2005 Cardozo Life (Summer)

Benjamin N. Cardozo School of Law

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A Stellar Community

This issue of Cardozo Life opens the window yet again on Cardozo's dynamic intellectual life. It focuses on Cardozo alumni in the international arena and our spectacular conference on the legacy of the Nuremberg Trials. In addition, Prof. Peter Goodrich offers a retrospective look at the late Jacques Derrida, our frequent visitor and guest who over the course of two decades engaged our students and faculty in important dialogue. Goodrich points out that "Derrida's American legal experience was Cardozo."

As the inside pages also report, Cardozo's faculty have published five books this year, organized and participated in many noteworthy conferences and panel discussions, and been actively involved in our nation's public life. It is also my extreme pleasure to announce that Richard Bierschbach, Eric Pan, and Julie Chi-Hye Suk, each of whom is exceptionally talented and highly accomplished, are joining the full-time faculty this summer. We welcome them.

I wish to state a few words about Rob Schwartz, our indefatigable and highly distinguished associate dean for admissions, who is featured in an interview. Rob is marking his 10th year at Cardozo, and during his tenure he has totally revamped the admissions process and dramatically rewritten conventional wisdom regarding "realistic" admissions goals.

In an almost incomprehensible short time, he has helped Cardozo develop into a nationally prominent law school that will welcome an incoming class in August from across the nation—60% from states other than New York. This remarkable statistic is compounded by the fact that we have doubled our applicant pool to more than 5000, improved the median LSAT score of the incoming class to 164—the 91st percentile, while the top quarter of the class has a median LSAT score of 168 putting them into the top 5% of all test takers.

Rob has overseen these outstanding statistical developments while emphasizing the individual in the application process, successfully identifying those who show promise to make significant contributions to American life. The remarkable fact is that year after year, I am told by applicants that Rob and the entire Admissions Office staff provide an admission process that is the most personal, dignified, and impressive of any with which they have contact.

I applaud all the individuals highlighted in this issue. It is our good fortune that they are part of our community.
Groundbreaking Conference Examines Nuremberg Legacy as Human Rights Violations Continue

After the Holocaust the world vowed "never again," but at a historic three-day conference on the Nuremberg war crimes trials, participants were reminded that "never again" has become "over again" as human rights violations continue.

A broad spectrum of participants including former Nuremberg prosecutors, government officials, participants in tribunals reviewing abuses in Rwanda, the former Yugoslavia, and Sierra Leone, and academics gathered to analyze the impact of the Nuremberg principles on the occasion of the 60th anniversary of the trials. "We hope to reaffirm the lessons of Nuremberg," said Sheri Rosenberg, deputy director of the Program in Holocaust and Human Rights Studies, who, along with Prof. Richard Weisberg, the Program's director, organized the conference.

The standing-room-only crowd was introduced to the importance of the Nuremberg trials with a screening of the 1959 teleplay Judgment at Nuremberg, which contains an introduction by former Nuremberg prosecutor and Cardozo founding faculty member Telford Taylor. Actor Alec Baldwin, coproducer and star of the TNT mini-series Nuremberg: Infamy on Trial, and Prof. Michael Marrus of the University of Toronto offered comments.

"If you want to pursue justice, you must have a sense of injustice," Irwin Cotler, Minister of Justice and Attorney General of Canada, said. As part of a "recollections" panel, firsthand witnesses to the injustice shared their experiences. At the age of 22 and with only a 10th-grade education, Richard Sonnenfeldt became the chief interpreter for the American prosecution team. Born into a Jewish family in Germany, Sonnenfeldt had the opportunity to speak with everyone during the trial and read the indictments. "I was a witness to that history," he said.

Greville Janner, Member of the House of Lords in the United Kingdom, was not at the Nuremberg trials, but at the age of 18 he was stationed at the Bergen-Belsen concentration camp. As a war crimes investigator in the British Army of the Rhine, Janner was responsible for arresting war criminals. In describing his first capture, a prison guard, Janner expressed surprise that the man was so ordinary. "They weren't what you regarded as people who were killers," Janner said.

Leading the charge against the "killers" was US Supreme Court Justice Robert Jackson, chief prosecutor for the United States. In discussing the history of Nuremberg, Henry King, a former Nuremberg prosecutor and a professor at Case Western Reserve School of Law, invoked the memory of Jackson. "We should never
forget what Robert Jackson accomplished in such a short time," King said, adding that we owe Jackson thanks for giving us a blueprint for the future and a vision for a better world. "I applaud his dreams. The real danger is not to dream at all," King said.

"What happened to the dream?" questioned former Nuremberg prosecutor Ben Ferencz, who at the age of 27 tried his first case at Nuremberg. In answering his own question, Ferencz said, "Murder all over the place. Genocide all over the place."

According to Hassan Bucabar Jallow, chief prosecutor at the International Criminal Tribunal for Rwanda, while Nazi Germany and Rwanda are far apart in time and geography, they are the same problem. "It continues to happen," Jallow said. "It has happened again."

Although crimes against humanity continue, panelists reminded the audience that the work at Nuremberg was not in vain. In a keynote speech, Justice Theodore Meron, president of the International Criminal Tribunal for the Former Yugoslavia, said that although Nuremberg had flaws, without Nuremberg the establishment of an International Criminal Court at The Hague would not have been possible. According to Jallow, while the international community did not get involved in Rwanda until it was too late, international criminal justice is slowly happening. In West Africa, the power of the law is becoming greater than the power of an AK47, according to David Crane, chief prosecutor at the Special Court for Sierra Leone. "I believe the international community got it right this time around," Crane said.

The questions of whether the international community got it right at Nuremberg and whether they will get it right in Iraq were also debated. "It's too late to correct the mistakes that have been made for the Iraqi tribunal," Geoffrey Robertson, chief judge at the Special Court for Sierra Leone, said. According to Richard Dicker, director of the International Justice Program for Human Rights Watch, the problem with the Iraqi tribunal is that the death penalty is involved. "Death surely is too easy for crimes of this heinousness," Robertson said, adding that it's hard to teach reverence for life if Saddam Hussein is sentenced to death and made a martyr.

Dicker raised the point that bringing Saddam Hussein to trial is important to help victims gain a sense of closure, but Dr. Yael Danieli, president of the International Network of Holocaust and Genocide Survivors and Friends, said that courts can help with the healing process, but victims need more than prosecution. Preventing new victims is a priority, but participants on a panel on the crisis in Darfur, Sudan, described the war raging there that is producing new victims every day. Stephanie Frease, director of programs at the Coalition for International Justice, expressed dismay that the United Nations Commission of Inquiry on Darfur has concluded that what is happening in Darfur is not genocide.

"We need to respond to crimes against humanity whether they are genocide or not," said John Prendergast, special advisor at the International Crisis Group, who had made three trips to rebel-held Darfur in the previous six months. The failure to act forcefully shows that little has changed since the crisis in Rwanda, Prendergast said, and the US government needs to impose sanctions on Khartoum. "We still have time to act," Prendergast said. "It's simply not too late to act in these cases."

Concern about how the United States will act in the future was expressed by Ben Ferencz, the final conference speaker. He summed up the three days and electrified the audience with his experiences as a war crimes investigator. Sharing his disappointment that the United States does not support the International Criminal Court, Ferencz said, "There's only one threat to our service personnel—war making," and fighting against an international court is like fighting against Nuremberg. "It's not enough to catch the perpetrators," Ferencz said. "Stop the killing is what you have to do first."
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Bellhead/Nethead Addresses Federal Regulation of the Internet

The United States has no national agency that regulates the Internet, but this could be changing. Controversial proposals for the Federal Communications Commission (FCC) supervision of cyberspace were debated at Bellhead/Nethead: The FCC Takes On The Internet.

Sponsored by the Florence Sheimer Center in conjunction with Yale Law School's Information Society Project, FCC officials, leaders of the Internet and telecommunications industries, public policy officials, and members of the legal and academic communities gathered to examine plans by the FCC to regulate the Internet. Discussions focused on the FCC's role in regulating Internet Protocol-enabled services, including Voice over Internet Protocol (VoIP), the technology that enables telephone calls using a broadband Internet connection instead of a traditional phone line.

The regulations under consideration could make the Internet more like the heavily regulated traditional telephone system. In a keynote address, Robert Pepper, chief of policy development for the FCC, discussed the need to balance the interests of the FCC, the FBI, and the affected industries, and the difficulties in doing so. "This is not just about telephones," Pepper said.

Panelists at the one-day conference wrestled with the conflicting interests and discussed the challenges involved in restructuring and rebalancing the system. "The pace of change in this broadband revolution is accelerating," Bruce Mehlman, a former Commerce Department official and cofounder of the Internet Innovation Alliance, said. "Like love, no amount of broadband is too much," but Mehlman also said that if emerging technologies are taxed and regulated there will be a drag on innovation.

Prof. Susan Crawford, organizer of Bellhead/Nethead, and Robert Blau, vice president, BellSouth
Former Solicitor General Visits for Two Days

Former United States Solicitor General Seth Waxman spent two days immersed in Law School life, sharing his invaluable experience by discussing a recent Supreme Court victory, leading a Moot Court master class, teaching Constitutional Law, and delivering a public lecture.

In a glowing introduction before the opening lecture, Prof. Susan Crawford said Waxman is known for his teaching, leading, and helping. "Seth makes us all proud of our profession," Crawford said.

Waxman, one of the country's premier Supreme Court and appellate advocates and a partner at Wilmer Cutler Pickering Hale and Dorr LLP, lived up to the reputation by graciously inviting the audience to interrupt with questions and injecting humor into his speech.

Waxman's lecture "Who (or What) is the Solicitor General's Client?" was part of Cardozo's Bauer Distinguished Visitor Program and covered the role and responsibilities of the Solicitor General, which include representing the United States before the Supreme Court and insuring that the government speaks in one voice in the federal courts. "It probably was a job whose aspirations could never be filled," Waxman said. Admitting he was unsure where to begin in the role, his response was to "show up for work every day and figure out how it's done," adding that arguing in front of the Supreme Court is "great, wonderful fun."

Continuing the visit, Waxman, who has delivered more than 40 oral arguments in the Supreme Court, began the second day at Cardozo by leading Prof. Michael Herz's Constitutional Law class. Jokingly promising a higher grade to anyone who asked a question, including the Hon. Olivier Duthilleul de Lamothe, Justice at the French Constitutional Council who was in attendance, Waxman discussed his recent Supreme Court win in the juvenile death penalty case Roper v. Simmons.

He discussed the Eighth Amendment and various cases involving the death penalty before talking about the preparation for Roper, in which the court ruled on March 1, 2005 that the death penalty is unconstitutional for anyone who commits a crime when under the age of 18. "We needed to write the perfect brief," Waxman said. Representing Christopher Simmons, who murdered a neighbor when he was 17 years old and was sentenced to death, Waxman invoked "evolving standards of decency" and social science research that suggests personalities and moral character are unformed in those under 18.

After having lunch with another group of students, Waxman held a Moot Court master class. Second-year students Rachel Lubert and Rebecca Hagensen, fresh from their victory in Vanderbilt University's National First Amendment Moot Court Competition, presented their oral arguments to Waxman and fellow students.

"This was really a pleasure," Waxman said. "It's quite obvious why you won." He also offered practical advice, encouraging the students to prepare and recite their most important one or two points right off the bat. Admitting that justices probably don't want to be considered pupils, he nonetheless encouraged everyone to think of judges as students when answering their questions. "This is all about teaching," Waxman said. "It's about trying to explain something."

