could put into practice the things I’d learned in law school, and the amount of responsibility I was given was amazing for a young attorney.” Stucke worked on antitrust mergers and restraints of trade.

In 1996, he took a job as an associate in the New York office of Sullivan & Cromwell where he got to work on important cases, including the NASDAQ Market-Maker Antitrust Litigation, the largest class-action lawsuit in the nation at the time. Stucke defended Goldman Sachs. The case eventually settled for a little over a billion dollars.

While at Sullivan & Cromwell, Stucke handled criminal defense cases as well, and although he enjoyed the work, he had felt a stronger sense of purpose working as a prosecutor. After three years with Sullivan & Cromwell, he returned to the Justice Department, where he remained from 1999 to 2007, mostly prosecuting antitrust cases. He also prosecuted a variety of misdemeanors and felonies while on special assignment with the U.S. Attorney’s office.

“One of the good things about being a prosecutor is getting to learn about new industries,” Stucke says. “In prosecuting antitrust cases you become quite knowledgeable about the details of a particular industry. You learn about suppliers, customers, competitors, retailers, and you put all these details together to figure out how competition works in the industry. While I was becoming highly specialized in antitrust litigation, however, I was losing contact with other areas of the law. When I was in law school, I loved figuring out how all the various areas of law worked together to produce the larger canvas. I missed that.”

Stucke was also interested in shaping policy, and although he was affecting policy as a prosecutor, his years studying literature and philosophy as an undergraduate and his policy studies in law school had instilled in him a deep love for scholarship.

“I started studying and writing, mostly on nights and weekends,” he says. “By then I had three children, and when I took them to swimming practice in the mornings, I would spend my time reading and working on policy issues. I began thinking about how great it would be to spend more time on scholarship and have the resources to do it.”

Stucke says he was also fortunate at the Justice Department in being able to help train incoming attorneys. He loved the teaching and appreciated the impact it had on his students. “My parents are both educators,” he says. “My mother inspires me with her passion for the arts. She’s a prolific painter and writer and has done much in bringing the arts to others, including children with learning disabilities. My father inspires me with his dedication to teaching. He has taught at Long Island University for over 40 years and led the business school as its dean. Not surprisingly, my sister and I are both teachers.”

In addition to the influence of his parents and sister, Stucke has had great mentors who helped him throughout his career, without any benefit accruing to them. “I wondered whether, by helping students in the classroom, I could in effect pay back what I received from my mentors,” he says.

The more he thought about it, the more attractive a teaching career sounded. He signed up with the Association of American Law Schools, indicating that he was looking for a job teaching evidence and antitrust law. He got inquiries from several schools, including the University of Tennessee.

“I really liked what UT had to offer,” Stucke says. “The quality of the institution, the support for the faculty, the caliber of the students, and the living environment were outstanding. The living environment was particularly important; I wanted to go somewhere where my family would be happy.” Stucke’s wife, Elizabeth, four children—



Stucke’s family accompanied him on his summer travels in Europe



Amelia, Thomas, Clara, and Walt—and his Schnauzer have adjusted well. “They’re busier than I am, with Liz’s efforts in recycling, and my kids’ academic, athletic, and social events.”

Since arriving at UT in 2007, he has also found that opportunities for scholarship, teaching, and trading ideas with colleagues have been all that he anticipated; today he is quietly melding competition law and behavioral economics into a unified field of study.

“One of the questions we need to ask,” Stucke says, “is, what are the goals of competition law? Should the goals be solely economic or should they include noneconomic concerns?”

“Under the Chicago School of neoclassical economic theory, which has largely dominated competition policy, people pursue economic self interest with perfect knowledge and will power. We know, however, that people care about treating others fairly, and they care about being treated fairly, even when it doesn’t maximize their wealth.

Maurice Stucke’s most recent article, “Does the Rule of Reason Violate the Rule of Law?” was published in 42 *U.C. Davis Law Review* 1375 (2009). Stucke also presented his latest working papers at several competition policy conferences this summer.

The British Institute of International and Comparative Law invited him to address competition law scholars, lawyers, and policy makers from the European Commission and the U.K.’s Office of Fair Trading on behavioral economics at its Competition Law Forum in London in July.

In June, he presented his recent behavioral law and economics working paper, “Money, Is That What I Want? Competition Policy & The Role Of Behavioral Economics,” to the directors and researchers of the Max Planck Institute for Research on Collective Goods in Bonn, Germany.

The Academic Society for Competition Law (ASCOLA) also invited Stucke to present the same paper at its annual conference in Washington, D.C., in June. Edward Elgar will publish the papers from ASCOLA’s conference in a book on competition policy. Stucke was also elected into ASCOLA, which is an academic association of more than 150 lawyers and economists from about 25 different countries who specialize in competition law and policy.

In May, at a conference in Santorini, Greece, Stucke presented his working paper, “Toward a Better Competition Policy for the Media: The Challenge of Developing Antitrust Policies That Support the Media Sector’s Unique Role in Our Democracy,” 42 *Connecticut Law Review* (forthcoming November 2009) (coauthored with Allen P. Grunes).

Also in May, he presented his working paper, “How Do (and Should) Competition Authorities Treat a Dominant Firm’s Deception?” at an antitrust conference on comparative monopolization and abuse of a dominant position, hosted by Loyola University Chicago and Haifa University. The papers from this conference will be published in a special symposium edition of the *Antitrust Law Journal*.

Since they’re not perfectly rational, and at times make poor choices, these imperfections allow them to be taken advantage of, such as by being charged excessively high interest rates. The question then becomes, to what extent should the government intervene?”

Stucke asks whether people should ideally pursue only their economic self interest or would we prefer them to also be motivated by, say, empathy for others. What are the negative consequences if a government promotes solely self-interested behavior and consumption as economic policy?

In response to these questions, he points to the work of economists who are now looking at the causes of happiness. They’re discovering that once people have satisfied their basic needs, increasing their wealth does not necessarily increase their happiness and, indeed, can have a counter effect. “Studies have shown that the happiest people are those who are dedicated to helping others,” he says. “I find this fascinating; it has profound implications for my research.”

He is particularly concerned about the growing inequality of wealth: “As more and more people are becoming disenfranchised, they’re asking themselves, ‘What’s in it for me?’ A society of self-interested profit-maximizers may not lead to the best of all possible worlds.”

