

# FACULTY NEWS

University of California, Davis School of Law  
Martin Luther King, Jr. Hall  
Editorial Assistant: Brigid Jimenez

FEBRUARY 2009

## AFRA AFSHARIPOUR'S

proposals for presentations at the 2009 AALS Mid-Year Meeting on Business Associations and the 2009 AALS Mid-Year Workshop on Transactional Law were both accepted. This spring, she will speak on a plenary panel at Conference of the Asian Pacific American Law Faculty (CAPALF) titled "The Multinational Corporation: Now from Asia." She will also present a work-in-progress at CAPALF.

**DIANE AMANN** was named founding Director of the California International Law Center at King Hall, inaugurated on February 4 with a talk on the "Global Vision & Legacy of Dr. Martin Luther King, Jr.," by Dr. Clayborne Carson, Stanford historian and editor of the King papers. She observed military commission proceedings at Guantánamo Bay, Cuba, as a nongovernmental-organization observer on behalf of the National Institute of Military Justice. Diane co-authored an amicus brief, submitted to the Guantánamo military commission hearing the case against alleged 9/11 conspirators, on behalf of the National Institute of Military Justice. She published an op-ed on



Guantánamo in the **Miami Herald**, plus wrote three entries on issues related to Guantánamo detention at the **New York Times'** online Room for Debate blog, and was quoted on these issues by the **Washington Post, Reuters, the Miami Herald, the Christian Science Monitor**, and the German newspaper **Die Zeit**. She was also interviewed on **KSRO/CNN** radio affiliate, on the torture and state secrets case argued in February before the 9th Circuit. Diane gave opening remarks at a workshop on campus, co-sponsored by CILC, which explored the possibility of a Guantánamo commission of inquiry. She was quoted in the **Delaware News-Journal** on the swearing in of Vice President Joseph Biden by Justice John Paul Stevens and quoted in the **Sacramento Bee** on the state extradition case. Along with **ANDREA BJORKLUND**, Diane helped coordinate the California tour of the President and the Executive Director of the American Society of International

Law. Diane was elected Chair of the Section on International Law of the Association of American Law Schools.

**ASSOCIATE DEAN FOR ACADEMIC AFFAIRS VIKRAM AMAR**

published an article on the weaknesses of Justice Clarence Thomas' use of "originalism" in school speech cases for a symposium issue on free speech in schools in the **UC Davis Law Review**. He also published **Global Perspectives on Constitutional Law**, an Oxford Press comparative constitutional law reader volume co-edited with Mark Tushnet (Harvard Law School). He presented papers (to be published) at symposia held by the **Emory Law Journal** (on Executive power) and the **Santa Clara Law Review** (on business cases in the Roberts Court.) Next month he will give an endowed Lecture at Rutgers Law School to be published in the **Rutgers Law Review** on state constitutionalism. He also spoke at conference on the Electoral College at the Massachusetts Institute of Technology. He published a number of on-line essays for **Findlaw.com**. He gave a talk at Federal Bar Association in Tucson, AZ and for a state bar conference in Oregon, and at a national Bankruptcy Judge conference in Arizona and the Ninth Circuit Mid-Winter meeting in Huntington Beach. He was quoted in the **Los Angeles Times**, and the **Wall Street Journal**, among other newspapers. He appeared on the **News Hour with Jim Lehrer** show, and on **National Public Radio's Morning Edition**.

**ANDREA BJORKLUND** co-edited the book, **Investment Treaty Arbitration: Current Issues III**, which was published by the British Institute for International and Comparative Law. She presented a paper on state immunity and the enforcement of investment awards at the ASIL International Economic Law Interest Group research colloquium at UCLA. Professor Bjorklund participated in two panels at the conference hosted by the Universidad Iberoamericana to commemorate 15 years of the NAFTA.