OTHER VISITORS

The Uri and Caroline Bauer Distinguished Visitor Program, which began this year, brings prominent speakers to Cardozo to deliver a public lecture and present a smaller talk to Cardozo faculty and students. In addition to Mr. Waxman, this year's visitors were Thane Rosenbaum, professor of law at Fordham University and a visiting professor at Cardozo this spring, who spoke on "The Myth of Moral Justice," and Martha Nussbaum, a professor of law and ethics at the University of Chicago Law School, whose talk was titled "Capabilities and Disabilities: Beyond the Social Contract."
Eminent constitutional law scholar Cass Sunstein delivered a provocative lecture on an increasingly controversial and political topic, "The Right to Marry," addressing a packed audience of students, faculty, and guests at the Uriel and Caroline Bauer Memorial Lecture.

Sunstein, the Karl N. Llewellyn Distinguished Professor of Jurisprudence at the University of Chicago, discussed the nature and scope of the right to marry. He argued that marriage should be understood as a licensing scheme and discussed whether marriage, in this view, should exist at all.

Sunstein explained that a marriage certificate provides "public legitimation and endorsement" as well as a set of material benefits, such as legal entitlements, ownership benefits, and the power of surrogate decision making. "They make life a lot easier," Sunstein said.

He shared his personal view that he does not support the proposed constitutional amendment to ban same-sex marriages. Sunstein said it is "way premature for the Supreme Court to enter into that debate," and that it's an "area in which federal courts should tread very cautiously."
Moot Court Teams Take Top Honors at Prestigious Competitions

Rachel Lubert '06 and Rebecca Hagens '06 of the Moot Court Honor Society triumphed in the face of tragedy when they won Vanderbilt University's prestigious National First Amendment Moot Court Competition.

Lubert and Hagens had to overcome not only 35 teams from law schools around the country but also the death of their friend and team editor, Liza Suckle, only days before the competition. "We really had no expectation of success, only the hope to honor Liza's memory," Lubert said. "We competed for her and hope only that we made her proud."

The team, which also won runner-up best brief, argued both sides of a hypothetical First Amendment case that presented the issue of whether school officials could punish a student for a drawing depicting violence. "We work so hard in preparation, and it is so difficult to put yourself out there in competition, that just by doing it you've generally satisfied your expectations," Lubert said.

Jeremy Sussman and Andrew Pak, also second-year students, took first place at George Mason University's Henry G. Manne Moot Court Competition for Law & Economics, held at the US Court of Appeals for the Federal Circuit. The team analyzed the legal and economic implications of a complex antitrust price-fixing problem. According to Sussman, the competition challenged them to learn basic economic theory and antitrust law, and apply it to a question with no obvious answer. Pak also won best oralist.

LIBRARY APPRECIATION

Prof. Lynn Wishart (second row center) and her staff were honored at Library Appreciation Day, which marked the acquisition of the 500,000th volume for the library's collection. Professor Wishart, associate dean for library services and director of the Law Library, thanked her staff for their tireless efforts and praised them for being "mind readers." In acknowledging Wishart, Dean Rudenstine said, "I don't know how she does all that she does," while Vice Dean Laura Cunningham suggested Wishart's title be changed to "All Knowing."
Eyewitness Identification Reform Discussed

With their shirtsleeves rolled up—and armed with case studies, data from pilot projects, and visual aids—law enforcement officials, attorneys, scholars, and psychologists from across the nation gathered for a landmark conference to share progress reports and research in procedures and programs for reforming eyewitness identification in the criminal justice system.

Kirk Bloodsworth, the first person to be released from death row through postconviction DNA testing, and two female sexual assault victims who made incorrect identifications in their own cases and now advocate both for victim and offender rights also participated.

The ubiquitous role of eyewitness testimony in criminal cases, its fallibility, and recent public scrutiny of this issue made this a critical and timely event. According to presenters, mistaken eyewitness identifications were present in over 80% of the postconviction DNA exonerations in the United States. They added that while many people disagree about the causes of and remedies for the problem, there is strong evidence that neither the pretrial identification procedures most commonly used in the precincts nor the Supreme Court standard of admissibility for eyewitness identifications is working.

The impact of witness confidence in a trial, the need to work with law enforcement in winning reforms, obstacles to implementing them, and other issues were explored at Reforming Eyewitness Identification: Convicting the Guilty, Protecting the Innocent. Among the techniques and examples shared at the two-day conference was an innovative pilot program in Minnesota that changes the way witnesses view line-ups, eliminating unduly suggestive identification procedures, and instituting new line-up methods. In one that is "double-blind," the person conducting the procedure is uninformed about the identity of the suspect.

Conference co-organizer Prof. Barry Scheck said, "The purpose of the conference was to generate discussion and ideas and cultivate reforms and programs. As we can see from what was shared here, we're making progress and that is encouraging. But we have much more work to do in the precincts, courts, and legislatures to improve our criminal justice system."

The conference was cosponsored by The Innocence Project, the Jacob Burns Center for Advanced Legal Studies, Cardozo Law Review, and the Judicature Society.
Cardozo Hosts Discussion on the Conflict in Darfur, Sudan

The humanitarian and political complexities of the crisis in Darfur, Sudan, and an assessment of the international response were the focus of the discussion at Death and Destruction in Darfur, Sudan: The Human Dimension and the Moral Imperative. The panelists described the displacement of more than 1.5 million people, who left their homes to escape the violence launched when two rebel groups revolted against the government.

Gerald Martone, director of emergency response for the International Rescue Committee, discussed the effects on the displaced population, especially on the children, who make up the majority in refugee camps, which he described as a bleak and "toxic environment for a child."

Ruth Messinger, president and executive director of the American Jewish World Service, who had recently returned from visiting the refugee camps, stressed the need for aid and political action. "I believe the situation is more likely to get worse than not," Messinger said. "You need to figure out what you as a person can do to help."

Other panelists included Gregory D'Elia, senior political advisor for the United States Mission to the United Nations, and Iain Levine, program director for Human Rights Watch. The event was sponsored by the Program in Holocaust and Human Rights Studies, with the Cardozo Black Law Students Association, the Cardozo Jewish Law Students Association, and the Dr. Marsha Robbins-Willf Scholar in Residence Program of Stern College.
PROF. RAKESH KHURANA of Harvard Business School was a panelist at "CEO Succession and Its Implications for Corporate Governance." Prof. Charles Yablon and Louis Bevilacqua, a partner at Cadwalader, Wickersham & Taft, were also panelists.

DIXIE JOHNSON, a partner at Fried, Frank, Harris, Shriver & Jacobson, spoke at "Creating a Culture of Compliance in a Zero Tolerance Environment," cosponsored with Cardozo Women.

IRA MILLSTEIN, senior partner at Weil, Gotshal & Manges LLP and chairman of both the New York State Commission on Public Authority Reform and the Public Authority Governance Advisory Committee, was a special guest of The Samuel and Ronnie Heyman Center on Corporate Governance. He spoke on the need to effectively govern public authorities.

(From left) David Feuerstein '01, Vladimir Elgort '02, and Sherri Toub '03 at the annual HEYMAN SCHOLARS cocktail party, held at the Alger House.
Eminent political scientist Robert Dahl (second from right), Sterling Professor Emeritus at Yale University, was on campus to talk about his most recent book, How Democratic is the U.S. Constitution? He is pictured with (from left) Visiting Prof. John McCormick, Prof. Michael Herz, and Prof. Marci Hamilton, who all offered comments at the discussion.

**Georgetown Law Prof. David Cole Lectures on Civil Liberties**

Georgetown University Law Prof. David Cole (far right) expressed his view that the Bush administration's model for preventing future terrorist attacks in this country, the "paradigm of prevention," has been anything but balanced. "We've seen a fundamental sacrifice in equality," Cole said at "The Paradigm of Prevention: Civil Liberties, Security, and the Rule of Law in the War on Terrorism," sponsored by the Floersheimer Center for Constitutional Democracy.

While the desire to prevent terrorism is understandable, Cole said the rule of law cannot be ignored in the process. "On September 12 we had the world's sympathy, and today we have the world's animosity," Cole said. In a recent ruling, the Supreme Court said the President does not have the power to hold suspected terrorists indefinitely, which according to Cole recognizes that the rule of law is critical in the war on terrorism. "Dignity is not something that is reserved for people with American passports," Cole said.
Floersheimer Center Tackles Timely Subjects

The Floersheimer Center for Constitutional Democracy hosted conferences, lectures, and discussions on current topics and brought distinguished guests to campus during a successful year of growth and expansion of the Center’s activities, including new publications and the launch of a Web site, http://www.cardozo.yu.edu/floersh/index.asp.

TERRI SCHIAVO CASE The Center recently sponsored a panel discussion on the Terri Schiavo case, with Professors Michael Herz, Marcia Hamilton, Melanie Leslie, and Ed Stein discussing some of the issues raised by the controversy, such as living wills, end-of-life decisions, and freedom of religion. The professors presented brief summaries of the importance of the case to their fields and tried to answer the question, “What are the legal lessons of the Terri Schiavo case?”

ELECTION LAW Prior to the national election, an election law speaker series included Charles Spies, election law counsel for the Republican National Committee, who spoke on campaign finance laws; Henry Berger, New York counsel for the Kerry-Edwards Campaign, who discussed promoting and protecting the vote; Eric Hecker, associate at Emery Celli Brinckerhoff & Abady LLP and adjunct professor at Cardozo, who discussed redistricting; and Prof. Michael Herz, who spoke on the Electoral College.

DERRIDA/AMERICA In February, the Center cosponsored a two-day conference on the legacy of French philosopher Jacques Derrida. Following Derrida’s recent death, American and European scholars gathered at Derrida/America: The Present State of America’s Europe to review, explore, and examine the significance of his work. (See Peter Goodrich’s remembrance of Derrida on p. 28.)

FREEDOM AND LEGALITY Prof. Peter Goodrich and Prof. Simon Critchley of the New School University co-taught Why Law? Freedom and Legality, a weekly class for Cardozo students open to invited guests. Each week distinguished guest speakers, including renowned French philosopher Alain Badiou, examined the nature of law and the relation between freedom and law.

DISTINGUISHED VISITORS As in previous years, the Floersheimer Center hosted a small number of distinguished fellows to be in residence and teach a class, give a lecture, or provide an article to a Cardozo journal. The 2004–05 fellows were Prof. Otto Piersmann, University of Paris 1 Panthéon Sorbonne; Prof. Christian Biet, University of Paris X Nanterre; and Olivier Dutheillet de Lamothe, member of the French Constitutional Council and of the Conseil d’État.

PUBLICATIONS A new initiative is the publication of Floersheimer Center Occasional Papers. Written by Cardozo faculty members and Friends of the Law School, the papers address topical issues and stem from a presentation at a Cardozo conference. This year the Center published two occasional papers, The Press and the “War on Terror”: A Failure of Courage? by Anthony Lewis and The Accountable Net by David R. Johnson, Susan P. Crawford, and John G. Palfrey, Jr.
Auction Raises Nearly $100,000

This year, the Annual Goods and Services Auction broke all previous records and, according to committee chairs Claire Tuck ’06 and Aron Zimmerman ’05, grossed over $96,000 for public interest summer stipends. This impressive number was reached through auction proceeds and donations from several members of the Cardozo community. Leading the way were sponsors Kathryn Greenberg ’82 and her husband, Alan, The David Berg Foundation, Elizabeth Greif, Barry Shenkman and the Jacob Burns Foundation, BAR/BRI Group, Paul Brusiloff ’91 and Nadja Caufield ’96, Rosemary Byrne ’80, Debevoise & Plimpton LLP, and David Kessler ’82 and family. More than 200 items were auctioned off including Chanel pearls, a golf foursome at Trump National Golf Club in Westchester, a horse, and two dinners for seven hosted by Dean Rudenstein, Claire Tuck ’06 and Aron Zimmerman ’05. Auctioneer Richard Brierley of Christie’s kept the crowd in high spirits. The event, sponsored by the Public Interest Law Students Association, raised enough money so that every student who applied and qualified for a public interest stipend received a grant of $3,500.