Stucke believes these are issues society must address if we hope to correct the present economic condition. He doesn’t see any quick solutions. Indeed, he sees a lifetime of work ahead for himself investigating the behavioral intangibles that shape economic decision making. “If we can’t fix the current state of affairs,” he says, “how important is competition policy? How is it relevant to individuals, especially those who are left behind?” ☀



Michael Higdon Joins Law Faculty

Michael Higdon was attracted by the solid reputation of the University of Tennessee College of Law and decided to cross the country to join the faculty.

“This is a great law school,” said Higdon, who spent the last five years on the faculty of the Boyd School of Law at the University of Nevada, Las Vegas.

“The strong academic programs were hard to overlook. And the collegial atmosphere here is fantastic—everyone seems to get along well with everyone else.”

It was also an opportunity to move closer to his family. Higdon grew up in South Carolina near Greenville and received his undergraduate degree from Erskine College in Due West, S.C. in 1995. He earned an M.A. and his J.D. from UNLV in 1997 and 2001, respectively.

Higdon graduated first in his UNLV law school class and received the James E. Rogers Award for Outstanding Academic Achievement. While in law school, he served as editor-in-chief of the *Nevada Law Journal*. He went on to clerk for Judge Procter Hug Jr. on the U.S. Court of Appeals for the Ninth Circuit.

Prior to entering academia, he practiced commercial and employment litigation with the firm of Schreck Brignone (now part of Brownstein Hyatt Farber Schreck) in Las Vegas.

Higdon teaches and writes in the areas of family law, trusts and estates, law and sexuality, and legal writing. His scholarship in this area has been published in several journals, including the *UC Davis Law Review*, the *Wake Forest Law Review*, and the *Kansas Law Journal*. He is also a member of the national Board of Directors for the Legal Writing Institute.

As he was packing to leave Nevada, Higdon was named the 2009 William S. Boyd School of Law Alumnus of the Year, the highest and most prestigious alumni award given by the school. After joining the Boyd faculty in 2004, Higdon was recognized by the student body as the 2006 law faculty member of the year. He also coached several outstanding student moot court teams and served as advisor to the Society of Advocates, the Boyd School of Law’s moot court program.

Hess Instrumental in New Legal Clinic Offering

Amy Morris Hess, a UT Knoxville Distinguished Service Professor, has secured a grant from the American College of Trust and Estate Counsel (ACTEC) to start a Wills Clinic at the College of Law beginning this fall. Students, under the supervision of Hess and Adjunct Professor Barbara W. Johnson '94, will prepare wills, trusts, powers of attorney, living wills and other estate planning documents for clients of modest means.

The ACTEC Foundation had funded a wills clinic at Harvard Law School and was considering funding one at a state university law school when Hess brought UT’s long-standing reputation as a leader in clinical education to the attention of the chair of the grants committee. The grant includes funding to operate the clinic for two years. An additional sum to establish a permanent endowment for the Wills Clinic is available if matching funds can be raised. Hess, who is also the Waller, Lansden, Dortch & Davis Distinguished Professor and the Williford Gragg Professor of Law, has been an academic fellow of ACTEC since 2005. She applied for the grant in order to give transactional students an additional clinical opportunity.

In 1994, Hess became the successor author of the leading treatise on trust law: *Bogert, Trusts and Trustees*. She has updated the 21-volume work annually since and also published replacements for three volumes of the treatise in 2000, 2005, and 2007. A fourth replacement volume is due out later this year.

For the last three years, Hess has been researching attitudes toward estate planning among the baby boomer generation. She presented the results of her research at seminars in Destin, Florida; Knoxville;



and Colorado Springs, Colorado, under the title “Estate Planning for the Baby Boomers: Will They Have Estates to Plan?” Last year, she presented some of this research as a panelist in a presentation entitled “What a Difference a Generation Makes: Estate Planning for Generations X, Y, and Beyond” at the Joint Continuing Legal Education Symposium of the American Bar Association Sections of Taxation and Real Property, Trust & Estate Law in San Francisco. A portion of that presentation was published as the lead article in the *ABA Tax Section Quarterly* (Winter 2009).

Hess was associate editor of the *Real Property, Probate and Trust Journal* from 1990 until 1997 and served as editor from 1997 to 2001. She received the 2005 Treat Award for Excellence from the National College of Probate Judges for her many contributions to the development of probate and trust law. In addition, *Probate and Property*, the ABA Real Property, Trust and Estate Sections’s magazine, selected Hess for one of its “Profiles in Membership” in the September/October 2009 issue. The column profiles prominent members of the bar in the section’s subject-matter areas.

Hess is also the coauthor of a major textbook on the law of trusts and estates: Valerie J. Vollmar, Amy Morris Hess, & Robert Whitman, *An Introduction to Trusts and Estates* (West, 2003); a second edition is in progress.

Davies Delves into Constitutional History

While participating “of counsel” in a 1990 Supreme Court search case, *Illinois v. Rodriguez*, Tom Davies became convinced that the U.S. Supreme Court was misinterpreting the original constitutional standards for searches and arrests.

After roughly a decade of research in the historical sources themselves—rather than what the Supreme Court or other historians had written on the topic—Davies published a 1999 *Michigan Law Review* article in which he documented that the Fourth Amendment had never been meant to create a flexible reasonableness standard for all searches and arrests. Rather, the amendment was simply meant to ban the use of unspecific “general warrants,” and the phrase “unreasonable searches and seizures” in the amendment was a pejorative label for grossly illegal searches under general warrants.

Although Davies’ interpretation was contrary to the conventional history that appears in Supreme Court opinions as well as a variety of other commentaries, his 1999 article, “Recovering the Original Fourth Amendment,” for which he was awarded a UT Chancellor’s Research Citation, has come to be viewed as a leading commentary on Fourth Amendment history.

Yale Kamisar, the Clarence Darrow Distinguished Professor of Law Emeritus at the University of Michigan, has called him “the best search and seizure historian of our time.” Kamisar is a nationally recognized authority on constitutional law and criminal procedure.

Over the years, Davies has also published research on the right against self-incrimination in the Fifth Amendment, and the right of confrontation in the Sixth Amendment, as well as framing-era arrest law. He is currently completing research on the original understanding of “due process of law.”

His articles have been published in the *American Bar Foundation Research Journal*, the *Brooklyn Law Review*, the *Justice System Journal*, the *Michigan Law Review*, the *Mississippi Law Journal*, the *Ohio State Journal of Criminal Law*, the *Wake Forest Law Review*, and the *Tennessee Law Review*.