**ALAN BROWNSTEIN** co-authored five Findlaw.com columns with **VIKRAM AMAR**. He delivered a lecture on "The State of the Constitution after 8 Years of the Bush Administration" at the Seventh-day Adventist Attorneys Association Annual Conference; spoke on the "State of Religious Liberty in the United States" on a panel at a Law and Religion conference at Pepperdine University; wrote an article on the Second Amendment for a **Hastings Law Review** Symposium and will deliver a talk based on the article at the symposium conference. Alan also wrote a short article on Religious Liberty and Proposition 8 which will be published by **Liberty** magazine in the spring. He consulted on an amicus brief supporting the petition for cert. in *Navajo Nation v. United States Forest Service*. Alan recently received the UC Davis Distinguished Scholarly Public Service Award, congratulations Alan!

This fall, **JENNIFER CHACÓN's** article "Race as a Diagnostic Tool: Latinos in California, Post-209," was published in the **California Law**

**Review.** Her essay "Dred Scott, Citizenship and Family: Some Lessons for Contemporary Immigration Policy," was published in the **Washington University Journal of Law and Policy**. Her articles "Did a Washington Court's Jury Instruction on Accomplice Liability Unconstitutionally Alleviate the Prosecution's Burden?" and "Is There a Duress Exception to the "Persecutor Bar" to Asylum and Withholding of Removal?" appeared in the American Bar Association's **Preview of United States Supreme Court Cases** in October and November, respectively. She gave a presentation at the AALS Annual Meeting in January entitled, "The New Front in the "War on Crime": An Exploration and Critique of Recent Trends in Immigration Enforcement. She served as an outside advisor to President Obama's immigration transition team. Jennifer is also the recipient of this year's Distinguished Teaching Award! And last, but not least, in December, Jennifer gave birth to Maximiliano Antonio. Congratulations Jennifer and Jonathan!

The **Yale Law Journal** published an on-line symposium on **ANUPAM CHANDER'S** 2004 essay, "Minorities Shareholder and Otherwise." As part of this symposium, he published an introduction titled "Critical Corporate Law, Colorblind Constitutional Law" and a response titled "Corporate Law's Distributive Design." In Fall 2008, Stanford University Press published *Securing Privacy in the Internet Age*, a collection he co-edited with Lauren Gelman and

Margaret Jane Radin, and for which he wrote the introduction. He presented chapters of his book **The Electronic Silk Road**, forthcoming from Yale University Press, to faculty workshops at the University of Chicago and UCLA, and an international law workshop at Georgetown Law School. His paper "Trade 2.0" is forthcoming in the **Yale Journal of International Law**, and his paper "International Trade and Internet Freedom" is forthcoming in the **ASIL Proceedings**. His paper "Youthful Indiscretions in an Internet Age" is forthcoming in a **Harvard University Press** volume co-edited by Saul Levmore and Martha Nussbaum. He presented that paper at the University of Chicago Symposium on Speech, Privacy, and the Internet in the fall and at the Chicago Intellectual Property Colloquium in February 2009. In January 2009, *India Abroad* published an interview with Professor Chander on the World Bank's actions with respect to one of India's leading outsourcing companies. Professor Chander is a visiting professor at the University of Chicago Law School this school year.

**HOLLY COOPER** and her students recently received a published decision from the Ninth Circuit Court of Appeals in *Flores-Torres v. Mukasey*. In that case, the clinic appealed a district court denial of a petition for writ of habeas corpus for lack of jurisdiction. The Ninth Circuit granted the appeal finding that habeas jurisdiction exists for persons challenging confinement in immigration custody when the person has a colorable claim to United States citizenship. Holly also assisted in editing a book "Defending Immigrants in the Ninth Circuit" by Kathy Brady.

Holly edited the chapter on challenging executive immigration custody in the Ninth Circuit. Holly also assisted with the amicus brief in *Estrada-Espinoza v. Mukasey* (en banc) where the Petitioner succeeded in arguing his conviction was not removable and that *Chevron* deference should not be afforded to the agency's interpretation of a term that has criminal law applicability. Holly also made a presentation at Humboldt State University for immigrants in response to the raids in Arcata.