The Supreme Court’s consideration of the constitutionality of the FEDERAL SENTENCING GUIDELINES and the Court’s opinion in Blakely v. Washington were the topics of discussion at a panel hosted by the Jacob Burns Ethics Center. Prof. Ellen Yaroshefsky talks with Adam Lurie ’02, an associate at Cadwalader, Wickersham & Taft LLP and the moderator of the panel, which included James Robinson, partner at Cadwalader and former assistant attorney general for the criminal division at the US Department of Justice; Josh Dratel, president-elect of the New York State Association of Criminal Defense Lawyers; the Hon. John S. Martin, former US District Judge for the Southern District of New York; and Prof. Kate Stith, Yale Law School.

(From left) Rebecca Hagensen ’06, Gary Kaufman ’06, and Clara Seo Feacher ’07 perform “Cardozo Feud” at You Can’t Do That On Law Revue! The annual LAW REVUE show, a musical spoof, is produced, written, and performed by students.
JOSH WOLFE, cofounder and managing director of Lux Capital and editor of the Forbes/Wolfe Nanotech Report, shows a pair of pants that demonstrates some of the benefits of nanotechnology at Nanotechnology and the Law, sponsored by the Cardozo Arts & Entertainment Law Journal. Nanotechnology experts Mark Modzelewski (center), cofounder and executive director of NanoBusiness Alliance, and Philip Braginsky '90 (right), of counsel at Sills Cummis Epstein & Gross P.C., joined panelists Dan Ravicher, president and executive director of Public Patent Foundation, and Stephen Maebius, a partner at Foley & Lardner.

United States Federal Trade Commissioner MOZELLE THOMPSON (right) is pictured with Prof. Stewart Sterk after delivering the 12th Annual IP Distinguished Lecture, at which he discussed patent reform, competition, and the future of innovation. The annual lecture provides an opportunity for students to hear from an influential voice in intellectual property law.

University of Washington PROF. TOSHIKO TAKENAKA was among several IP scholars and experts to visit Cardozo this year as part of the Intellectual Property Speakers Series. She discussed patent law and compared US and Japanese technology transfer systems. Other visitors were Prof. James Boyle, Duke University; Prof. Sonia Katyal, Fordham University; Stephen Kunin, deputy commissioner for patent examination policy, United States Patent and Trademark Office; Prof. Joe Lui, Boston College; Prof. Peter Menell, University of California, Berkeley; Prof. Craig Nard, Case Western University; and Prof. Katherine Strandberg, DePaul University.

JAY ROSENTHAL of Berliner, Corcoran & Rowe, LLP, who is counsel to the Recording Artists' Coalition, discussed advocacy and the role of the entertainment lawyer at a symposium hosted by the Cardozo Arts & Entertainment Law Journal, in partnership with the GRAMMY Foundation's Entertainment Law Initiative and the ABA Forum on Entertainment and Sports Industries.

PROF. MICHAEL MADISON of the University of Pittsburgh spoke on repairing copyright's fair use defense at Some Modest Proposals 2.0: A Conference About Pouring Academic Ideas Into Legislative Bottles, a two-day conference that focused on copyright, patent, and privacy law proposals. The "Modest Proposals" event, now in its second year, invites leading academics to present legislative proposals for improving the US intellectual property system. The proposals then receive scholarly and political commentary in a discussion among attendees, who include current and former Capitol Hill staff members, administration officials, and professors.
Three Super Achievers Join Faculty

This fall, Richard Bierschbach, Eric J. Pan, and Julie Suk received appointments as assistant professors of law. In making the announcement, Dean Rudenstine said,

“These young and highly accomplished individuals bring fresh thinking and strength to the faculty. All of us on campus will benefit from their practical experiences and exceptional talents.”

Already a familiar face on campus, Richard Bierschbach has been a visiting professor here since 2003. He teaches Criminal Law and Corporations and in summer 2005 will be teaching in Cardozo’s corporate law program at University of Oxford in England.

Before coming to Cardozo, Bierschbach was an associate in the New York office of Wilmer, Cutler & Pickering, where his practice focused on administrative law, white-collar crime, and appellate litigation. Professor Bierschbach received his law degree from the University of Michigan, where he was articles editor of the Michigan Law Review and the recipient of the Henry M. Bates Award, the school’s highest honor for graduating students. He then moved to Washington, DC, clerking for Judge A. Raymond Randolph of the US Court of Appeals for the DC Circuit and for US Supreme Court Justice Sandra Day O’Connor.

In between his clerkships, Professor Bierschbach worked for the US Department of Justice. He served as a Bristow Fellow in the Office of the Solicitor General and then as an attorney-advisor in the Office of Legal Counsel—where, as he noted, he found the work brokering disputes between executive branch agencies especially interesting. “I got some real insights into the system,” he said. “Meeting regularly with the attorney general, the White House counsel, and the heads of various divisions and witnessing all the input that goes into each decision were instructive. Contrary to how it might seem from the outside, it’s not uncommon for different departments to bring diametrically opposed opinions to the table on the same issue. These meetings generated interesting policy questions as well as many fascinating legal questions about what the position of the executive branch on a given issue should or could be.”

Speaking about his move into academia, Professor Bierschbach said, “Probably one of the biggest and most enjoyable challenges is in the classroom, presenting the material to students in a way that is comprehensive and nuanced, yet still digestible and engaging.”

Outside of the classroom, Professor Bierschbach’s teaching subjects converge in one of his current research projects, which is exploring how the criminal law views corporations and other organizations from a theoretical and reform-minded perspective. “We live in an age of organizations,” he said. “And if you look at the state of criminal law doctrine and theory when it comes to grappling with the role of these entities in our lives, it’s clear that there’s a lot more thinking to be done in this area.”

Eric Pan comes to Cardozo from the Washington, DC office of Covington & Burling, where he was a member of the corporate, securities, and international practice groups. His practice consisted of mergers and acquisitions, public and private securities offerings, securities regulation, general corporate advisory work, and public and private international law matters.

Professor Pan always intended to join academia, having published several law review articles on international financial regulation and presented to academic audiences in the United States and Europe while practicing at Covington.
In Professor Pan's opinion: "Cardozo is the ideal place to teach and research the most challenging aspects of corporate and international law and is one of the most intellectually exciting places in legal academia." Professor Pan intends to give Cardozo a higher profile in the area of corporate and securities law as the new director of The Samuel and Ronnie Heyman Center on Corporate Governance. One of his main objectives will be to bring legal, corporate, financial, and government leaders to campus in order to bridge the gap between academia and the world beyond.

This year, he will be teaching Corporations and International Law. His strong interest in international law developed when, as a law student at Harvard, he worked for renowned legal scholar Prof. Abram Chayes representing the Republic of Namibia in a case before the International Court of Justice. More recently, Professor Pan has been studying the regulation of securities offerings across borders. He noted, "One of the most important questions facing lawmakers and regulators around the world is how to regulate multinational corporations without inhibiting trade, investment, capital raising, and other activities that are essential for the growth of the global economy."

Prior to joining Covington, he was a Jean Monnet Lecturer in Law at Warwick University, England, and served as director of Warwick's Programme in Law and Business. He was also a visiting fellow in international law at Cambridge University, England. In addition to a J.D., he has an A.B. in economics from Harvard and an M.Sc. in European and international politics from Edinburgh University, Scotland.

**Julie Chi-Hye Suk**, who most recently was a fellow at Princeton University’s Program in Law and Public Affairs, teaching a seminar on Human Dignity in Law and Political Thought, said she is pleased to be joining Cardozo’s faculty, a group known for its intellectual engagement. A strong scholarly interest in the law attracts her to the teaching profession. She remarked that teaching and scholarship are contiguous. "Teaching is a great forum for playing with ideas. Students’ fresh perspectives and different intuitions help me rethink my research." She will teach Civil Procedure and Comparative Law.

Professor Suk was born in Korea and emigrated to the United States as a child. She speaks four languages: Korean, English, German, and French. She holds an A.B. from Harvard University, where she graduated summa cum laude, a J.D. from Yale Law School, where she was senior editor of the *Yale Law Journal*, and an M.Sc. and D.Phil. from University of Oxford, where she was a Marshall Scholar and studied political theory. During law school she was a summer associate, first at Hale & Dorr, LLP in Boston and then at Jenner & Block in Washington, DC. After graduating she clerked for Judge Harry T. Edwards of the US Court of Appeals for the DC Circuit. Working alongside Judge Edwards was a powerful mentoring experience. She said, "He exemplifies the best combination of scholarly rigor and a common-sense approach to law and justice."

Professor Suk, who has an article forthcoming in the *University of Illinois Law Review* on antidiscrimination law in the administrative state, is embarking on a study of new antidiscrimination laws in France, focusing on how the legal understandings of ‘race’ and ‘discrimination’ have been influenced by debates about social rights, immigration, the EU Constitution, and the Vichy past.
President Invites Brickman to Make the Case for Asbestos Litigation Reform

Since 1988, Lester Brickman has been working on contingency fee issues and tort reform, making overly "generous" contingency fees his personal turf. In early 2004, Professor Brickman published a treatise-length, massively documented analysis of asbestos litigation with an empirical focus on "screenings," which was widely circulated among the bench and bar. Then he was called to testify before a subcommittee of the House Judiciary Committee on abuses in asbestos bankruptcy proceedings and before the Senate Judiciary Committee on specious silicosis litigation.

Therefore, it was not surprising that when President George Bush addressed the issue of asbestos litigation earlier this year, he invited Professor Brickman to lay out the case for reform. In addressing the town hall–type meeting on January 7, the President said, "Starting today, we've made it an issue for the year 2005, and I look forward to working with the Congress to get something done."

In introducing Professor Brickman, the President said to the large audience gathered at the Macomb Center for the Performing Arts, at Macomb Community College in Michigan, "He's going to give you an expert opinion about all this ... give us a little history and educate people." President Bush first became aware of Professor Brickman's work when he was Governor of Texas. Professor Brickman was retained by the Governor's chief counsel as an expert witness with regard to the $3.2 billion in fees awarded to tort lawyers selected by the Texas Attorney General in the tobacco litigation.

In his remarks, Professor Brickman noted that "more than 100,000 workers have died as a consequence of asbestos exposure. But lawyers have taken this tragedy and turned it into an enormous moneymaking machine in which ... baseless claims predominate."

He cited statistics indicating that as many as 70 million new claims against dozens of companies by more than 100,000 claimants were filed in 2003 alone, estimating that perhaps only one-tenth of those individuals are truly affected by asbestos exposure. Brickman said, "But more than 90,000 of these claimants have no illness related to asbestos exposure, as recognized by medical science. These are truly meritless claims."

