
BUSINESS FACULTY NOTES



Professor Iris J. Goodwin's article, "Why Civil Law Countries Might Forego the Individual Trustee: Provocative Insights from the New-to-the-Fold," will appear in *The Worlds of the Trust*, a volume to be published by Cambridge University Press in spring 2012. This paper was selected in a competitive review for presentation at a conference—The Worlds of the Trust/La fiducie dans tous ses États—held on September 24, 2010, at the Quebec Research Centre of Private and Comparative Law, McGill University. Professor Goodwin additionally authored an entry in *Blackwell's Encyclopedia of Political Thought* on the "Investiture Contest." This encyclopedia will be published in hard copy and online. Professor Goodwin was also a visiting scholar at St. John's School of Law on October 4, 2010, and at Villanova Law School on October 28, 2011, and in each instance spoke on a topic related to this article.

Professor Goodwin is also a member of the Organizing Committee for the "Symposium on Animals, Ethics, and Law," at which she will be a panelist. The symposium is scheduled for March 1-3, 2012, and is co-sponsored by the Howard H. Baker Jr. Center for Public Policy, along with the University of Tennessee's College of Arts and Sciences, College of Law, and College of Veterinary Medicine.



Professor Joan M. Heminway was named the *W.P. Toms Distinguished Professor of Law*, this past year, in addition to accepting an appointment to the Association of American Law Schools (AALS) Research Committee. At the 2012 Annual Meeting of the Southeastern Association of Law Schools, Professor Heminway completed her term as president of SEALS and will serve as Past-President during the coming year. She was published in four law reviews in the past year on a variety of business law and securities-related topics. An additional article, *What is a Security in the Crowdfunding Era?*, has been accepted by the Ohio State Business Law Journal and is due to be published during the course of this winter. Professor Heminway also contributed to four book volumes published in the last year. In November, Professor Heminway spoke at the Third Biannual Transactional Law Education Conference, at Emory University Law School. She and two colleagues from the University of Tennessee – Professor Brian Krumm and Professor Michael Higdon – described the creation and evolution of the College of Law's Concentration in Business Transactions and its practice of teaching writing across the curriculum. Over the course of the year, she has presented on

business law, securities, and crowdfunding at numerous universities and conferences across the United States and Canada.



Professor Amy Morris Hess gave a presentation about the proposed Uniform Powers of Appointment Act in a national telephone conference sponsored by the ABA Real Property, Trust and Estate Section in September 2012. She delivered a shorter version of the talk at a meeting of the Uniform Laws Subcommittee of the American College of Trust and Estate Counsel in Washington, DC in October 2012. As ABA Advisor the committee charged with drafting the Act, she attended the annual meeting of the Uniform Laws Commission in Nashville, TN in July 2012 where the act had its first national reading. She also participated in a working meeting of the drafting committee in Chicago on October 2012 at which a number of changes to the proposed act were considered.

Professor Hess's 2012 supplements to the multi-volume treatise, *BOGERT & HESS, THE LAW OF TRUSTS AND TRUSTEES*, were published in September 2012, and she is now working on the 2013 supplements. She is also working on a second edition of the casebook that she co-authored entitled *AN INTRODUCTION TO TRUSTS AND ESTATES*. West Publishing plans to publish the new edition in late 2013.

During the summer of 2012, Professor Hess taught the Estate Planning course in the University of Alabama's distance LLM in Taxation program, a course she has taught several times before.



Professor Becky Jacobs once again taught 2 courses in the 2012 Summer Legal Study in Rio de Janeiro, Brazil - Law and International Development Program sponsored by the Tulane Center for Law and International Development and the Fundação Getúlio Vargas Faculty of Law: (1) International Transactions: Drafting Considerations, and (2) Dispute Resolution for International Transactions. While in Rio, the Professor spoke on a panel at a Rio+20 side event styled "Energy Law for Sustainable Development." The event was held at the Fundação Getulio Vargas and was co-sponsored by the Environmental Law Institute, the New Zealand Centre for Environmental Law, the Program on Law and the Environment at FGV, and the George Washington University Law School. The panel on which the Professor appeared was entitled, "Impacts of Legal Structures on Access to Energy;" the professor co-presented with Colin Crawford, the Robert C. Cudd Professor of Law and Executive Director, Payson Center for International Development. In October, Professor Jacobs presented on a panel

at the 2012 SALT Teaching Conference held at the University of Maryland Francis King Carey School of Law. The topic of the panel was Teaching Justice Through Innovative Techniques that Create Curious Minds, and Professor Jacobs spoke about kindling curiosity in a mediation setting, including mediations involving transactional disputes.