The larger lesson that Davies draws from his research, which he shares with students in seminars in constitutional history, is that there has been so much change and discontinuity in constitutional criminal procedure doctrine over the last two centuries “that originalism cannot be a valid method for answering modern issues.”

Before joining the UT faculty in 1986, Davies practiced as a corporate litigator in the Chicago office of Kirkland & Ellis and was also a researcher at the American Bar Foundation.

His special areas of expertise are the investigatory phase of criminal procedure, especially search and seizure law and the related exclusionary rule, and the history of criminal procedure.



Faculty Notes

PENNY WHITE has been asked to contribute an article to the November issue of the *Harvard Law Review*. Her article, "Relinquished Responsibilities," is a commentary on the United States Supreme Court's decision in *Caperton v. Massey Energy Company*. White, along with professors Lawrence Lessig and Pamela Karlan, both of Stanford Law School, will also participate in a symposium at Harvard in December on the subject of the Supreme Court's 2008–09 term.

ROB BLITT gave a presentation at a conference on "Cultural and Religious Freedom under a Bill of Rights," held in Canberra, Australia in August. The conference examined the implications for cultural and religious freedom of the proposed Australian bill from the perspectives of legislators and policy makers, religious and community groups, academics and the judiciary. Presenters included leading judges from Australia, Pakistan, New Zealand, and the United States. Blitt's presentation was entitled, "North American Perspectives on Bills and Charters of Rights—Current Research." The University of Adelaide Research Unit for the Study of Society, Law and Religion sponsored the conference in conjunction with other local and international institutions.

IRIS GOODWIN recently had an article published in the *Arizona Law Review*. Her article, "Ask Not What Your Charity Can Do for You: *Robertson v. Princeton* Provides Liberal-Democratic Insights into the Dilemma of Cy Pres Reform," looks at the larger lessons to be learned from litigation concerning a huge restricted gift to Princeton. The article appears at 51 *Ariz. L. Rev.* 75 (2009). In addition, Goodwin was recently quoted in the *New York Times* on the difficulties educational institutions face when charitable grants they have received contain restrictions that have become outdated or obsolete.

KARLA MCKANDERS was recently quoted in the *Tennessean*. The article discusses three immigrant women in Tennessee who are seeking asylum. She describes a new path that the Obama administration has opened and explains how it may signal more sweeping changes to come.

JOAN HEMINWAY recently gave a luncheon presentation on "Responsibilities of Nonprofit Directors" for the Smoky Mountain Chapter of the Association of Fundraising Professionals. In addition, she offered introductory remarks entitled "The Best of Times, the Worst of Times: Securities Regulation Scholarship and Teaching in the Global Financial Crisis" as moderator of a panel of Securities Regulation scholar-teachers at a conference at the University of Maryland School of Law. Her remarks will be published in an upcoming volume of the *Journal of Business and Technology Law*. Heminway has also just accepted an invitation to become a Fellow at the Center for Business and Economic Research (CBER). Part of the College of Business Administration at UT Knoxville, CBER conducts research on national and state economic trends for UT, state agencies, and public and private organizations. Don Leatherman has also served as a CBER Fellow.

DWIGHT AARONS and **PENNY WHITE** each published an article in the most recent issue of the *Tennessee Law Review*. Aarons's article, "Adjudicating Claims of Innocence for the Capitally Condemned in Tennessee: Embracing a Truth Forum," and White's article, "Treated Differently in Life But Not in Death: The Execution of the Intellectually Disabled After *Atkins v. Virginia*," both appeared as portions of the *TLR* colloquium entitled "The Past, Present, and Future of the Death Penalty."

DEAN RIVKIN had two law review articles accepted for publication this summer. The first article, entitled "Strip-Mining and Grassroots Resistance in Appalachia: Community Lawyering for Environmental Justice," 1 *Los Angeles Public Interest Law Journal* vol. 2 (forthcoming 2009), is coauthored with former students Christopher Irwin and Anne Passino. Rivkin's second article is "Decriminalizing Students with Disabilities," 54 *New York Law School Law Review* ____ (forthcoming 2010). This article will appear in a symposium on "Dismantling the School-to-Prison-Pipeline."

JEFF HIRSCH recently gave a presentation entitled "Collective Action in a Global Workplace" as part of a faculty exchange program at West Virginia University School of Law. He gave a similar presentation at St. Louis University School of Law's symposium, entitled "Competition in the Global Workplace: The Role of Law in Economic Markets." In addition, his article, "Revolution in Pragmatist Clothing: Nationalizing Workplace Law," will be published in a forthcoming issue of the *Alabama Law Review*.

TOM PLANK just had an article, "Regulation and Reform of the Mortgage Market and the Nature of Mortgage Loans: Lessons from Fannie Mae and Freddie Mac," published in the *South Carolina Law Review* as part of a symposium issue, "1.9 Kids and a Foreclosure: Subprime Mortgages, the Credit Crisis, and Restoring the American Dream." This article argues that any proposals for the regulation of the mortgage market must take into account the nature of mortgage loans as long term assets and facilitate the long term financing of such mortgage loans. The failure to recognize the nature of mortgage loans led to the faulty regulatory design of the savings and loan industry after the Great Depression and the ultimate insolvency of the entire →

Faculty Notes

S&L industry in the 1980s. The guaranty of mortgage pass-through certificates by Fannie Mae and Freddie Mac that can be sold into the capital market solves this problem, and it has been and should continue to be a significant part of the future mortgage market. However, these entities should not be allowed to operate as they have recently as a hedge fund, buying long-term mortgage loans and financing them with short-term borrowing.

GEORGE KUNEY has been asked to act as amicus curiae to the United States Supreme Court in *Ad Hoc Committee of Kenton County Bondholders v. Delta Air Lines, Inc.*, a case that presents the opportunity to resolve, among other things, a long standing circuit split concerning whether and under what circumstances the Bankruptcy Code authorizes releases and restructuring of non-debtor liabilities. The issue was before the Supreme Court last term in the *Travelers v. Bailey* case, in which Kunev and a group of other law professors, represented by Richard Lieb of the Cooley Godward firm, acted as amicus curiae, but it was not addressed when the court reversed the lower court in that case on other grounds.