According to Professor Brickman, "this massive specious claiming" results in delayed and inadequate compensation for the true victims, dozens of bankruptcies, and thousands of suits. Seated on the stage with the President, he asked for "Congress ... to take asbestos litigation out of the courts, and create some kind of administrative process, funded by industry, to pay these claims."

Professor Brickman said later he felt privileged to have been chosen to accompany the President and to have a few minutes of private conversation with him to discuss asbestos litigation reform and related law enforcement issues. "The President has a commanding presence, puts everyone at ease, and is knowledgeable about the subject area."

Recently, the Law School received three pledges of $300,000 each to provide support for Professor Brickman's research and scholarship in the areas of contingency fees, tort reform, asbestos litigation, legal ethics, and related subjects. Donations came from Bernard Marcus/Home Depot, CNA, and Paul Singer/Elliott Management Corporation.
**PROFESSIONAL HONORS**

Lester Brickman received the 2004 Legal Reform Research Award from the US Chamber of Commerce Institute for Legal Reform. He was recognized for his “hard work in exposing fraud in asbestos cases and other abuses of the legal system ... and [his] efforts in bringing about common sense legal reform.” He accepted the award at the organization’s fifth annual legal reform summit in Washington, DC. He was the featured speaker at the American Tort Reform Association’s annual legislative conference, held in November in New Orleans, where he spoke on asbestos litigation. He also spoke at a training session for fee arbitrators at the New York County Lawyers’ Association in October and discussed contingency fees at the American Enterprise Institute for Public Policy Research in September.

David Rudenstine was the keynote speaker at the Indiana University-Purdue University Fort Wayne Institute for Human Rights conference in December. He spoke on “Breaking the Tradition: The Case for the 640 Detainees in Guantanamo,” a version of his article that was published in the fall 2004 issue of Cardozo Life.

Richard Weisberg and Adjunct Professor Kenneth McCallion were honored at the Yeshiva University Hanukkah Dinner for their “significant victory in court, proving that banks had victimized Jewish clients during the Holocaust” and their successful efforts in winning for Cardozo $2.25 million of unclaimed funds for a program in Holocaust and Human Rights Studies. Weisberg’s essay “Loose Professionalism, or Why Lawyers Take the Lead on Torture,” in which he opposes any slippage in the ban against torture, is included in Torture: A Collection, edited by Sanford Levinson and published by Oxford University Press.

**BOOKS PANELS PAPERS**

Paris Baldacci was one of the organizers of a conference sponsored by the New York County Lawyer’s Association and several law schools on The [New York City] Housing Court in the 21st Century: Can It Better Address the Problems Before It? His paper on the utility and role of the court to assist pro se litigants in

**PROF. WILLIAM SCHWARTZ HONORED**

Nearly 100 current and former students, professional colleagues, friends, and family joined Prof. William Schwartz (left) at a party celebrating his 50 years of teaching. The student-organized event was spearheaded by Robin Grossman ’05, who has taken all of his classes: Property, Trusts and Estates, and Estate Planning. She said, “He’s an engaging teacher who explains information so well that I can take it all in and remember everything that he taught me.” She helped raise $30,000 in gifts for the Law School. Sumner Redstone (right), Viacom chairman and CEO, made remarks and gave a donation of $25,000 on behalf of his company in honor of Professor Schwartz. Cadwalader, Wickersham & Taft and a private donor also gave gifts to the Law School. Former Secretary of Defense William Cohen, a personal friend who was Professor Schwartz’s student at Boston University Law School, could not attend but in a letter read at the ceremony wrote, “With the calming manner and wisdom of a Talmudic scholar, and the timing of a comedic genius, Professor Schwartz made his lectures memorably entertaining as well as brilliantly illuminating.”
evidentiary hearings will be published in the Cardozo Public Law, Policy and Ethics Journal. He was also a panelist at the annual continuing education meeting of Housing Court Judges sponsored by the New York State Office of Court Administration, at which he presented “Petitioner's Prima Facie Case: Evidentiary Issues.” His article “Lawrence and Garner: The Love (Or at Least Sexual Attraction) That Finally Dared Speak Its Name,” was published in the Cardozo Women’s Law Journal.

Barton Beebe spoke on “Trademark Law and Parody” at the New York County Lawyers’ Association CLE panel, Fair Use and Parody: Misappropriation of Intellectual Property or Creative Expression for Art’s Sake? Last summer he spoke on “Global Trademark Regulation, Trademark Regulation and Freedom of Expression,” and “The International Debate Over Geographical Indications, Intellectual Property in Comparative Perspective” at the Center for Media and Communication Studies at Central European University in Budapest.

J. David Bleich spoke at a number of conferences in Europe this winter, including the Conference on Human Genetic and Reproductive Technologies, sponsored by the Islamic Educational, Scientific and Cultural Organization and held in London. He presented “Humanity and Creation: The Natural World.” In addition to organizing and convening Cardozo’s conference Bedhead/Nethead: The FCC Takes On the Internet in September, Susan Crawford presented “Screen Work” at Harvard Law School’s Berkman Center 2004 Internet & Society Conference, Votes, Bits & Bytes in December; “Global Connections” at the 2004 Yale Law School Reunion in October; “The Accountable: Net,” at Georgetown University's Liberty By Design: Internet Technology, Policy, and Law, also in October; and “The FCC in the Digital Age,” at Stanford Law School, in September. In the spring, she delivered the keynote, ‘Attacks on Freedom to Connect,’ at Ilsen.com’s conference and presented “First, Do No Harm: The Problem of Spyware” at a conference cosponsored by the Berkeley Center for Law and Technology.

Toni Fine, director of graduate and international programs, spent a week in Brazil meeting with educators, lawyers, and judges to share ideas about legal education and the US legal system as it relates to the ongoing Brazilian process of judicial and other legal reforms.

Malvina Halberstam moderated “International Law: The 2004 Term of the US Supreme Court,” a panel that included David Rudenstein, at International Law Weekend, organized by the American branch of the International Law Association. As a panelist there on “The Vienna Convention on Consular Relations After Avena,” she suggested that legislation amending the federal habeas corpus statute may be the solution to implementing the International Court of Justice (ICJ) decision in Avena, a case brought by Mexico against the United States on behalf of 52 Mexican nationals who had been sentenced to death in various US jurisdictions. This was allegedly in violation of the Vienna Convention provision that if a national of another state is arrested he must be informed that he has a right to consult the consul of his country and a right to have the consul notified of his arrest if he so requests. The ICJ held that the Convention established rights that could be invoked by individuals and that the United States is obligated to provide judicial review of its own choosing in the cases in which the right had been violated. Her article “Alvarez-Machain II: The Supreme Court’s Reliance on the Non-Self-Executing Declaration in the Senate
Resolution Giving Advice and Consent to the Covenant On Civil & Political Rights" will be published in the first issue of the new peer journal National Security Law & Policy.

Marci Hamilton argued before the United States Courts of Appeals for the Second and Seventh Circuits challenging the constitutionality of the Religious Land Use and Institutionalized Persons Act (RLUIPA). She is an advisor on constitutional issues to the Tort Claimants' Committee in the Portland Archdiocese bankruptcy proceeding. She appeared before the New Hampshire Supreme Court in a clergy abuse case, arguing that the First Amendment does not bar tort claims against a church in clergy abuse cases; she also argued constitutional issues for clergy abuse victims in the consolidated cases in Northern California. In November, she spoke at Seton Hall on the constitutional ramifications of church bankruptcies, and she presented a paper, "The Theological Origins of the Separation of Church and State in the United States," at a January conference in Paris, France.

Justin Hughes visited Singapore in November, speaking at the Singapore Intellectual Property Academy on "Protection of Databases in the United States." He spoke on database protection at the University of Washington. He was recently named to the advisory board of the new Intellectual Property Institute at the University of Richmond Law School.

Monroe Price, who was named chair of the Center for Media and Communications Studies at Central European University, is visiting for the year at the Annenberg School for Communication at the University of Pennsylvania. His book Media and Sovereignty was translated and published in Russia, and a paperback version was published in the United Kingdom. He produced for Internews, an international nonprofit that supports open media worldwide, an analysis of media reform in Pakistan, and for the National Commission on Media and Communications in Iraq a video on media practices and rules concerning the coverage of elections.

Michel Rosenfeld spoke on "The Other in Comparative Law" and on the making of the constitution of Taiwan at panels in New York, one at New York University School of Law and the other at the New Century Institute Conference. In the fall,
he visited Canada, speaking at the University of Toronto Law School on "The Migration of Constitutional Ideas" and at the International Conference in Social and Political Philosophy at the University of Guelph. He gave a public lecture on the "Legal and Moral Limits in the Struggle against Terrorism" at the Institut des Hautes Etudes Sur La Justice in Paris, and was a panelist at Towards a European Constitution: Process of Integration or Issues of Discord? at The Hebrew University in Jerusalem.

Barry Scheck joined the cast of Guantánamo: Honor Bound to Defend Freedom one night and participated in a question-and-answer session following the performance at The Culture Project in New York City. The nonfiction play is based upon interviews with detainees, their families, and attorneys, as well as press conferences with government officials.

In November, Paul Shupack spoke at the New York State Bar Association program on Secured Transactions Under Revised Article 9 and Proposed Revision to Article 1 of the Uniform Commercial Code.

The Israeli Supreme Court delivered a recent decision with far-reaching implications for human rights in the presence of terrorism (Daher v. State of Israel) and based its decision on a theory of liability—"evidential damage"—developed by Alex Stein. Professor Stein wrote about the theory in *Tort Liability under Uncertainty*, coauthored with Prof. Ariel Porat of Tel-Aviv University. The court awarded tort compensation to a Palestinian civilian accidentally injured by Israeli soldiers fighting Palestinian militants, because the Israeli army and the police failed to properly investigate and document the incident. Therefore the court held them responsible for evidentially incapacitating the claimant and liable for damages. At the University of Chicago Law School John M. Olin Law and Economics Workshop, Professor Stein presented a paper on overenforcement, coauthored with Richard Bierschbach and to be published in the *Georgetown Law Journal*.


Martin Stone spoke on "Tradition and the First Person" at the Cardozo conference on Authority, Text and Tradition, held in October.

Peter Tille"s "Picturing Factual Inference in Legal Settings," which suggests that properly designed visual representations of complex chains of inferences from evidence can perform a valuable function for litigators, is in *Gerechtigkeitsswissenschaft*, edited by B. Schünemann, M.-Th. Tinnerfeld, and R. Wittmann and published by Berliner...
Wissenschaftsverlag. He has been appointed to the editorial board of the new electronic *The Journal of the Forensic Institute*.

**Ed Zelinsky** continued to pursue his suit contesting double state income taxation, appearing at a press conference with Connecticut Senator Christopher Dodd and testifying before the House Judiciary Committee. Zelinsky is challenging a New York tax law, arguing that as a telecommuter he is being unfairly taxed by both his home state of Connecticut and the state of New York, where he derives his income.

**ADJUNCTS**

Hal Abramson, who teaches Representation in Mediation, won the Center for Public Resources Book Award for his new textbook, *Mediation Representation: Advocating in a Problem-Solving Process*.

"Let’s Get Ready To Rumblllllllll! The Gloves Come Off In The Tyson Fee Fest," by Michael Schreiber, who teaches Lawyering Skills and Legal Writing, appeared in the *Norton Bankruptcy Law Review*; which also recently published his articles “Class Action Remedies for Lenders’ Bankruptcy Abuse: The Titanic has Left Port and it’s Full Steam Ahead” and “Shadowboxing In The Ninth Circuit BAP: Court Wins By Technical Knock-Out.”