**HOLLY DOREMUS** published "Of Babies and Bathwater: Why the Clean Air Act's Cooperative Federalism Framework Is Useful for Addressing Global Warming,": in the **Arizona Law Review** (with W. Michael Hanemann); "A Challenge for the Obama Team: Put Science and Federal Scientists to Better Use," **Ecology Law Currents**; and a commentary in Slate on the Supreme Court ruling on Navy sonar use. She is a contributor to the new **Environment & Law** blog, a collaborative venture of UC Berkeley and UCLA. She was a keynote speaker at a Stanford takings law conference and at the Shasta-Lassen Winter Ag Meeting. She also gave presentations at Chicago-Kent College of Law, UC Berkeley's Energy and Resources Group, the Center for Progressive Reform winter meeting, and the California Native Plant Society Conservation Conference.

This fall, **CHRISTOPHER ELMENDORF** published two

articles in election law symposia: "Undue Burdens on Voter Participation: New Pressures for a Structural Theory of the Right to Vote?," in the **Hastings Constitutional Law Quarterly**, and, with Ned Foley of the Moritz College of Law (Ohio State), "Gatekeeping Versus Balancing in the Constitutional Law of Elections: Methodological Uncertainty on the High Court," in the **William and Mary Bill of Rights Law Journal**. In February, Chris presented a working paper, "Empirical Legitimacy and Election Law," at the Constitutional Law and Legal Theory Colloquium at the University of Texas School of Law, and another paper, "Policing the Politics of Electoral Reform: Some Unanswered Questions About Partisanship, Public Confidence, and the Prospects for a Salutary Judicial Role," at a gathering of law professors and political scientists at Duke University sponsored by The Tobin Project. He also wrote on-line commentaries by invitation for the Election Law Blog and the Election Law @ Moritz website, with the former turning into a blog-based dialogue with Bob Bauer, who was Barack Obama's top campaign lawyer and is presently outside counsel to the Democratic National Committee.

**FLOYD FEENEY** co-authored an op-ed for the **Los Angeles Times** arguing that it is too easy to amend the California constitution through the initiative. An interview concerning the initiative appeared on the bay area's ABC channel. Comments on the state budget appeared in the **San Jose Mercury**. The **Capital Weekly** also interviewed him concerning the state budget process.

**BOB HILLMAN** commented on the tenure of outgoing Securities and Exchange Commission Chairman Christopher Cox for a story in the **Denver Post**.

**BILL HING** was featured speaker at the Thelton E. Henderson Center for Social Justice, UC Berkeley on Deportation Policy. He was keynote speaker at "Municipal IDs National Conference, Laney College Keynote speaker: Asian Pacific Islander Leadership Retreat (UC Davis undergrads): Bodega Bay published: "Legal Services Support Centers and Rebellious Advocacy: A Case Study of the Immigrant Legal Resource Center," in the **Washington University Journal of Law & Policy**. Bill was recently awarded the Chancellor's Achievement Award for Diversity! Congratulations Bill!

**LISA IKEMOTO** attended the joint NIH-UC Davis conference on Human Subject Research. She spoke about assisted reproductive technology use at the Sho Sato Conference on Family Law at U.C. Berkeley School of Law and on emerging technologies at a panel hosted by Generations Ahead. Lisa also participated in a roundtable workshop on new human technologies at U.C. Berkeley, sponsored by Center for Genetics and Society and participated in the Conference of Asian Pacific American Law Faculty in Denver. Lisa spoke at the regional National Asian Pacific American Bar Association conference with other King Hall alums, Kathryn Doi, Kara Ueda, and Floyd Shimomura. During this period, Lisa

completed, "*Johnson v. Calvert: Technology, Family & Commerce*," for a book called **Health Law Stories**. She also taught the bioethics segment in the Howard Hughes Medical Institute Training Program and the Mentored Clinical Research Training Program in the U.C. Davis Health Sciences Division. Lisa recently was part of a panel discussion at Stanford Journal of Civil Rights & Civil Liberties symposium on "Gender, Parenting, and the Law."