GREG STEIN recently signed a contract with Ashgate Publishing to write a book about Chinese real estate law and practice. In addition to contrasting China's new written property laws with actual practice in that nation during the past two decades, the book will also examine the question of how a country can produce a sophisticated real estate industry while its property laws are so undeveloped. Stein will also discuss whether a well-developed law of property is a necessary precondition to a modern economy. He recently published a chapter on property law in the *Berkshire Encyclopedia of China*, and his entry provides an overview of Chinese property law, both before and after the introduction of China's new

property code in 2007. In addition, Stein has been named a member of the Task Force on Real Property Law School Curriculum of the American Bar Association's Section of Real Property, Trust, and Estate Law. This task force is focusing on the problems created by the reduction of the number of credit hours for the first-year property course at many law schools.

The UT College of Law was extraordinarily well represented at the 62nd annual meeting of the Southeastern Association of Law Schools in Palm Beach, Florida in August. The conference provides wonderful opportunities for presenting work and interacting with academic colleagues from the southeast and elsewhere. **BEN BARTON** is a member of the Mentor Committee. He served as mentor to Prof. Tania Tetlow of Tulane University School of Law. Barton also participated in the panel entitled, "Taking it to Scale: Best Practices and Beyond in the 21st Century." Dean **DOUG BLAZE** served as moderator for the panel on "Clinical and Non-Clinical Scholarship at the Crossroads."

ROBERT BLITT spoke as part of a roundtable on the topic of "Teaching International Law in the Southeast: Challenges, Insights, and Rewards." **IRIS GOODWIN** moderated the panel on "Contract Law: Morality, Efficiency and Corrective Justice." **JOAN HEMINWAY** is a member of the SEALS Board of Trustees, with a term ending in 2011. She was mentor for Prof. Arthur Laby of the Rutgers School of Law-Camden. Heminway spoke during a Corporate and Securities Law Scholarship Roundtable. Papers written for and discussed in this roundtable will be published in *Transactions: The Tennessee Journal of Business Law*.

JEFF HIRSCH is chair of the New Scholars Committee. He moderated the panel on "Retaliation and Whistleblowers in the Workplace after *Crawford v. Metro-*

politan Government of Nashville." **BECKY JACOBS** moderated the panel entitled, "Study Abroad: Boondoggle or Curricular Staple?" **ALEX LONG** participated in the panel on the topic of "Retaliation and Whistleblowers in the Workplace after *Crawford v. Metropolitan Government of Nashville.*" **KARLA MCKANDERS** participated in a New Scholars Colloquium, speaking on the topic of "Immigration Fugitive and Federal Authority Over Mass Immigration Deportations."

TOM PLANK served as mentor to Prof. Joshua Silverstein of the University of Arkansas at Little Rock, William H. Bowen School of Law. Plank participated in the panel on "The Current State of the Mortgage and Credit Markets." **GLENN REYNOLDS** participated in the panel on "*Heller* and the Incorporation of the Second Amendment Against the States." **DEAN RIVKIN** was mentor to Prof. Oren Griffin of Mercer University Law School. He moderated the panel on "New Visions and Voices: Pedagogical and Other Innovations."

Also at the conference, **PAULA SCHAEFER** participated in a New Scholars Colloquium, speaking on the topic of "Misguided Zealous Advocacy in E-Discovery." **JOHN SOBIESKI** moderated a session on "The Election and the Future of the Federal Courts." **GREG STEIN** served as a panelist discussing the topic of "Innovative Teaching and Research Strategies for Land Use and Development Law." **MAURICE STUCKE** moderated a panel on "The Current State of the Mortgage and Credit Markets." **PAULA WILLIAMS** participated in the panel on "New Visions and Voices: Pedagogical and Other Innovations."



Alvin Cohen

Many Roads Traveled

From Knoxville to Nashville to Dallas to Des Moines, Iowa, to Boston, and even to Johannesburg, South Africa, UT College of Law students complemented their classroom legal education with a full docket of hands-on work experiences during the summer of 2009.

For example, **Alvin Cohen** (2L) spent time in the chambers of four different judges from the Supreme Court of Appeals in Johannesburg. Cohen, who has family in South Africa, heard both trials and appeals in cases that ranged from uncontested divorces

to murder to civil cases involving issues of product liability, to contracts and automobile accidents.

Cohen also heard brief parts of a political case where the Chief Judge in Cape Town was accused of illegal influence by the justices on the country's Supreme Court, which resulted in his being impeached and tried. The trial was still in progress as Cohen returned to Knoxville.

Regina Koho (3L) worked in the Office of Legal Counsel to Tennessee Gov. Phil Bredesen. Koho did considerable research on legislation throughout the summer, including the controversial "guns in bars" bill, which passed in the Senate and House but was vetoed by the governor. "In the end, the legislature easily overrode the veto, but I felt fortunate to have been able to witness the checks and balances of our state government in real time," Koho said. The experience strengthened her interest in a public service career.

Working at the Medical-Legal Partnership in Boston, a public interest legal organization located at Boston Medical Center, occupied **Scott Woods** (2L). "Working with low-income patients at New England's largest safety-net hospital was both challenging and immensely rewarding," Woods said of his experience that included health insurance, education, housing, and immigration cases. "It opened my eyes to the daily struggles that these populations face." →



Jordan Mollenhour realized early on that a legal education could help him build a successful career in business.

As a third-year student at the UT College of Law, he is only a semester away from receiving a J.D. next May. But even before entering law school he was already successful in business, having cofounded Knoxville-based Mollenhour Homes in 2001. The company builds and sells single-family homes and manages commercial properties.

And with his partner and other associates in the technology field, Mollenhour has helped develop software that has revolutionized the way his company produces and markets its real estate interests. The software, essentially a web-based business management program, has been so successful that Mollenhour Homes has sold it to several other companies.

BUILDING A BUSINESS

Mollenhour received an undergraduate degree in accounting from UT in 2004 and an MBA in 2006. He considered pursuing a joint JD-MBA, but the time commitment was too great to do both and run his business as well. After receiving the MBA, he worked for several months before entering law school.

"My father is an attorney, so growing up I saw the benefits of a legal education," said Mollenhour, whose first foray into business was a lawn care service he started while still in high school.

After receiving the MBA and seeing his business become more complex, Mollenhour immediately appreciated what others had told him about the value of a legal education. "I don't intend to practice law in the conventional sense," he said. "My intention in law school is to sharpen my skills and build a better resource base, especially in law."

He pointed to his courses in Contracts I and II as being especially valuable. "What you learn is that most of the problems that occur in business are the result of poor planning. You see people make the same mistakes over and over again. The law program helps you analyze a problem in a different way than you would from a marketing perspective."