Charles Yablon participated in “The Changing World of Corporate Lawyers in the Wake of Sarbanes-Oxley,” a discussion of the critical issues facing practicing lawyers, especially those on corporate staffs or working with corporations. Panelists were (from left) David Rosenfeld, associate regional director, Securities and Exchange Commission; Irwin H. Warren, partner, Weil Gotshal & Manges; Professor Yablon; David D. Brown IV, chief, Investment Protection Bureau, New York Attorney General’s Office; and Lance D. Myers, partner, Holland & Knight LLP. Evelyn Konrad ‘05, subcommittee cochair of the New York County Lawyers’ Association’s Securities and Exchanges Committee, moderated.

Charles Yablon

Michel Rosenfeld (at right) participated in a historic public discussion between US Supreme Court Justices Antonin Scalia and Stephen Breyer at American University’s Washington College of Law earlier this year. The Justices addressed such topics as using foreign court precedent in deciding US constitutional cases and whether the US should take into account shifting world standards on social and moral issues such as the death penalty. Professor Rosenfeld, who made introductory remarks as president of the US Association of Constitutional Law, the event cosponsor, is shown here with (from left) Washington College of Law Dean Claudio Grossman, Justices Breyer and Scalia, and New York University Law Professor Norman Dorsen.
In June, Cambridge University Press released Marci Hamilton’s *God vs. The Gavel: Religion and the Rule of Law*. In the excerpt here, Professor Hamilton lays out her reasons for writing this comprehensive look at how laws providing religious freedom are being used by religious entities to shield them from legal liability in cases of clergy abuse, medical neglect, even murder.
THE PATH TO THE PUBLIC GOOD

Were all religious institutions and individuals always beneficial to the public, this book would not be needed. The rule would be plain: religious liberty is absolute. Religious entities would not need to be deterred from criminal or tortious behavior. The purpose of this book has been to explain why even religious individuals and institutions must be governed by duly enacted laws.

The logistics of the landmark *Boerne v. Flores* case brought me into contact with the many groups in this society that lobby against damaging religious conduct, like the American Academy of Pediatrics, Children's Healthcare is a Legal Duty (CHILD), district attorneys, and state regulatory agencies. Getting to know them educated me in two ways. First, I learned that my original theory of free exercise that would have excused religious entities from the vast majority of laws was patently absurd. It was a product of the ivory tower—a theory based on ignorance of religious conduct. As I soon came to recognize, I (like many Americans) was a Pollyanna when it came to religion. Second, I came to see what I could not see before. Religious conduct in the United States (and around the world) had an underbelly few knew about, fewer discussed, and even fewer discussed publicly. It was Aristotle who said [in *Ethica Nicomachean*]: "We have to learn before we can do ... we learn by doing." My experience with RFRA [Religious Freedom Restoration Act]—which covered every law in the United States and therefore affected every possible victim of religious entities—forced my eyes open and led me to comprehend that the widespread cultural presupposition that religion is inherently and always good for society is baseless. The "religion" that should be freed from legal constraints was a chimera: beautiful and comforting, but distinct from reality. In the final analysis, a theory of religious liberty cannot sustain itself unless it factors in the possibility of heinous harms by religious individuals and institutions.

It is a simple fact that religious entities are not invariably beneficial. Religious entities can be responsible for lethal medical neglect of children, childhood sexual abuse, the takeover of neighboring property owners' rights under the zoning laws, and the undermining of civil rights laws, among other conduct. Unfortunately, religion is often used (or misused) to harm others. These behaviors are intolerable in a civil and civilized society, and the state must have the power to deter and punish them. The proper default rule subjects the religious to general constraints on harmful behavior. In essence, I am arguing for the application of the rule of law to religious entities as it is applied to all others. The governing law should not be one that any one individual decides according to his or her own perspective, but rather a set of laws created by duly enacted legislatures charged with consideration of the public good. It is a simple and a profound principle, but in this context it has been muddied by legal battles and special interests.

The hard question that has been at the heart of the religious debate since the 1980s is when, if ever, a religious individual or institution should be given freedom from the general law. The typical rule at the Supreme Court has been that neutral, general laws apply to everyone, religious or not. And that is the right default rule.

Many, however, have argued that the law should not encumber religious conduct unless it is an extremely important law. For them, *Wisconsin v. Yoder* was rightly decided, and the courts should scrutinize the legislature's enactments to determine whether they are important enough to trump religious conduct. The net result is unacceptable: religious entities have broad sway to violate the vast majority of laws and the courts determine which legislation is important and which is not, according to their own lights. For those who understand the capacity of religious individuals and institutions to hurt others, the notion that religious entities ought to trump all but the most necessary laws is unacceptable. Moreover, the courts are not equipped to make relative determinations about social policy regulating conduct.

Even so, it is the rare individual who would jettison religious liberty altogether. Some modern scholars have tried, by reducing religious liberty to equality. Nonetheless, that approach fails to take into account the potent and distinctive drive of religious belief in every human society and its distinctive value for society. While the courts should not have the power to pick and choose between the laws that affect religious conduct, there should be some mechanism where the government can take into account the inherent value of religious liberty and weigh that value against the impact on the public good of letting the religious entity avoid the law. If an exemption will not harm others, it should be provided—by a legislature.

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* Marci Hamilton, lead counsel for the City of Boerne, Texas, successfully argued this US Supreme Court case that found the Religious Freedom Restoration Act (RFRA) unconstitutional.

** In 1972, the US Supreme Court held that a generally applicable compulsory school attendance law was subject to strict scrutiny by the courts and that it was less valuable than the Amish' s interest in removing their children from school after eighth grade.
Robert Schwartz, a member of the class of 1992, has been the head of the admissions office at Cardozo for 10 years. Cardozo Life editor Susan Davis used the anniversary as an opportunity to hear how Dean Schwartz believes Cardozo has changed and what the law school admissions process looks like from his vantage point.

DAVIS: Ten years ago you left private practice to head up the admissions office at Cardozo. What appealed to you about the job at that time?

SCHWARTZ: I liked practicing law, but I also liked working in admissions. Prior to law school I worked for several years in undergraduate admissions, and I also worked in Cardozo’s admissions office while I was a student here. When I heard that the position was open at Cardozo, I had liked my experiences here so much that I thought I had to apply.

DAVIS: There are many Cardozo graduates who return to work here. Do you have a sense of why so many people come back, and is this typical of other law schools as well?

SCHWARTZ: You find more and more people with J.D. degrees in career offices, in admissions offices, and in student services areas. The degree can be helpful, but to return to where you had a good and satisfying experience is particularly gratifying.

DAVIS: Most people understand the admissions process from the viewpoint of the applicant. Can we discuss the process from your vantage point? What are the major challenges for a dean of admissions?

SCHWARTZ: Well, there are many challenges and they vary by the time of the year. One of the major challenges is simply procedural: how we deal with so much paper and so many people. When I started at Cardozo in 1995, less than 2,000 people applied. This year we had more than 5,000 applicants. So I’ve seen a tremendous amount of growth, and although we’ve expanded the staff a little, it is very hard to keep up. To be organized and give admissions decisions in a reasonable amount of time is one of the biggest challenges. The next is to decide who and how many people to admit. You don’t want to either over- or underenroll the class. I would say the third big challenge is getting the best and the brightest students to enroll once they are admitted. I think our office is well known for putting a lot of effort into this part of the process. We work hard to give admitted students the information they need to make the best decision for them.

DAVIS: Would you say these three challenges are the most difficult parts of your job, or is there something else you would point to?

SCHWARTZ: Perhaps the most difficult part of the job is that you have to disappoint so many people that truly want to go to Cardozo, many of whom will become great attorneys, and would have benefited tremendously from a Cardozo education and would have been great citizens here.
DAVIS: What are the most common questions you’re getting these days from applicants, and have they changed?
SCHWARTZ: More than anything else, people are asking about financing a law school education. Tuition at Cardozo will be close to $35,000 next year. Our students graduate with an average debt close to $90,000. Financial aid is the key critical question, and over the years that has escalated.

DAVIS: What about legal careers? Do you see a change in what students are interested in studying in terms of concentrations, or what they are interested in pursuing postgraduation?
SCHWARTZ: I don’t know that I can talk much about trends, but many people interested in Cardozo ask about intellectual property law and its subcategories like entertainment law and media law. Lately I’ve seen more people interested in doing public service than I can ever recall. I don’t know how much of that interest is a function of student perspective generally and how much of it is Cardozo’s reputation under Dean Rudenstine, who has done a lot to establish more public service programs.

DAVIS: This year you are celebrating your 10th anniversary at Cardozo. What accomplishments are you most proud of?
SCHWARTZ: I’m very proud of the Law School’s tremendous growth and to have been a part of the Law School during 10 years of so much change, especially as evidenced in the admissions process. Frankly we’ve always been able to enroll strong students, but the quality of the students who are coming here now are at the top of the spectrum, and it’s very exciting. I’m proud that students are choosing to come here over some other phenomenal law schools.

DAVIS: To what do you attribute Cardozo’s growing popularity?
SCHWARTZ: Much of it can be attributed to Cardozo’s continued growth in reputation, which, in part, can be tracked through the US News & World Report rankings, although I think that prospective students have to take all rankings with a grain of salt. Over the last decade Cardozo has done tremendously well, moving up 30 spots—just one indication of how lawyers, judges, and other academics view us. I don’t think you will find many law schools with comparable growth in reputation.

DAVIS: Since you bring up US News & World Report, I’d like to discuss it a little bit. Certainly one of the focal points as well as frustrations with admissions is the growing influence this magazine has, especially in Manhattan, where there are so many law schools. Do you see a solution to the way US News has skewed the business of admissions?
SCHWARTZ: Well, I think there are two solutions. One is for law school admissions professionals to continue to make an effort not to focus too heavily on rankings. Sometimes this is hard because when a school does well you want to tout your success and Cardozo is no exception. When we’re ranked number five in intellectual property law, we like to tell people. But if schools continue to downplay these rankings and explain to prospective students all the factors they should take into account in making an educated decision, it would help diminish the impact of US News. The other thing that would help is if there were more law school rankings by other entities or organizations using different scales and criteria. Then, students would be able to make decisions that are better for them based on their talents and interests.

DAVIS: You and I have worked very closely to market the Law School. Do you believe these efforts have had a positive impact or one that you can gauge?
SCHWARTZ: Absolutely. One of the accomplishments I’m most proud of is the amount of effort that we’ve put into redesigning our Web site and also our search piece, which is sent to people who may be unfamiliar with Cardozo but interested in attending law school, and our bulletin. I think these efforts have had a huge impact and have effectively informed prospective students of Cardozo’s strengths. We now have one of the most efficient Web sites out there, and students have taken note.

DAVIS: Do you feel that the admissions process is moving more toward the Web rather than paper?
SCHWARTZ: I do. There’s some discussion about the paperless admissions office. This may be where we’re headed.

DAVIS: One of the things we haven’t discussed that may be interesting, especially to our alumni, is to hear what you tell prospective students about Cardozo.
SCHWARTZ: Let me mention alumni for a minute. Some believe that because of our relative youth we don’t have many alumni—especially in senior positions. In truth we now have 8,500 alumni and virtually all of them are working and, when they can, hiring other Cardozo grads. Our alumni are by and large a young, energetic, enthusiastic, motivated group that wants to meet with admitted students. Approximately 500 alumni from all over this country and the world have volunteered to be Cardozo ambassadors. Admitted students can find someone who’s practicing in entertainment law or some area they’re interested in and make a connection. Alumni also host admitted student-alumni receptions in Washington, Los Angeles, Boston, and Florida. It’s great to see and hear our alumni share their experiences with soon-to-be 1Ls.