Professor Brian Krumm recently published a chapter entitled “State Legislative Efforts to Improve Access to Venture Capital,” as part of a book *Entrepreneurship and Innovation in Evolving Economies: The Role of Law*. Additionally, Professor Krumm has co-authored *The Entrepreneurial Law Handbook* with Professor George Kuney, which has been published by Thompson Reuters in an e-book format. The Handbook is designed to bridge the gap between what students learn in the doctrinal law classes such as Contracts, Business Associations, Taxation of Business Organizations, Intellectual Property, Secured Transactions, and Securities Regulation and the integration and application of this knowledge in assisting the entrepreneur or business client in addressing their transactional legal needs. Its objective is to serve as single source of reference with extensive links to other resources and exemplars, for those attempting to resolve and address business related transactional challenges.

This is a resource which can be used by both law students and new associates when counseling entrepreneurs in creating business entities, drafting transactional documents, protecting intellectual property, and dealing with securities issues. Professor Krumm also participated in a panel presentation at the Third Biennial Conference on Teaching Transactional Law and Skills at Emory Law School entitled “*Case Study: From Program Design to Student Experience*”, which explored the development and evolution of the Transactional Law Curriculum at the University of Tennessee College of Law.



Professor George Kuney’s most recent article, “*Stern v. Marshall: A Likely Return to the Bankruptcy Act’s Summary/Plenary Distinction in Article III Terms*,” has been published as the lead article in Volume 21, Issue 1, of the *Norton Journal of Bankruptcy Law and Practice* (West, February 2012). The article analyzes the U.S. Supreme Court’s Article III decision in the *Stern* case as applied to the bankruptcy court system and suggests that it portends a likely contraction in the power of bankruptcy judges to adjudicate a variety of matters, possibly including preferences and fraudulent conveyances. It also suggests congressional changes that may be necessary in order to accommodate the Court’s ruling and keep the bankruptcy and district court systems running nearly as they ran before. Additionally, Professor Kuney organized and supported the

conference, “Metamorphosis: How Technology is Reshaping Entertainment,” which was held on March 31, 2012 at the College of Law. The conference, co-presented by the Clayton Center for Entrepreneurial Law and the Sports and Entertainment Law Society, featured numerous nationally recognized judges and lawyers in the field, including UT alumnus Joel Katz and Ninth Circuit Judge Alex Kozinski. Professor Kuney is also serving on the Plan Process Committee advising the American Bankruptcy Institute Commission to Study the Reform of Chapter 11. The commission’s purpose is to study and make recommendations for Chapter 11 reform that will be presented to Congress. In November, Professor Kuney served as a keynote speaker at the third biannual Emory University Law School Conference on Teaching Transactional Law and Practice. He recently co-authored an article on Tennessee boundary dispute law that has been published by the Tennessee Bar Journal, and he and Professor Brian Krumm have recently published an e-book, *The Entrepreneurial Law Clinic Handbook*, with West Publishing and Vital Source.



Professor Michelle Kwon presented on a panel entitled “Incorporating Practical Legal Research and Writing Skills into the Traditional Doctrinal Classroom” at the Southeastern Association of Law Schools’ 2012 annual conference. Professor Kwon also presented a paper entitled “Tax Opinions and Advisor Independence” to the Texas State Bar as part of its 2012 Advanced Tax Law Course. Additionally, Professor Kwon moderated a panel in March at the 2012 “Animals, Ethics, and Law Symposium.” The symposium, co-sponsored by the College of Law, featured a keynote lecture and six paper presentations by nationally recognized scholars on legal and ethical issues affecting non-humans from the vantage point of moral philosophy and law.



Professor Don Leatherman moderated panels at recent ABA tax section meetings entitled “Acquisition of Financially Troubled Corporations – Part I” and “Acquisition of Financially Troubled Corporations – Part II.” He participated in another panel at the ABA tax section meeting entitled “Is There Alchemy When Debt Disappears in Partnership Contribution/Distribution Transactions?” Professor Leatherman revised his textbook, *Federal Income Taxation of Corporations and Partnerships*, and revised a treatise on corporate tax, *Federal Corporate Taxation*. Howard Abrams co-authored both; they are scheduled to be published within the next year. Professor Leatherman also presented a paper at the Tulane Tax Institute on the acquisition of financially troubled corporations. In November, Professor Leatherman led an 8-hour continuing legal education program on S corporation taxation for the accounting firm Dixon

Hughes Goodman, and presented a paper at the University of Chicago Federal Tax Institute on the scope of the *General Utilities* repeal. In December, he will participate in a panel for the Practicing Law Institute in Los Angeles talking about current tax issues for consolidated groups. Professor Leatherman is also writing an article in connection with the Chicago conference above on the scope of the *General Utilities* repeal that will be published in the March 2013 issue of TAXES.