He feels he has also benefitted from being a part of the UT law community. "You can be a big fish in a small pond or a small fish in a very big pond," he said. "Here you learn just how big the pond can be in terms of intellect and ability. You meet a lot of people who are a lot smarter than you are. It really puts things in perspective."

Kolwyck Fellow **Emily Lay** (3L) worked with Legal Aid of East Tennessee and participated in a variety of areas including social security and disability law and landlord/tenant law. “My most interesting case was a Section 1983 action in federal district court where I researched several issues relating to a Motion for a Preliminary Injunction,” she said. “It was an invaluable experience that helped prepare me for my own legal career.”

Several students spent the summer in public defenders’ offices. **Jerice Glanton** (3L) returned to her hometown of Des Moines, Iowa, to intern with the Juvenile Public Defender’s office. “Being up north was a very different experience because their laws are very different,” Glanton said. Her most interesting cases were waiver hearings where her office fought to keep juveniles out of adult court where they would have faced 10 to 17 years for offenses such as sexual abuse and vehicular homicide. “I really enjoyed my stay there, and I ended up staying for an additional two weeks.”

Emily Herbert (2L) worked with the Knox County Public Defender’s Community Law Office conducting research, assisting at court, and participating in client intakes and meetings. She especially enjoyed having her attorney supervisor, Gianna Maio ’05, allow her to be involved in the cases she researched. “It was a wonderful experience and renewed my desire to practice law,” she said.

While working with the Nashville Public Defender’s Office, **Bryon Pugh** (2L) was able to observe three trials. He also was a party to several attorney negotiations and multiple hearings. “Because of this experience, I have developed a greater appreciation for the ‘right to counsel,’ which as citizens we are entitled to, regardless of income.”

A joint J.D./M.B.A. student, **Mili Shah** (3L) experienced a newfound interest in litigation while working as the judicial intern for Chief Justice Gene Schwarm of the 4th Judicial Circuit of Illinois. From sidebars to attorney conferences to jury instructions, Shah saw civil procedure at its best. She traveled from small towns in Illinois to St. Louis and Chicago; and she met with other judges, prisoners, attorneys, and members of the American Bar Association. “I discovered the value of seeing the law behind the screen,” she said. “Working with a judge allowed me to see how my academic classes finally culminated as they were being applied in real-world settings.”



Student Notes

Alumni Council Election

Congratulations to 3L **Lindsay Anne Thompson** who was elected to represent the Class of 2009 on the Alumni Council. She will serve on the council for one year and provide feedback and ideas to the group about being a first-year graduate. The Alumni Council consists of UT College of Law alumni who work with Dean Doug Blaze and the Development and Alumni Affairs Office to foster the development of and advance the quality of the law school, maintain a mutually beneficial relationship between the College of Law community and its alumni, and foster loyalty and financial support for the college’s annual giving program.

UT Pro Bono Animal Law Recognized

The UT Pro Bono Animal Law Project (**Patricia Graves, Tiffany Hagar, Steph-**

anie Swing, and Alicia Teubert) was honored by the Office of the UT Knoxville Dean of Students for Outstanding Contributions to Campus Life.

Student Article Published

An article written by 3L **Katie Southworth** as part of Professor Dean Rivkin’s international environmental law course has been published in the March 2009 issue of *Policy and Society*. The article is entitled “Corporate Voluntary Action: A valuable but incomplete solution to climate change and energy security challenges.” Southworth is a Vito Stagliano Scholar, which provides a summer internship opportunity for a student to conduct research on pertinent energy policy topics in Washington, D.C., at the National Commission on Energy Policy headquarters.

Students Litigate Immigration Cases in Memphis

Last April, Professor Karla McKanders and students **Katie Southworth** and **Terry Stevens** traveled to Memphis to litigate asylum cases before the Memphis Immigration Court as part of their semester of work in the Advocacy Clinic. Under the direction of McKanders, Southworth and Stevens prepared a detailed evidence submission corroborating their clients’ asylum claims, drafted their client and out of country witness affidavits, wrote a brief on gender asylum claims, obtained expert witnesses, and prepared for client interviews. Both students also worked diligently in preparing their clients, witnesses, and expert witnesses for trial.

The culmination of their efforts led to hearings where they litigated the



Norene and Lillian Napper

Sisters Lillian and Norene Napper (both 3L), split their summer break between Knoxville and their hometown of Dallas. The two have embarked upon contrasting career paths, and each was able to gain valuable experience.

Lillian Napper spent the first six weeks of the summer working for the Federal Public Defender’s Office for the Northern District of Texas. “I was exposed to an entirely new world, interacting with attorneys of all backgrounds

and experiences pursuing a common goal, as well as clients whose backgrounds were as varied as the attorneys,” she said.

She hopes to pursue a career in criminal defense. “I learned how rewarding it can be to be exhausted at the end of the day, yet know that perhaps you have made at least a little difference in the lives of others.” She concluded her summer with a similar experience in Knoxville with the Federal Defender Services for the Eastern District of Tennessee.

Norene Napper, whose career interest is criminal prosecution, worked first with the Department of Justice, Antitrust Division, Dallas Field Office. “I conducted inquiries into citizen complaints, researched and composed intra-office and grand jury memos, and assisted in trial preparation, including writing jury instructions,” she said. The six-week experience expanded on her spring semester antitrust course. “It opened my eyes to the prison time CEOs and corporate employees can face for violations,” she said.

Back in Knoxville, she worked with the Knox County District Attorney’s Office in the Child Abuse Unit. “While I was overwhelmed by the number of reported sexual and physical abuse cases, making this one of the most disturbing and saddening areas of the law, this internship was a valuable and rewarding experience because I felt I was helping protect children by working to punish their abusers.”



Pictured left to right: Raul Ordoñez, Alaina Whitt, Nicholas Du Puis, Lida Griest and Taylor Layman.

ESPN SUPPORTS SCHOLARS

Five first-year students in the College of Law have been awarded one-time UT Athletic Department graduate student awards as a result of a contract the Southeastern Conference has negotiated with ESPN for television coverage of SEC games.

On the Knoxville campus, a portion of the funds distributed through the Office of the Provost was designated for the support of “high quality” graduate students. In addition to having outstanding academic records, the law students selected also excelled in athletics at their respective alma maters.