"I’ve seen more people interested in doing public service than I can ever recall."
"My favorite day of the year is orientation. That’s when I get to stand up in front of 250 people who represent an entire year’s worth of hard work."

DAVIS: In addition to the alumni network, what do you believe are Cardozo’s strong selling points?

SCHWARTZ: New York City, particularly the Village, is a very exciting place to go to law school. There are so many opportunities for students in New York. We’ve seen a huge increase in the number of people applying from all over the country—Florida, Texas, and California this year made up 25% of our applicant pool. So New York is a really big selling point. I point to our academic program and the relatively small size of our first-year sections. We have the smallest legal writing sections of any law school, according to our director of legal writing, and we offer a very hands-on approach. Our clinical programs are a huge selling point. Many of our alumni probably don’t even know about the Human Rights and Genocide Clinic or the Securities Arbitration Clinic or the Holocaust Claims Clinic or the Family Court Clinic—all added in the last couple of years. Our new program in family law, a public service scholars program, and The Heyman Scholars program for people interested in corporate law also have been important in recruiting some of the best students we have here.

DAVIS: I know one of your goals is increased diversity in the student body. How do you think we are doing?

SCHWARTZ: We’ve made tremendous progress, although I think we still have a ways to go. When I started here, overall minority enrollment was perhaps 12 or 13%. Last year, total minority student enrollment was 22%. I believe a diverse student body is a better student body; it provides a better quality of education for everyone, and I mean diverse in the widest sense of the word: students from a wide variety of ages, locations, and socio-economic backgrounds. As we continue to improve diversity in the faculty and administration, I’m sure we’ll meet our goals.

DAVIS: You are considered one of the most dynamic people in the area of law school admissions, and other law schools have tried to lure you away to run their admissions process. What has kept you at Cardozo all these years?

SCHWARTZ: Cardozo is a kind of home to me. It’s where I went to law school and I believe very strongly in it. It is an exciting place to work at an exciting time. We have spent $40 million on facilities, have a dean who has an ambitious agenda, a committed and energetic Board chair in Kathy Greenberg, who is an alumna, and it’s not insignificant that we have had so much success in the admissions office. It’s hard to leave when you’re doing so well, having a good time, and seeing such positive changes.

DAVIS: What would you say is the best part of your job?

SCHWARTZ: The most satisfying part of my job is to help people decide whether Cardozo is the right place for them. I like doing that. My favorite day of the year is orientation. That’s when I get to stand up in front of 250 people who represent an entire year’s worth of hard work. It feels great to see and meet the new members of the entering class, to hear that they feel good about their decision. It gives me a tremendous amount of satisfaction.

On the first day of classes, I walk around to the classrooms, because I just can’t quite believe that the process is over and that the students are here. I look through the door of first-year classes and see the effort it took to help students make their choice to come here. To see each of them is just an amazing feeling.
Adieu J.D.
A TRIBUTE TO JACQUES DERRIDA

PETER GOODRICH, PROFESSOR OF LAW
Derrida's American legal experience was at Cardozo School of Law. He brought the rhythm of the Continental, the exoticism of the foreign, and the kudos of theory to the foundling Law School beginning in 1985. He joined the faculty, an unusual though prescient move on the part of the School, and for the decade and a half following Cardozo's Deconstruction and the Possibility of Justice conference, he would visit the School for a fortnight or so each fall. He took this curious new world juridical assignment very seriously. He would attend classes, comment on seminar papers, deliver works in progress as well as public lectures.

He was inordinately generous, and even in the last years, older and in weaker health, he still came. The last time he visited, he talked on the death penalty and, as I was walking him down Fifth Avenue to his next engagement, he was nervous—he always was—and a little overwhelmed. Scuttling along somewhat shorter than me, he muttered gruffly yet humorously, "All these commitments, these are my death penalty." I watched him disappear into the haze of Washington Square and marveled that despite that sense of penalty or pressure he had just spent three hours at Cardozo lecturing and answering interminable questions before rushing on to yet another engagement, a further commitment, one more drain on his time.

If Cardozo was known in the common rooms of law schools across Europe and America, in Australia and Japan, it had a lot to do in those early years with the intellectual support and human warmth of Derrida's commitment to the School. At the same time we should also acknowledge that Cardozo played an important role in introducing Derrida to America and in promulgating deconstruction as a method of interpreting law.

Derrida became a star in legal studies through his connection with Cardozo. It wasn't a one-way street. It was a friendship both political and ethical. It lasted to the end of his life.

He died last fall, and in spring 2005 an international gathering of scholars at Cardozo celebrated and critically appraised Derrida's contribution to law and to theory. Under the rubric Derrida/America, the School reprised the earlier conference and traced the impact and influences of the French philosopher who in legal terms was the most influential of all. In an appropriately multi-layered sense, Derrida's contribution to legal thought, his roles as critic, scourge, oracle, and enfant terrible were excoriated and enjoyed again. The law school that gave Derrida his J.D. bid J.D. goodbye. The following remarks are extracted from my own contribution to the conference.
JACQUES DERRIDA. J.D. FOR SHORT. And J.D. of course is titular. It is Derrida’s monogram, for sure, but it is also the abbreviation for Juris Doctor. It signifies a lawyer or one wise in the law. If we are to recollect and celebrate his life in its juridical context and significance, then Jacques Derrida, J.D., is not a bad place to start. Technically, of course, and despite the legal sounding initials, J.D. was not a lawyer. He did, however, hold a visiting appointment at Cardozo, and some of his most influential articles were on the subject of law or were delivered and published first in a legal forum. His essay on Kafka’s parable Before the Law signaled an early interest, and so too did his widely circulated paper on the law of genre. And then came his lengthy and hugely influential exposition, “Force of Law,” published in the Cardozo Law Review. He kept coming back to law: he inhabited its margins, searched for its supplements, dwelt on its traces.

Looking back, fondly and critically, I think Derrida’s influence on legal scholarship was significant enough for the abbreviation J.D. to be appropriate. He was a lawyer in the classical sense of a scholar who gave opinions on law, an amicus, a jurisconsultus, or further back still, in a meaning to be explained later, he was a nomikos or adviser to lawyers. He was equally, however, a philosopher and critic, a humanist, a literateur amongst the lawyers, an outsider looking in and causing a touch of panic. He looked at positive law from the perspective of a prior or first law, that of writing or, to quote a phrase, that of “structure, sign, and play.” Such was his gift, his genius, and his challenge. He played with the norm and with the law of genre. To follow that contribution, both the critical pricks and the public persona, nomos and mark, it is the law of writing in the writing of law that he called into question.

For those of us residing in the West—in the Anglophone world, before Derrida was Derrida in America, before he became “French Theory,” there was the baroque translation of his most complex work: Of Grammatology. This was his study of the “gramma” or the accumulations of marks that make up writing systems. It was his emblematic work, his first American intervention, and I will take it, for that reason, as my initial theme.

My method is both simple and radical. I will focus on his gram in its various forms, as recognized by philologists and rhetoricians. Here is the list: J.D. the monogram interpreted through the pictogram, the logogram, the lipogram, the chronogram, the anagram and the nomogram. I confess I more or less made the last term up. It is the punch line. You will have to wait. Though not for long. Just for a gram or two.

Grammatology

SO FIRST THE PICTOGRAM. My favorite instance comes from a paper delivered by Roman Jakobson’s collaborator, Louis Halle. He took an early manuscript of the 23rd Psalm and showed that if you turned the psalm on its side, it made a castle. He claimed that this provided a hermeneutic key to the poem: it was a defensive exercise, an apology, and so on. Quite right too, and very persuasive. But what about Derrida’s name? I have put it sideways, upside down, diagonal, and at first, I confess, it didn’t seem to illustrate much. Not a promising start; but wait, just look at the name in ordinary cursive, and in time, depending on your font, you will see a ship. A firm initial capital “D,” the perilunar flourish forms a vigorous rudder, “D” the gubernator. The second “d,” in lower case, a funnel or a mast—depending upon your sailing prowess. The final “a” with its forward curlicue makes a prow, a fine Norse nose cutting through the waters on the way to new worlds. And what are we to make of such a pictogram, Derrida the ship? It is, I think, an appropriate image of a heterotopic space, the sign of a moving mark, a floating signifier. Hermeneutically that is apt, it marks as it must Derrida the friend, the ship who passes in the night, and Derrida the courier or messenger, the advocate of deconstruction, alone and passing through. Europe in America, doing the Continental.

Derrida

That takes us nicely to the logogram, to the philology and etymology of the proper noun. In the old legal jargon, in a Latin gloss to the Corpus Iuris, we learn that the name inheres in the bones—nomina ossibus inhaerent—and this must
be taken to mean that the name is its own law, the name as nomos appropriates the person, and it is the name that, to borrow from Baldus, makes the body walk. And so: Derrida, Jacques. The name is first and most obviously from the Latin derideo, to scoff at, to deride. This is not an obvious root. It should thus be noted that derideo has a stronger meaning than in English and implies that the person deriding has an advantage enabling him to do so with reason: thus to ridicule. Etymologically at least, Derrida derided for good causes; he was a scholar, an erudite practitioner of the supplementary interpretation, an irreverent philosopher who allowed words to have their say. Take the play on the name a little further, and we can note that in Medieval Latin, Derrida can be given a root in rida meaning ridge. There is a further cognate meaning associated with ad dericula or to extremes, all the way to the ridge, to the limit as it were. And finally, as another supplement, there is an alternate etymology from the Old English ridere, from ridan to ride, which is the occupational name of a messenger.

Derrida is here again and variously the mercurial hermeneut, the itinerant figure of passage, of transmission of meaning. He is not, however, your usual messenger. His play upon interpretation, the elements of deconstruction and supplement, the philological plays all make for an honesty, a candid refusal to reduce, that was early on interpreted to be somewhat mocking of accepted norms of academic discourse. Derrida was always most generous to words. He would play, mock, ride the ridge, push to extremes, and, peculiarly troubling for law, offer a Janus face, a double reading. So his name is not far from his nomos; his logogram is close to the mark. If one sought a figure that captured this naming, then my choice would be epimone; also termed in Latin versus intercalaris. This figure refers to a verse that is inserted several times in a poem and carries—bears the burden of—its meaning. The figure of epimone originally had a musical context and so suggests something of the lyrical and rhythmic, a submerged beat, a refrain. Puttenham gives an example from Sir Philip Sidney: “My true love hath my heart and I have his,” repeated three times in a poem to friendship.

It is a good example. Derrida was all out for friendship, and the epimone that his name suggests can be found most explicitly in his book on friendship, which has as its versus intercalaris the Aristotelian phrase, “Oh my friends, there is no friend.” For Derrida, I suspect, there was no friend because the singular and unique relationship of amity or amorousness necessarily escaped the abstraction of friendship, the public token of amity in the market. For Derrida, friendship occupied a space of silence and the decipherment of its intimations. Here I will use his own words from an interview after the death of Althusser, “Everything took place underground, in the said of the unsaid.” Hence, in a sense, to the intercalated phrase: there is no friend, only the becoming of friendship, the struggle towards friendship, the failed attempt at the self-presence of friends, to use Derrida’s own early terminology. In sum, friendship has its own law. That is what Jacques kept saying, what he repeated in his many different ways.