**ED IMWINKELRIED** spoke at the Evidence Section meeting at the 2009 American Association of Law Schools convention in San Diego. The National Institute of Standards and Technology has appointed Ed to the new Expert Group on Human Factors in Fingerprint Analysis. The expert group's charges are to identify the sources of human error in fingerprint analysis and develop strategies to reduce such errors. Ed's recent publications include: two new articles, "Forensic Detection of Seminal Fluid by Using Prostate Specific Antigen," **Criminal Law Bulletin** and "Winning Forensic Evidence Cases--Sometimes Without Even Using an Expert Witness," **The Champion**; two new editions of texts, **Objections at Trial** (5<sup>th</sup> Ed.) and the 2009 edition of **California Evidence Code Annotated**; and 2008 supplements to **California Evidentiary Foundations, Courtroom Criminal Evidence, The Dynamics of Trial Practice, Exculpatory Evidence: The Accused's Constitutional Right to Introduce Favorable Evidence, The New Wigmore: Evidentiary Privileges, and Uncharged Misconduct Evidence**.

## **DEAN KEVIN JOHNSON**

recently published **Complex Litigation: Cases and Materials on Litigating for Social Change** (Carolina Academic Press, 2009) (with Catherine A. Rogers & John Valery White) and articles in the **California Law Review**, **Yale Law Journal Pocket Part**, and **Indiana Law Journal**. In January, he was the keynote speaker at a race and socioeconomic class at Duke Law School and also spoke on two panels at the Association of American Law Schools Annual Meeting. At the annual meeting, Kevin was elected to the executive committee Minority Groups Section. AALS President Rachel Moran appointed Kevin to serve on the AALS Committee on Recruitment and Retention of Minority Law Teachers and Students. In recent months, Kevin has spoken at the American Economic Association annual meeting in San Francisco and a number of other events. Kevin was the keynote speaker at the American Immigration Lawyers Association Lobbying Day at the California Legislature in Sacramento and dinner speaker at the Association of Mexican American Educators, 43rd Annual State Conference in Los Angeles in October. Kevin joined an amicus brief with other law professors in the challenge to Proposition 8 in the California Supreme Court. Kevin has recently been quoted in the **N.Y. Times**, **Christian Science Monitor**, **Los Angeles Times**, and **Sacramento Bee**. He was interviewed on national Public Radio on the increase in hate crimes directed at Latinos. Last fall, Kevin

spoke at a number of bar association and other events, including to the Yolo County Bar Association and the Asian/Pacific Bar Association in Sacramento, and attended numerous others. He has presided over alumni events in Newport Beach, Riverside, and San Diego (in connection with the AALS).

**TOM JOO** presented a paper on contract theory at the AALS Contracts Section meeting in San Diego. He was quoted on corporate governance matters in the **New York Times**, the **Sacramento Bee** and the **London Times**.

**RAHA JORJANI** authored a working paper on Immigration and Crimes for the Iranian American Bar Association. She guest lectured in the Immigrants Rights Clinic at CUNY School of Law and gave a talk at Vassar College. Raha spoke on two panels at the 2008 Facing Race Conference sponsored by the Applied Research Center. Raha was recently quoted in the Stockton Recorder, the **Daily Journal**, as well as in the **New York Times**. She also participated in strategy sessions sponsored by both the Applied Research Center of Oakland and the Detention Watch Network in D.C., where leading advocates discussed strategic policy goals under the new Administration. Raha was also interviewed by **CBS News** regarding a long time clinic client in a segment that just recently aired.