The awards went to: **Nicholas Du Puis**, NCAA Division I athlete and captain of the varsity swimming team while at Miami University in Ohio; **Lida Griest**, captain of the Kenyon College women’s varsity swim team and a cum laude graduate, named an Academic All-American twice; **Taylor Layman**, named to the All-Ivy League football team, served as a cocaptain of the Dartmouth team his senior year; **Raul Ordoñez**, a four-year member of the Swarthmore varsity basketball team and team cocaptain in 2008–2009, recognized as a member of the 2008 Centennial Conference Academic Honor Roll; and **Alaina M. Whitt**, left a career as a chemist to return to law school, captain of the women’s swim team at Coe College, an NCAA Division II school.

complex legal issue of whether the U.S. Attorney General should recognize gender-based asylum claims. Their cases came on the heels of the December 2008 U.S. Attorney General decision remanding a precedent gender asylum case back to the immigration court, which made the issues in their case even more complex and challenging.

“Congratulations to Katie and Terry on all of their hard work and dedication to their clients throughout the semester and on litigating very tough asylum cases,” said McKanders.

American Bankruptcy Institute Award

Taylor Williams, who graduated last spring, was awarded the 2009 American Bankruptcy Institute Medal of Excellence in recognition of his outstanding performance in his bankruptcy coursework. He is shown here with Dean Doug Blaze, who presented the award. The American Bankruptcy Institute is the largest and most active group representing and serving professionals in the United States insolvency community.



Taylor Williams (left) and Doug Blaze

A Believer in Education and Empowerment

Tutu Alicante '01 was born in and grew up in Equatorial Guinea, a nation that has suffered through two of Africa's worst dictatorships. Since gaining independence from Spain in 1968, the government of this West African nation has been characterized by systematic incarcerations, disappearances, torture, and assassinations of citizens.

Despite more than one billion dollars in annual oil production revenue, over 75 percent of Equatorial Guinea's 500 million citizens live on less than two dollars a day, without access to health care, education, or clean water.

Alicante, fortunately, was able to escape the poverty of his native country, coming to the United States in 1994 in search of an education and the means to find answers to the grave injustices he had witnessed in his homeland.

"My personal and family experiences in Equatorial Guinea are tainted with instances of government-sponsored abuse of power, corruption, and impunity," he said.

When Alicante's family home was destroyed by the government, his father told him there was nothing they could do about it—they just had to go on. "That's when I realized I didn't want to live in a country where there is nothing you can do to change the situation. I came to the U.S. to mobilize. Things had to change."

After earning a J.D. degree from the UT College of Law in 2001, Alicante spent three years litigating violations of the Fair Labor Standards Act, the Agricultural Worker Protection Act and other unfair immigration-related employment practices in the Deep South. He then enrolled at the Columbia Law School in 2004 as a Human Rights Fellow and received the LL.M degree in 2005.

Since then, he has dedicated himself to international human rights issues in his native Equatorial Guinea. In 2007 he used a fellowship he received from Echoing Green, an organization that invests in and supports emerging social entrepreneurs (<http://www.echoinggreen.org>), to launch EG Justice (<http://egjustice.org>).

"Successful social entrepreneurs must believe that change is possible and within reach," he said. Through his work in the United States, Alicante has "seen what is possible when people are educated, empowered, and engaged in finding solutions to everyday problems."

He is convinced a just and democratic Equatorial Guinea is possible.

For the past two years Alicante and his organization have worked with other like-minded groups on the Extractive Industries Transparency Disclosure Act, a piece of legislation introduced in both houses of Congress that

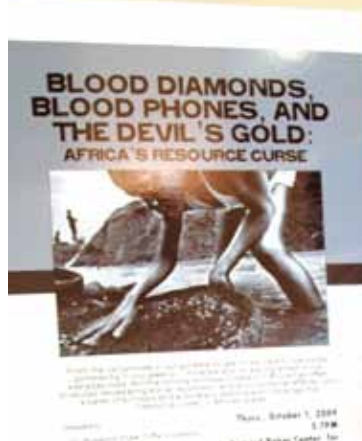
would require oil, gas, and mining companies operating in Equatorial Guinea to disclose the amount and type of payments they receive from the countries where they operate.

"My country uses the term 'resource curse,'" he said. "We're rich in resources, but we see few of the benefits. If I know how much money is coming in, I can go to the local chief and ask, 'Where is the money going? How does it meet OUR needs?'"

The goal is to see the revenue produced by Equatorial Guinea's oil reserves trickle down to the average citizen in the form of education and health care reform and government representation.

Alicante concludes, "We have to mobilize Equatorial Guineans to reform institutions inside and outside the country. We cannot let a government have absolute power over absolutely everybody."

Tutu Alicante was on campus in October to participate in a conference on Africa's resource curse



EVENTS CALENDAR

November 5 ... Alumni Reception
Washington D.C.

Homecoming Weekend

November 6 ... Class of 1999 Reunion

November 7 ... Homecoming BBQ
UT College of Law Patio,
three hours before kickoff

For more information about alumni events, contact Lauren Herbstritt at (865) 974-6704 or LKH@utk.edu.

Making Government Work Better

At 32, Todd J. Campbell '82 became the youngest federal court judge in the nation when he was commissioned to a seat on the U.S. District Court for the Middle District of Tennessee the day after Christmas in 1995. And at that point, he was making a 180-degree turn professionally.

Campbell, a practicing civil attorney in Nashville at the time, had also been a volunteer on numerous state political campaigns, a member of President-elect Bill Clinton's transition team, and, finally, counsel to the vice president of the United States, Al Gore.

Shortly after he resigned as counsel to the vice president and returned to Nashville, President Clinton nominated him to fill the seat vacated when Judge Thomas A. Wiseman, Jr. moved to senior status. He moved to chief judge in 2005.

"I thought I was leaving behind the best job I would ever have, working in the White House," Campbell said. "But I needed to get a house with a yard for my kids and to provide a little more financial stability."

Campbell arrived at the UT College of Law in 1979 with virtually no money in the bank. "I was living off a Social Security death benefit, student loans, and part-time jobs," he recalled. "Neither of my parents graduated from college. My father died when I was 13. I knew the wolf was at the door, and the UT law school was giving me an opportunity to do something with my life."

Campbell enrolled in law school "not to become a trial lawyer or a corporate lawyer. My real reason was an interest in government and politics, an interest in making government work better."

The early portion of his legal career was shaped by his experience one hot August evening at the Emory University law library when he was still a UT law student. "I was clerking for a big Atlanta firm and working on an antitrust brief when I thought to myself, 'What's wrong with this picture?' I had an epiphany of sorts. I decided I needed to get back to the reason I went to law school—government and politics."