Professor Alex Long was recognized at the 2012 College of Law Honors Banquet, where he received the Harold Warner Outstanding Teacher Award. Professor Long was also recognized in the most recent edition of UT's "Quest: Research, Scholarship, Creative Activity," in which an article, entitled "Rocking Out at the Bar (or, Lyrics and the Lawyers Who Love Them)," discusses Long's research into judicial citation of popular song lyrics. Professor Long has recently published two articles. "The Freewheelin' Judiciary: A Bob Dylan Anthology" appeared at 38 FORDHAM URB. L.J. 1363 (2012) and resulted from a recent conference on "Bob Dylan and the Law."

"Employment Retaliation and the Accident of Text" has been published at 90 OR. L. REV. 525 (2011). Locally, Professor Long participated in "Ethics Bowl V," serving a moderator for the competition sponsored by the Knoxville Bar Association. The law faculty has voted unanimously to recommend that Professor Long be promoted to full professor. Since then, Professor Long has published two more articles: "Professionalism and Matthew Shardlake" at 59 UCLA L. REV. 86 (2012) and "Lawyers Intentionally Inflicting Emotional Distress" at 42 SETON HALL L. REV. 55 (2012).



Professor Carl Pierce is currently serving as the interim director of the Howard Baker, Jr. Center for Public Policy at the University of Tennessee. Professor Pierce has also provided extensive input on revisions to the Tennessee ethics rules, and his work was mentioned favorably at 77 USLW 274, which noted that "Tennessee has special familiarity with the Ethics 2000 Commission's work. Three lawyers from the state served in the Ethics 2000 effort[,] [including] University of Tennessee law professor Carl A. Pierce[,] . . . one of the commission's three reporters."



Professor Thomas Plank made a presentation entitled *Securitization and the Mortgage Finance Market* as part of a panel entitled “The Current State of the Mortgage and Credit Markets” at the 62nd Annual Meeting of the Southeastern Association of Law Schools in Palm Beach, Florida this year. His article, “*Regulation and Reform of the Mortgage Market and the Nature of Mortgage Loans: Lessons from Fannie Mae and Freddie Mac,*” was also recently published in the *South Carolina Law Review*. Professor Plank is a member of the American Law Institute Members Consultative Group on the Joint Article 9 Review Committee, which is drafting amendments to Article 9 of the Uniform

Commercial Code, the article dealing with security interests in personal property. He drafted two memoranda opposing two proposed amendments to Article 9 and its comments, and proposing different legislative solutions to the specific issues. One of the issues involved certain priority rules on the sale of accounts and chattel paper, and the other involved the conversion of electronic chattel paper to tangible chattel paper and how to maintain control or possession of the chattel paper. Professor Plank also attended the September meeting of the Joint Article 9 Review Committee, and the Committee agreed with his position on the priority rules for the sale of accounts and chattel paper, dropping the proposed amendment. The committee also decided to drop its proposed amendments regarding the conversion of electronic chattel paper to tangible paper, and Professor Plank was invited to comment on a proposal to the Permanent Editorial Board for Article 9 to draft a commentary on this issue.



Professor Gary Pulsinelli presented a talk entitled “New Matter Isn’t Always Bad: Overcoming the International Best Mode Problem by Liberalizing Amendment Practical” at the Intellectual Property Scholars Works in Progress Conference at Stanford Law School. He also moderated a panel organized by Prof. Jacobs at the SEALS Conference entitled “Not a Moot Point: The Nuts and Bolts of Moot Court Programs.” His paper “Harry Potter and the (Re)Order of the Artists: Are We Muggles or Goblins?” was recently accepted for publication. He presented a talk based on this paper at Cumberland School of Law at Samford University, at the Gordon Ford College of Business at Western Kentucky University, and at the University of Tennessee College of Law, the last as part of a series organized by the Students for Study of Law and Culture.



Professor Paula Schaefer was recognized at the 2012 College of Law Honors Banquet, where she received the Bass, Berry & Sims Faculty Award. Her latest article, “Injecting Law Student Drama into the Classroom: Transforming an E-Discovery Class (or Any Law School Class) with a Complex, Student-Generated Simulation,” was noted favorably on the Legal Skills Prof Blog. In January, Professor Schaefer participated in the Association of American Law Schools Workshop on the Future of the Legal Profession and Legal Education – Changes in Law Practice: Implications for Legal Education. During the day-long workshop, Professor Schaefer participated in a concurrent session on Technological Innovation in Practice and Education. Her presentation was entitled, “Teaching E-Discovery with Technology (On a Professor’s Budget).” Locally, Professor Schaefer participated in “Ethics Bowl V,” serving as the “Ask the Professor” lifeline for the competition sponsored by the Knoxville Bar Association. The law faculty has unanimously voted to grant Professor Schaefer tenure.