Looking back, fondly and critically, I think Derrida’s influence on legal scholarship was significant enough for the abbreviation J.D. to be appropriate.

FROM LOGOGRAM TO LIPOGRAM.
The third category of gram, the lipogram, refers to a type of witticism, the classical device of dropping a letter from a word or, as in the case of Tryphiodorus, from an entire *Odyssey* or epic poem. Addison, the Augustan satirist whose essay on wit is a principal source on this practice, cites Seneca on the lipogrammatists: “operose nihil agunt” (busy about nothing) and so indeed it is fortunate that Derrida never resorted to any simple lipogram, but he did famously drop an “e” and substitute an “a,” changing “différence” to “differance.” Différence is used in the argument that writing is presupposed in speech, that speech carries the trace of the written in a phonetically indiscernible manner. We can simply note that it is a gram, and in fact it is one of Derrida’s more famous grams, a repeated term, and maybe even another epimone.

Fourth is the chronogram. We can link it to the lipogram. If the latter drops a letter, the former reads those letters in a name that are also Roman numerals. The numerals in the name are then added up to form a number, the chronogram. Not only is the chronogram a species of lipogrammatic substitution, it also shows the power of the con-
cept of différence which argues that all meaning is potentially undecidable, that all words are codes or metaphors requiring the justice of interpretation. Choices have to be made, prejudices and precedents suspended, while the words are attended to, letters substituted, corruptions reformed, perhaps, and meanings put into play. That is the project that the court of literature imposes upon the practices of law. In this case the issue is the numerical value, the numerological significance, of Jacques Elie Derrida.

Add it up and we can truthfully say that we have Derrida’s number. Here it is: CLIDID—100, 50, 1, 500, 1, 500. It comes to 1,152 if one counts each Roman numeral separately. Added simply as

Arabic numbers, the total is 18. First off, 1152 is not an insignificant date. We can place 1152 at the cusp that marks the transition from the late Middle Ages to the Renaissance. It is the era of the troubadour lyric and the reception of Ovid’s Art of Love. The comedy of eros was rampant; the laws of love were being formulated and promulgated; the flowers of rhetoric were being sown; and we might hazard that philosophy would later and ambivalently watch them bloom. Put it differently, differantly even, the first postclassical—cispalpine—postcards were being sent, the love notes of the courtly lyric, the first laws of the gay grammar, not Socrates to Freud so much as A.D. to J.D., Arnaud Daniel to Jacques Derrida and beyond.

Add to that the number 18, the age of majority, birth as a symbolic subject, entry into legal subjectivity, and we hardly need the chronogram; it is hardly worth dropping the second D, the latter 5, so as to turn 18 into 13. But I will anyway and in honor of Derrida’s Jewish roots. Thirteen is the age of maturity for males in the Judaic tradition. We can add to that the observation that according to the Torah there are 13 divine attributes, and 613 commandments. Thirteen is a wonderfully ambiguous sign, it is constantly at play, lucky and unlucky, powerful and portentous. We could add, though this is cream on cream, ad derridica as it were, that 13 was classically a sign of power and that Zeus sat as the 13th and most powerful God. In Tarot, the 13th major arcana

is Death, meaning not ending but fresh beginning. So 13 is a kind of numerical equivalent of différence, and it too can be taken to mark an impossible space or fractured origin. And that is appropriate, granted that both the number and the concept are the products of lipograms, and both signify a peculiarly Derridean hermeneutic play.

The Nomogram

THAT TAKES US TO THE FINAL GRAM, the nomogram. It is a term coined from nomos and gram, a combination that joins order or measure to mark, trace, or sign.

Nomos is derived from the verb nemein meaning to appropriate and, by extension, to name. What did Derrida name? More precisely, what did he appropriate, measure, make his own? The trajectory I have traced through his name, his own gram, is one that moves from gay science to law, from postcards to legal texts, from justice to judgment. There is first the attention to play, and specifically the play of words. In his book The Post Card, Derrida plays upon the desire that subtends writing. He sends postcards and love letters as a species of literary acrostic that marks how every text is a fragment and exemplifies the hermeneutic necessity of attending to the lyrical and lexical, the unintended or marginal features of writing. His position was very consistent. The troubadour, the poet lawyer, the scholar who attends to the measure that underpins law, is a distant lover, an infinitely patient reader, and attentive to every detail, to every syllable, sound, and letter. Thus his Injunction to his correspondents: listen. The protocol of listening is attention, waiting, doubting, holding on. Suspend the rush to judgment, do not be determined to decide, don’t decide in advance. Good readers are not afraid to retrace their path nor hesitant to examine how they came to where they now are.

Lawyers decide. They judge, they determine, they legislate. There is no avoiding legal writs, the statutes, injunctions, subpoenas. Derrida asked, what comes before the law? What precedes the rush to judgment? How do we understand law in terms of whence it came? In his essay on the force of law, Derrida held up the institutional site of legal judgment to scrutiny. He argued that before law there has to be a moment of suspension, an instance of inattention to law, a hearing
of the particular, person and event, prior to rule or determination. Justice meant holding back from calculus and judgment. The instant precedes the rule. It was an argument made in a legal forum and with reference to the Levinasian concept of the face-to-face of justice, the call of the other. I will end by suggesting that, in fact, the legitimate force of law is for Derrida both richer and more complicated than his initial take in that essay suggests.

The clue lies in the epimone. For law to be just, the judge has to enter into a relation with the judged. The subject of judgment has to be seen and heard. That is axiomatic. The judge has to listen and remind the judged that law is something held in common. Justice says, in effect, “Oh my friends, there is no friend.” A curious reprise, a strange if implicit judicial utterance. But Derrida was very much about the implicit in the legal and about the attitude or tone that came prior to law. For him friendship preceded law, it was the implicit relationship, the moment of amity being the expression of justice in the intimate space in which law was suspended. The judge cannot be a friend—there is no friend—but the judge exists amicably, in a loving relationship, amongst friends. Law will turn the singular into the general, the particular into the abstract, instance to rule. That is what law does; but before it does it, there is a moment of amity, an attention to friendship, to things held in common. It is a position that has its origins in Aristotle's Ethic, of course, and in the aphoristic dictum that “good legislators pay more attention to friendship than to law,” but Derrida's genius was to take that principle seriously, to play with it, to apply it directly to the legislations of lawyers.

Friendship, living together, holding things in common, inhabiting the same institution, these are the preconditions of law. Amity is nomos. Amity is more important than law because it is amity that grounds law and makes justice possible. That is Derrida's main argument, his nomogram, his measure of law. He was in that sense a nomikos, a term that appears in a few post-classical manuscripts, and that means someone who is not a lawyer but one who advises lawyers, and specifically judges, on the meaning of law. Derrida Nomikos. J.D. deserved his J.D. ☛

There is a black and white photograph in our faculty seminar room. It shows Jacques at Cardozo in 1995. He is sitting and listening. Big hair. White as snow. He is leaning back, face turned, with a hand on his cheek. He looks younger then, but also tired, supporting his face with his hand, maybe hiding the blind side, the bad side. Whatever the tenor or pitch of the head, his gaze is generous, deep, attentive. He looks infinitely patient. He is attending the conference. He is waiting, waiting and listening to the lawyers talk as lawyers will. There is distance, time, stillness and a certain melancholy, a composed strangeness as well as an exceptional amicability in the portrait. He is not one of them, the eyes seem to say, but he is amongst them. Oh my friends, there is no friend. That is the lyrical and always potentially ludic position that his posture conveys. It is an image of intimacy, hung in a public place. A gesture of love in a professional domain. The photo remains. It shows Derrida from the inside, looking out. It offers a lesson for lawyers. Derrida the nomikos. J.D. in the process of getting his J.D. Or put it like this. He sent a nomogram. A postcard image. He was amicus curiae, a friendly critic of law.

ARISTOTLE, NICOMACHEAN ETHICS Book vii c. 1, at 235 (1846 ed.).
Exaggerations come easy in the war-crimes business, as highlighted by common public rhetoric. For example, who among us has not heard Slobodan Milosevic or Ariel Sharon or an average American soldier in Iraq described as a Nazi or the worst thug since Genghis Khan? Although I'm not prone to superlatives—nor are the attorneys and investigators I met working in The Hague—I can profess that my experience at the United Nations International Criminal Tribunal for the former Yugoslavia (ICTY) could not have been a more profound experience.

After graduating from Cardozo, I spent six months working as a clerk to the ICTY's Office of Prosecution. I was drawn to an ICTY clerkship to express my sympathy, care, and attention for the victims, and I believed it was the most significant contribution I could make to prevent future war crimes. As a descendant of Holocaust survivors and victims, I am especially aware of the awful consequences when the international community sits back as war crimes happen, as in Darfur and the Congo. I was also prompted after reading that during the Yugoslavian war and Rwandan genocide, there were American Jews who had argued against pleas for intervention, suggesting that the atrocities in Yugoslavia and Rwanda were not a Holocaust. I could not accept that irrelevant argument from a part of the Jewish community.

I also believe that only a firm, rule of law can prevent future criminal action, and the ICTY is the primary mechanism for establishing that rule of law. I hope that by assisting in the development of international criminal law and the prosecutions of deserving offenders, I have contributed something meaningful at the ICTY. I am very appreciative of the support I received from The Floersheimer Center for Constitutional Democracy, which made me feel that I was also representing Cardozo and its values.

At the ICTY I was assigned to a series of cases against
Croatian defendants for war crimes perpetrated in Croatia against Serbs—all on the eve of Croatia's attempt to enter the European Union. Two of the cases are pending referral to domestic courts in Croatia, and I assisted on the prosecution's motions and responses in one of the matters. My work concentrated on a controversial third case against three Croatian defendants for their actions towards Serbian ethnic cleansing in the 1995 “Operation Storm.” The arch-criminal of the enterprise, a former general named Ante Gotovina, continues to be on the run from the law.

Many of the ICTY’s prosecutions are against Serbian defendants, so my Croatian-focused cases were exceptional. Indeed, according to a persistent rumor in The Hague, the case against Operation Storm will survive attempts to dismiss it out of institutional fear that without a prominent Croatian case, the ICTY will earn itself and the United Nations a distasteful anti-Serbian legacy.

Most people remain understandably confused about the work of the ICTY since the media has distorted perceptions of the Serbian-Croatian conflict. Although the ICTY deals with many cases against a variety of ethnicities and perpetrators, it is Milosevic's stalling tactics and antagonism that catch the media’s attention, and therefore he is best known to the American public.

This was particularly evident to me upon my return to New York. When my building's elevator man remarked upon my six-month absence, I answered that my family and I had been living in The Hague while I worked for the Yugoslavia tribunal. Predictably, he requested stories about Milosevic. When I said I had concentrated on something else, he reminded me that Milosevic is among the worst humans of today and followed up with a lecture on the biases of the ICTY for allowing Milosevic to grandstand while innocents—and he emphasized Kosovo Albanians—are indicted and sentenced for petty crimes. Although himself an Albanian, his attitude is illustrative of many. Most people in discussing the former Yugoslavia can’t see beyond Milosevic to realize that guilt is shared across ethnic borders.