**COURTNEY JOSLIN's** article, "Interstate Recognition of Parentage in a Time of Disharmony: Same-Sex Parent Families and Beyond," is

forthcoming in the **Ohio State Law Journal**. She co-authored (with Michael Wald from Stanford) an amicus brief that was filed in the Proposition 8 litigation on behalf of 28 family law professors from 15 California law schools. In September, Courtney presented her work-in-progress, "Assisted Reproductive Technology and the Marriage Requirement: How Exclusionary Parentage Rules Harm the Well-Being of Children," as part of the Junior Scholars forum at the Lavender Law Conference. She was a panelist on a program entitled, "Fulfilling the Promise of Equality: California's Marriage Cases," at the California Minority Bar Coalition Unity Conference and moderated a panel on the California Marriage Cases and Proposition 8 at the Eastern District Conference. Courtney was quoted in articles in the **ABA Student Lawyer Magazine**, the **Sacramento Bee**, and the **ABA Journal** and appeared on KCRA & KTVU television, KCBS & KSRO radio.

**CARLTON LARSON** presented his article, "The Revolutionary American Jury: A Case Study of the 1778-1779 Philadelphia Treason Trials," at the Annual Meeting of the American Society for Legal History in Ottawa, Canada, in November. This article was published in December in **Southern Methodist Law Review**. In January, he spoke on constitutional and legal challenges facing the Obama Administration at a panel sponsored by the UC Davis Institute of Governmental Affairs. In the fall of 2008, he spoke on two panels

sponsored by the UC Davis American Constitution Society, and he moderated a panel on the Supreme Court's prior and current terms. He was a commentator on the Second Amendment at a Federalist Society event, and participated in a debate on Proposition 8 at the California State Capitol.

**PETER LEE** presented a paper entitled "Contracting to Preserve Open Science: Consideration-Based Regulation in Patent Law" at Tulane University School of Law, Fordham Law School, and the University of Kansas School of Law. The article will appear in the **Emory Law Journal** later this semester. Additionally, the **Fordham Law Journal** will publish Peter's piece entitled "Interface: The Push and Pull of Patents" later this year. In the fall, Peter helped organize the inaugural symposium in the Fenwick & West Lecture Series in Technology, Entrepreneurship, Science, and Law. The symposium focused on patent reform, and the participants included Chief Judge Paul R. Michel of the Court of Appeals for the Federal Circuit. Peter also moderated a panel at the symposium. More recently, Peter presented a work in progress entitled "Toward a Distributive Commons in Patent Law" at UC Hastings College of the Law.

**AL LIN'S** article "Evangelizing Climate Change" will be published in the **N.Y.U. Environmental Law Journal** soon.

**DYLAN MALAGRINO** presented "The Drug Testing of Athletes and Still-Open Legal Questions" at A symposium

held at the Natsoulas Gallery in Davis to launch the AmGen Tour of California. He published "The Application of Communal Theories to Urban Property: An Anthropological Look at Using the Elaboration of Common Property Regimes to Reduce Social Exclusion from Housing Markets" in the SSRN the abstract. Dylan also commented on National Collegiate Athletic Association (NCAA) rules requiring student athletes to show progress toward a degree for a recent **USA Today** study of the regulations' impact. He attended the annual AALS Conference in San Diego.

**LISA PRUITT** was named Chair-Elect of the Section on Women and Legal Education at the 2009 AALS Annual Meeting. She will present (has presented) papers in February at the University of Michigan Law School (The Rural Remnant), Stanford Law School (The Forgotten Fifth: Rural Youth and Substance Abuse), and Queens University in Kingston, Ontario at an international Conference on Feminist Constitutionalism (Equality Guarantees across the Rural-urban Divide).