Associate Dean Greg Stein’s new book, MODERN CHINESE REAL ESTATE LAW: PROPERTY DEVELOPMENT IN AN EVOLVING LEGAL SYSTEM, has been published by Ashgate Publishing. The book received a favorable review from Professor Rebecca Tushnet of Georgetown Law School, writing at PropertyProf Blog. Professor Stein’s article, *The Modest Impact of Palazzolo v. Rhode Island*, was published in the VERMONT LAW REVIEW. He prepared the article as part of a symposium on regulatory takings law that was held last year at Georgetown Law School. His article, *Is China’s Housing Market Heading Toward a US-Style Crash?*, has been accepted as part of a symposium that will appear in the ARIZONA JOURNAL OF INTERNATIONAL AND COMPARATIVE LAW. Professor Stein also spoke at the annual meeting of the Southeastern Association of Law Schools, held in Amelia Island, Florida. He organized a panel and spoke on the topic, “Changing Our Approaches to Teaching to Enhance Feedback and Assessment.”



Professor Maurice Stucke has recently published a number of articles. “Reconsidering Competition” was published at 81 MISS. L.J. 107 (2011). “Antitrust Review of the AT&T/T-Mobile Transaction,” co-authored with Allen P. Grunes, appears at 64 FED. COMM. L.J. 47 (2011). Oxford University Press published in 2012 two articles: its *Journal of European Competition Law & Practice* published “The

AT&T/T-Mobile Merger: What Might Have Been?,” which he also co-authored with Grunes, and its *Journal of Competition Law and Economics* published “Behavioral Antitrust and Monopolization,” which as part of a symposium Haifa University and Loyola University Chicago sponsored on comparative monopolization law and high-tech industries. *Boston College Law Review* published “Reconsidering Antitrust’s Goals,” which was shortlisted for the 2012 Antitrust Writing Awards. The *Journal of Law, Economics & Policy* published “Is Intent Relevant?,” which was also presented at the American Bar Association’s Antitrust Law Spring Meeting in Washington, D.C on a session discussing behavioral economics and antitrust law.

Several of Professor Stucke’s articles have been accepted for publication in law journals across the United States and New Zealand. Professor Stucke has also contributed chapters to several recently published books. The Swedish Competition Authority published his chapter, “Behavioral Exploitation and its Implications on Competition and Consumer Protection Policies,” in its book, *The Pros & Cons of Consumer Protection*. His chapter, “Discovery in a Global Economy,” was part of the book, *International Antitrust Litigation: Conflict of Laws and Coordination* (Jürgen Basedow, Stéphanie Francq & Laurence Idot eds., Hart Publishing Oxford 2012), and his chapter, “What is Competition?,” was published in the book, *The Goals of Competition Law* (Daniel Zimmer ed., Edward Elgar Publishing 2012). Along with co-author Allen P. Grunes, he also published the chapter, “Plurality of Political Opinion and the Concentration of the Media,” in *General Reports of the XVIIIth Congress of the International Academy of Comparative Law* (Karen B. Brown & David V. Snyder eds., Springer 2012). His chapter, “Greater International Convergence and the Behavioural Antitrust Gambit,” will appear next year in the book, *International Research Handbook On Competition Law* (Ariel Ezrachi ed., Edward Elgar Publishing forthcoming 2013).

Policymakers invited Professor Stucke to present his research. The Swedish and Dutch competition authorities invited Stucke to guest lecture on behavioral antitrust and the goals of competition law. The Organisation for Economic Co-operation and Development asked Stucke to draft and present in Paris a research paper for its hearing, “Competition and Behavioural Economics.” This was the first time competition authorities from over 30 jurisdictions collectively discussed the implications of behavioral economics.

Professor Stucke also presented his scholarship at various conferences, including at Oxford University, University of Melbourne, George Washington University, Washington University in St. Louis, the Southeastern Association of Law Schools’ 2012 Annual Conference, and American Antitrust Institute’s 13th Annual Conference on Civil Liberties and Competition Policy. The University of Amsterdam invited Stucke as its keynote speaker on its conference, “Behavioral Competition and Regulation.”

Last summer, Professor Stucke was appointed a Senior Fellow & Visitor of the University of Melbourne’s Competition Law and Economics Network. He taught a Masters program seminar on Behavioral Law and Economics.



Professor Kris Anne Tobin was elected to the Executive Committee of the Section on Admiralty and Maritime Law at the January meeting of the Association of American Law Schools. Professor Tobin will serve as Section Chair in 2014.



Professor Paula Williams is currently serving as the Executive Editor of the American Bar Association's Journal on Affordable Housing and Community Development. She also recently served on the Planning Committee of the 2009 Association of American Law Schools (AALS) Conference on Clinical Legal Education. In August, Professor Williams attended the Annual Meeting of the Southeastern Association of Law Schools in Palm Beach, Florida, and participated in a panel entitled "*New Visions and Voices: Pedagogical and Other Innovations.*"