Campbell recalls looking up and discovering on the shelves above his head a brand new set of books entitled *The Federal Election Campaign Finance Reporter*. The shrink wrap was still intact. "I opened the set and said, 'This is it. I'm going to become an expert on the new election finance law.'"

And that is just what he did. After seeking approval from Professor Pat Hardin, Campbell researched and wrote a paper on the First Amendment limits on campaign finance reform during the fall term. After graduating the following spring, he moved to Nashville where he began practicing law during the day and volunteering in political campaigns in the evening.

"Literally, my first election law client was a guy named Gore, Al Gore," he said. Campbell subsequently volunteered on a number of campaigns for governors, senators, congressmen, and supreme court justices. "Election law was not just how I made my living—it was also my hobby."

He was deputy campaign manager for legal affairs and treasurer of Gore's presidential election committee during 1987–88. When the Clinton-Gore ticket was elected, he served on the transition team and then as counsel to the vice president.

The paper Campbell wrote in '81 hangs on the wall in his Nashville office, he says, "to remind me of how I got here."

He has found his new job on the bench "intellectually interesting and diverse. You have to love embracing new challenges. The breadth of the federal docket is immense. I can go from a bankruptcy appeal to a death penalty case to a criminal case of murder for hire to a Title VII case all in one day. I find that diversity exhilarating."

And Campbell is appreciative of the opportunity the UT College of Law gave him. "I got a very good education there, for which I am grateful, and it is an even better school now. It is such a wonderful bargain."

Campbell believes in giving back to his alma mater. During 2005 and 2006 he drove back and forth from Nashville each Monday to teach trial practice as an adjunct professor.

Campbell was also the driving force behind the establishment of the Federal Court, Bench and Bar Scholarship, a financial-need-based award made each year to a law student from Middle Tennessee. "It goes back to my interest in government. If people can not afford law school then we are not going to have qualified people who want to be prosecutors, public defenders and judges. Hopefully, some of the recipients will become public servants in the middle district of Tennessee."



Alum Makes Friends and Foes in Chrysler Fight

Depending on whom you ask, Thomas Lauria's role in Chrysler's reorganization was either that of a tenacious defender of the U.S. Constitution or a troublemaker who doggedly fought to derail the government's plan and force Chrysler into liquidation.

Lauria, who received both his bachelor's degree in liberal arts in 1982 and his law degree in 1986 from UT Knoxville, is a bankruptcy and restructuring lawyer in the Miami office of White & Case, which has more than 2,000 lawyers in more than 20 countries around the world. He has led the firm's efforts to restructure more than \$100 billion of debt in some of the largest and most complex cases in history.

"In the Chrysler case, we were originally retained by a group of first lien lenders who held about \$2 billion of the automaker's \$7 billion debt," Lauria said. "The group organized and retained us when the Obama administration proposed retiring the entire \$7 billion for a new note in the amount of \$1 billion, while proposing that more than \$20 billion of unsecured creditors receive 100 percent recoveries. The group was concerned that the Obama administration was taking an unreasonable position [to which] the four lead banks—who had received TARP funding from the Treasury—would be unable or unwilling to take a strong position in opposition."

He argued that Chrysler's sale to Italian automaker Fiat SpA, the U.S. and Canadian governments, and a United Auto Workers benefit trust was an "end run" around established bankruptcy law because it would favor unsecured creditors, including the auto workers' union, over his secured lenders, in violation of, among other things, the absolute priority rule.

Lauria said they pushed hard for the secured lenders to recover 60 to 70 cents per dollar, but the settlement proposal was improved to only 29 cents per dollar.

"We didn't think this was acceptable, however, because the recovery was viewed as less than liquidation value and did not seem fair given the amount the unsecured lenders were due to receive.

"On the eve of the bankruptcy, we tried to open discussion through numerous channels, including direct communication and through a U.S. congressman. The administration refused to engage, calling me a terrorist," he said, adding that his clients felt increasing pressure to acquiesce.

On April 30, Chrysler LLC filed for Chapter 11 bankruptcy protection and announced a plan for a partnership with Italian automaker Fiat, which has since become a reality through a section 363 asset sale.

Although Lauria won a stay from Supreme Court Justice Ruth Bader Ginsburg on June 8 that temporarily blocked Chrysler's alliance with Fiat, the stay was lifted a few days later and Chrysler was able to proceed with the sale to Fiat.

"Within a week, our group had vaporized. Investors simply could not withstand the pressure from opposing the administration," he said.

A couple of weeks later, Lauria was called upon to represent three Indiana pension funds—"non-TARP" lenders holding \$42 million of the auto maker's \$7 billion debt—who rejected the government's offer to exchange Chrysler debt for 29 cents on the dollar.

"We believed that this group . . . would be able to press the issue up the appellate totem pole," Lauria said. But, in August, the 2nd U.S. Circuit Court of Appeals upheld the bankruptcy judge's approval of Chrysler's sale to Fiat.

Lauria—who, throughout the fight, made his case public on CNBC and Fox News and in the *Wall Street Journal* and other media—repeatedly said he was simply defending contract law and the Constitution.

"What ensued in the bankruptcy court, the district court and the 2nd Circuit has truly shaken my confidence in the judiciary," Lauria said. "Rather than an independent tier applying the law to the facts, we have found, instead, an outcome-oriented process that's heavily influenced by politics."



LOOKING FOR CLASS NOTES?

Alumni class notes have moved to the Web. You can find them at <http://www.law.utk.edu/alumni/class-notes.shtml>

Visit today and tell us what you've been doing!

Conflict Management Training Offered

The Center for Advocacy and Dispute Resolution in the College of Law has entered into a collaborative agreement with the Institute of Conflict Management (ICM) at Lipscomb University to provide graduate level instruction in conflict management and dispute resolution at the UT College of Law beginning in fall 2009.

Although the College of Law currently provides courses in negotiation, mediation, and alternative dispute resolution for law students, this collaboration will allow students, graduates, and other executives and professionals to take advanced courses in these subjects as well as arbitration, system design, facilitation, and public policy formation. "This meshes well with our current offerings and gives the law school a special niche in an emerging field," said Professor Penny White, director of UT's Center for Advocacy and Dispute Resolution.

The Institute for Conflict Management was established in 2006 by Lipscomb President L. Randolph Lowry, who is internationally recognized as a leader in dispute resolution education. The institute draws its faculty from across the nation to offer innovative graduate courses and professional mediation training and has served hundreds of students, lawyers, managers and judges.