Professor Emeritus **CRUZ REYNOSO** gave a presentation on a radio program entitled "Legal Talk Network" regarding Justice Ginsberg's operation and the whole system of nomination, confirmation and standards, legal and political, that go into the mix. He published an article with William C. Kidder entitled "Tribal Membership and State Law Affirmative Action

Band: Can Membership in a Federally Recognized American Indian Tribe Be A Plus Factor in Admissions at Public Universities in California and Washington," in the **UCLA Chicana/o Law Review**. In December Cruz was the Keynote speaker in Washington, D.C. at the annual meeting of the Housing Justice Network (of mostly Legal Services attorneys) and was also the Keynote speaker at the annual meeting of the National Education Association. He spoke before 900 new citizens in Sacramento at Naturalization Ceremony sponsored by the U.S. Citizenship & Immigration Service and continues to work with the Obama administration's Justice and Civil Rights Agency Review team. He will speak at the annual dinner of the League of United Latin American Citizens (LULAC) in Orange County. Cruz recently received the Hispanic Bar Association of Orange County's Lifetime Achievement Award.

**DONNA SHESTOWSKY** has been named a 2008 recipient of an American Bar Association Litigation Research Fund grant. Established in 2007 to support original scholarly work that advances the understanding of civil litigation in the United States, the Litigation Research Fund makes awards of \$5,000-\$20,000 to legal academics, social scientists, and scholars from other disciplines. Donna received an award of \$10,000 to support her longitudinal research on disputants' preferences for court procedures.

**DAN SIMMONS** discussed current developments in Federal Income Taxation on a panel at the American Bar Association Section of Taxation midyear meeting in New Orleans.



Professor Simmons's co-panelists included his long-time co-author Professor Martin McMahon from the University of Florida.

**MADHAVI SUNDER** presented chapters from her forthcoming book, **iP: YouTube, MySpace, Our Culture** (Yale University Press) at the UCLA School of Law and at the University of Chicago Law School, where she is a visiting professor this year. She presented work on Muslim women's reform movements at Georgetown University and at a meeting in Washington, D.C. organized by the Women's Foreign Policy Group in association with the Carnegie Corporation.

**DENNIS VENTRY** published an article in **Tax Notes** on privilege issues in the tax context that the government subsequently relied on in brief and at oral argument in an important First Circuit case. He also published **Cooperative Tax Regulation** in the **Connecticut Law Review**. In addition, Dennis presented papers at the ABA Section of Taxation Annual Meeting, the National Tax Association Annual Conference, the American Association of Law Schools Annual Meeting, the NorCal Tax Roundtable, the Taxpayers Against Fraud Annual Meeting, and a workshop sponsored by the **Journal of Gender, Social Policy, and the Law** on the theme of Valuing All Families Under the Law. He provided commentary to the press on a number of different subjects, including incoming President Obama's tax policies, the

IRS whistleblower program, and attorney-client and work-product issues for tax practitioners. This Spring, Dennis will present papers at the University of San Diego School of Law Tax Law Speaker Series, the Critical Tax Conference at Indiana University School of Law, the Indiana University School of Law Tax Policy Colloquium, the Challenging Gender Inequality in Tax Policy Making Workshop (Onati, Spain), the Annual Meeting of the Law and Society Association, and the Jr. Tax Scholars Workshop.

\* \* \* \*

Click

[http://papers.ssrn.com/sol3/JELJOUR\\_Results.cfm?form\\_name=journalbrowse&journal\\_id=500623](http://papers.ssrn.com/sol3/JELJOUR_Results.cfm?form_name=journalbrowse&journal_id=500623)  
[http://papers.ssrn.com/sol3/JELJOUR\\_Re&journal\\_id-500623](http://papers.ssrn.com/sol3/JELJOUR_Re&journal_id-500623)  
<http://www.law.ucdavis.edu/faculty/research.shtml> to see the latest issue of the UC Davis School of Law, Legal Studies Research Series (Social Research Network).

\* \* \* \*

Copies of this newsletter are provided to the law school faculty and senior staff, as well as Joe Martin (King Hall Counselor), and Claudia Morain (Campus News Service). A copy also is posted at [www.law.ucdavis.edu/faculty/faculty\\_research.html](http://www.law.ucdavis.edu/faculty/faculty_research.html). For more King Hall news, please be sure to visit <http://www.law.ucdavis.edu/>.