Interested law students will be able to pursue their Juris Doctor degree and their Masters degree in Conflict Management at the same time, as ICM courses are scheduled on Fridays and Saturdays and will not conflict with law courses.

The collaboration between ICM and the law school will allow students who take classes in Knoxville to benefit from the same national faculty, innovative graduate courses, and professional mediation training provided in Nashville.

"UT Law has long been recognized for its clinical education model," said Larry Bridgesmith, executive director of Lipscomb's ICM. "Our institute shares that commitment to bring 'theory into practice,' and we are excited to extend our unique interactive style of teaching dispute resolution to UT Law students, alumni and others in East Tennessee who wish to enhance their problem-solving skills, learn mediation techniques and improve negotiation outcomes in business, law, and organizational endeavors."

Contact Penny White, director of the Center for Advocacy and Dispute Resolution, for more information.



ENTERING CLASS WELCOMED

Tennessee Senator **Jamie Woodson '97**, seated next to Dean Doug Blaze, waits her turn to welcome the 158-member class of 2012 during new student orientation at the beginning of fall semester. The class, which is made up of 52 percent men and 48 percent women with 30 students of color, comes from 74 different undergraduate schools.



TENNESSEE SUPREME COURT JUSTICES HONORED

The Howard Baker Rotunda in the College of Law overflowed with students, faculty and other guests who turned out to welcome all five justices of the Tennessee Supreme Court and thank them for their leadership and support for legal education. The reception was held on September 3.

Bonnyman Wins Justice Award

The international law firm of Skadden, Arps, Slate, Meagher & Flom and the University of Alabama School of Law have announced that Gordon Bonnyman Jr. '72 will receive the 2009 Morris Dees Justice Award on November 12 in New York City.

In 2006, the two partnered to create the award in honor of Alabama graduate and civil rights attorney Morris Dees, who is a cofounder the Southern Poverty Law Center in Montgomery, Alabama. The center is internationally known for tracking hate groups and extremist activity, conducting tolerance training education, and winning cases against white supremacists.

Bonnyman has spent his entire career representing low-income clients, the elderly, prisoners, disabled persons, and the uninsured. He has been the lead counsel in more than a dozen class action lawsuits, many of which have served as models for legal services organizations throughout the United States.

After graduating from UT, he began his career with the Legal Aid Society of Middle Tennessee and The Cumberlandlands. In 1996, in response to new lobbying restrictions placed on legal services organizations, he founded the Tennessee Justice Center (TJC) with fellow attorney Michele Johnson. He initially worked without a salary until additional funding could be secured.

A seasoned and successful litigator, Bonnyman is also an accomplished legislative advocate and policy analyst. He lobbied for nursing home regulatory reform in Tennessee, which was adopted in 1987.



BOBBY LEE COOK LECTURE

Attorney Bobby Lee Cook presented the law college's annual Wyc and Lyn Orr lecture on Sept. 11. Featured in the *ABA Journal* as one of seven "Lions of the Trial Bar," Cook (middle) is described as one of the lawyers whose names "can be found in the pages of casebooks and on the sides of law school buildings. They've tried some of the most important cases of the last 50 years, dazzling juries and swaying judges."

The Orr lecture series is made possible by the support of E. Wycliffe Orr Sr. (right) and Lyn H. Orr (left) of Gainesville, Georgia. Mr. Orr, a 1970 graduate of the UT College of Law, is a member of Orr Brown Johnson LLP in Gainesville.

CLAYTON CENTER: TAKING CARE OF BUSINESS—AND LAW

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the capstone simulations allow the students to bring together their knowledge and skills from many different, fragmented fields of their business training into a realistic, client-service setting.

Kuney said the faculty associated with the center, as well as the visiting professor program, which brings in seasoned professionals to teach for a semester, add to that real-world atmosphere.

"Many of our faculty members have practiced with prestigious law firms and have helped us mold a curriculum that will give students practical experience in business law," Kuney said. "The Business Transactions concentration was created to take advantage of these real-world experiences, which are somewhat lacking in traditional legal education."

Kuney received his law degree from the University of California, Hastings College of Law and his M.B.A. from the University of San Diego some years later. He practiced full time for 11 years, last as a partner in California's Allen, Matkins firm, where he concentrated his practice on insolvency and reorganization matters nationwide. While practicing, he made the time to teach law courses at Hastings and California Western School of Law because he always felt a "strong commitment to legal education."

"Many outgoing law graduates—the new associates in the firms—come in unprepared for the real world of law practice," he said. "The UT College of Law is intent on changing that, and the Clayton Center for Entrepreneurial Law is part of that effort."

Let's Paint the SEC Orange and White!

Since the college's beginning in 1890, our success has been built on the solid foundation of education, research, and service. Donor support is critical to our success. Your gifts help us continue to build our programs and fulfill our mission of providing law students with an outstanding legal education.

When the American Bar Association released FY 2006–07 alumni giving figures for colleges of law, we set out on a mission to go from the bottom to the top of the SEC in alumni giving. Last year we climbed to roughly 10% participation, and we're building momentum to reach 15% for 2009–10.

As you know we have the best law school in the Southeast, **but we cannot make the goal without your support!** A gift of any size will help us beat our SEC rivals. Please make a donation to the Tennessee Law Fund and help the UT College of Law continue to recruit and educate the best and brightest students.

A donation envelope is included in the magazine so please send in your gift today.

Percentage of Living Law Alumni Contributing in FY 2007–08*

Vanderbilt University	27.5%
University of Georgia	20.1%
University of Kentucky	16.1%
University of Alabama	12.3%
University of South Carolina	8.6%
University of Mississippi	8.2%
University of Tennessee	8.2%
University of Florida	6.7%
University of Arkansas	6.4%
Louisiana State University	5.2%

*Most recent ABA figures available



Welcome!

Heather Mathis is the new assistant development director in the College of Law.

In her previous role as a regional advancement officer at Maryville College, Mathis visited alumni and friends throughout the Southeast, building support for the college's \$83 million dollar campaign. The campaign initiatives included funding for the construction of the new Clayton Center for the Arts, renovation of Anderson Hall, and the growth of the college's endowment and the Maryville Fund.

From June 2007 until April 2008, Mathis worked as a governance intern for the NCAA in Indianapolis, Ind., where she organized and managed the Division II 2008 Convention Education Sessions, assisted with the D-III grant and initiative funding, and worked on several NCAA strategic initiatives. She has also served as a men's compliance intern for the University of Tennessee Athletic Department and worked in constituent services for U.S. Senator Lamar Alexander.

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