The case against Operation Storm, which is still in its pre-trial stage, names three Croats in its indictment. Each is charged with engineering and managing a part of the ethnic cleansing that occurred in and as a result of the operation. In the six months I spent in the ICTY's Office of Prosecution, I became well acquainted with each of them—not personally, however, since one of them hasn't bothered to show up at The Hague, and the other two have been provisionally released to Croatia's recognition until the commencement of their trial. The defendants, Ivan Cermak, Mladen Markac, and Ante Gotovina, had been military commanders during the operation, and Cermak had also acted as a civilian authority. In the war years, all three had been tightly connected to the elite of the Croatian government. Cermak, who remains one of Croatia's wealthiest men, was a friend of Croatia's former president, the late Franjo Tudjman, who, if he were alive, would be a codefendant. The indictment refers to Tudjman as a coparticipant in the ethnic cleansing because he orchestrated the operation.

This case, like most ICTY cases, is prosecuting the highest level of perpetrators. To argue that a military figure like each of the defendants was responsible, whether individually or as a commanding officer with effective control of subordinates, entails a comprehensive understanding of details. I had to learn the hierarchy of the Croatian military, and study the differences between military police and civilian police, and other arcane facts. Sometimes the scrutiny of troop locations and chains-of-command was boring; at other times it was fast-paced and exciting, such as when I ran an analysis of road blockades—and the orders issued to the soldiers and police at those blockades—to show how Cermak had restricted the movements of international organization workers to prevent them from aiding Serbian victims.

Operation Storm, lasting just a few days, was a carefully planned military operation to retake an area of Croatia called the Krajina that had been conquered by Serbs. Within a week, the Krajina was effectively cleansed of Serbs, who fled or were forced out of their homes, often into Bosnia. The Serbian population was, according to the indictment, deported or internally displaced, both of which are crimes under the ICTY statute. By most estimates, a quarter of a million Serbs abandoned the Krajina as a result of Operation Storm, but there were no cattle cars trucking the undesired persons to a relocation center. So how and why the Serbs left the Krajina is not entirely clear. In one memorandum, I attempted to anticipate the defense arguments pointing out where the existing law supports the prosecution and where there are holes that need plugging. Indeed, the prosecution is aware that a narrow construal of the statutory crime of
deportation could find that the initial events of Operation Storm—the exodus of Serbs from the Krajina—were voluntary because they were anticipatory and preemptive.

The prosecution’s case against Operation Storm rests on the allegation of a “joint criminal enterprise,” which is international legalese for conspiracy. Much of my work focused on this allegation, both on the facts and the law. With my team’s investigators and attorneys, I studied and filtered the evidence and record of the events under indictment to structure a coherent and credible narrative of the Croatian plan to ethnically cleanse the Krajina of its Serbian population. The Prosecutor’s Office is in possession of the late president’s personal transcripts, and Tadic had fastidiously recorded his office conversations. The transcripts are revealing, but Tadic carefully avoided saying anything incriminating. The case therefore needs to be built from witness statements, forensic evidence, and other investigative tools.

As I grew familiar with the facts of the case, I also researched the legal elements of its joint criminal enterprise and began to see problems in the indictment. Joint criminal enterprise (JCE) is the fastest-changing legal concept in the ICTY’s jurisprudence. JCE has been inconsistently treated in the ICTY’s case law and the many kinks in the concept have yet to be sorted out. While I was at the ICTY, both the judges and the Prosecutor’s Office contradicted their respective pronouncements, making the JCE concept a hot and fertile subject for an enterprising attorney, and I was fortunate to engage it when I could make an impact.

I began analyzing each allegation and slowly started reformulating the indictment. This critical process resulted in a cleaner and more precise narrative of the events under indictment, and because my direct bosses—the team’s supervising attorneys—agreed with my conclusions, they tasked me with drafting a new version of the indictment. This was a preemptive response to the pending defense motions on defects in the indictment.

So, fortunately for me, I had the opportunity and the privilege to draft an amended indictment for a case pending at the ICTY. In March the Trial Chamber found for the defendants on several claims in their motions against the indictment, requiring its emendation. Because my draft anticipated such a ruling, the prosecution needs only to tweak it and submit it as conforming to the chamber’s orders.

Within a short time, I realized that the Croatian government is a key player in these proceedings. I also learned that the perpetrators and their allies did not disappear from the corridors of power when Croatia formally announced its intent to cooperate with the ICTY. These savvy politicians merely shifted their guises and vocabulary, greatly complicating the prosecution’s efforts. Through a mix of political acumen, outright lies, and simple perseverance, the Croatian government has advanced toward European Union ascension while evading responsibility for crimes of ethnic cleansing. The illusory war-crimes trials that Croatia claims to have conducted in the postwar years are part of the same story. According to a recent Amnesty International finding, Croatia’s trials have mostly convicted Serbs for war crimes against Croats but rarely a Croat for war crimes against Serbs.

The ICTY’s success hingess largely on diplomatic ties, cooperation of the nation states formerly of Yugoslavia, and international pressure brought on the uncooperative. Croatia never fully settled whether it is cooperating, and is amenable to cooperating, with the tribunal, which, as I experienced firsthand, upsets the practicalities of case management and investigation.

The case against Operation Storm, as in other ICTY prosecutions, entails the in-depth investigation of state-held materials and interviews with state-employed persons. Essentially, because state-sponsored war crimes, like those allegedly having transpired during Operation Storm, originated in plans at the highest levels of government and were perpetrated or covered up by senior political or military officials, the host state’s cooperation is absolutely necessary. Absent such cooperation, no effective investigation can proceed.

To date, Croatian authorities have refused to present witnesses for interviews, and the Croatian government is accused of harboring Gotovina, who has become the benchmark of Croatia’s cooperation. EU officials have repeatedly said that Gotovina is the key to Croatia’s ascension into the EU, although that government insists it has fully cooperated. Meanwhile, the ICTY’s chief prosecutor claims to know that Gotovina is in Croatia, and others place him in Israel under the Russian mafia’s protection, or in Ireland sequestered with acquaintances from the IRA. If Gotovina finally appears in The Hague, it would be very tempting to return to assist my team with his prosecution.
Their backgrounds and legal specialties are varied. They work at large law firms, small law firms, and solo practices. They work for governmental and nongovernmental organizations, and some don’t practice law at all. No two careers in international law are the same.

The alumni profiled here represent the gamut of work in the international arena. They use their particular talents—such as language skills, business skills, and artistic sensibilities—to contribute internationally. The common thread that ties these alumni together: they all attribute at least part of their success to Cardozo.

SARA WOLOSKY
The Road from Washington, DC to Baghdad; Queens, NY to Lusaka

From a desk job in the nation's capital to wearing a flak vest and Kevlar helmet to work, Linda Lourie '95 spent three months in Baghdad in 2004 as part of a team revising Iraq's legal code.

"I worked in Saddam's palace and lived in a trailer," Lourie said. She was in Iraq to assist the Coalition Provisional Authority in rebuilding Iraq's intellectual property laws, which included bringing the laws into compliance with modern standards and developing strong IP protection. "The goal was to establish a legal system so that Iraq can fit in with its neighbors," Lourie said. "We were not looking to create a mini-United States in Iraq," she said, but the hope is that strengthened IP laws will encourage foreign investment.

Lourie was a member of a mixed group of civilian and military personnel from the United States, Great Britain, and Australia. They lived and worked in very close quarters, sharing trailers and dealing with the threat of mortar attacks, but according to Lourie there was a semblance of normality. "It was a war zone, but people figured out how to decompress," Lourie said. "You can't live every day in fear."

Always interested in other cultures, Lourie studied Islamic art as an undergraduate at Harvard University and received a Master's degree in Islamic art from New York University. "I had a wonderful professor in college who got me interested in the field," Lourie said. While in Iraq she unfortunately did not get a chance to see any art because it was not safe to leave the protected Green Zone. "It was kind of like being a kid in a candy store. There were wonderful things to see, but it was not safe to go see them," Lourie said.

Lourie, who concentrated on intellectual property and international trade at Cardozo, applied her studies and previous work experience to the task in Iraq. She spent seven years working at the United States Patent and Trademark Office and is currently associate deputy general counsel for international affairs at the Pentagon. "I was happy to be able to be part of a historic event," Lourie said. She expects the Iraqis to maintain the new laws once they are implemented, which is the current challenge. "It's really important that countries have harmonized systems," Lourie said. "We all have to play in the same sandbox."

Andrew Ginsberg '90, dubbed "Mr. Queens" by a colleague, always thought he would work in his father's law firm, Ginsberg & Katsorhis in Kew Gardens, but instead he ended up working with refugees in Lusaka, Zambia. "I believed that
I would be a litigator in Queens where my father had a law firm," Ginsberg said via e-mail. "I did not believe that I would leave New York."

Ginsberg, a resettlement officer for the United Nations High Commissioner for Refugees (UNHCR), manages resettlement processing in Zambia, Zimbabwe, and Malawi—approximately 195,000 refugees in the three areas. The organization receives thousands of letters requesting resettlement, according to Ginsberg, and his job is to select appropriate cases and submit them to countries with resettlement programs, such as the United States, Canada, Australia, and Norway. He conducts interviews with refugees, listens to why they fled from their country of origin, and why they can't live in Zambia. Ginsberg spends several hours with the refugees and their families and said he normally separates family members as part of the process to check credibility. "In the end I choose the cases I feel are the best," Ginsberg said.

According to Ginsberg, the best cases have strong claims under the 1951 Refugee Convention, a key legal document that defines who is a refugee. "I also have to justify the resettlement referral with the facts and evidence that support my findings that the refugee meets the resettlement criteria," Ginsberg said. The job involves understanding the laws and policies of different countries, writing up the facts like an affidavit, and making the appropriate arguments. "The skills that I have learned in questioning people, evaluating evidence, and writing persuasively, I learned as a lawyer," Ginsberg said.

Ginsberg said he got a taste for different cultures and philosophies as a religious studies major at SUNY Stony Brook. He became interested in immigration issues after law school when he accepted a job at Tsol and Isel, an immigration law firm in Los Angeles. He eventually applied for a job representing the US government and was appointed assistant district counsel for the United States Immigration and Naturalization Service. In 1999, he went to Israel to study the Bible and the Talmud at Pardes Jewish Institute. "In a way, I was trying to find myself," Ginsberg said, and while in Israel he interned with the UNHCR in Jerusalem. When he returned to the United States, he obtained a consultancy at the UNHCR and started working in Jakarta, Indonesia, and in 2002 was sent to work with refugees in Dadaab, Kenya.

Ginsberg’s unexpected career path has taken him across the globe, but whether the road will lead back to Queens remains to be seen. According to Ginsberg, "I plan to continue to work with the UNHCR because I enjoy the work and find it rewarding. Unfortunately, this means that I will remain outside the US for some time."

International Work Does Not Always Involve a Passport

Jacqueline Klosek '97 is proof that you don't have to leave the United States to practice international law. During the past two years, she has helped create a legal system in Afghanistan while working as an associate at Goodwin Procter LLP.

Klosek serves as team leader of intellectual property and technology law for the Afghanistan Transitional Commercial Law Project, a joint venture with the American Bar Association's Asia Law Initiative and the Center for International Management Education. Klosek is assisting in the revision of Afghanistan's commercial laws and is helping fashion IP laws where few exist. "There was basically nothing," Klosek said. The group of about 50 people working on the project is developing new copyright and patent legislation and revising the existing trademark legislation, which according to Klosek consists of one trademark law. "Copyright is totally new to them," she said.

Klosek examined the laws of neighboring nations to use as models and said she wants the laws to be useful for the people of Afghanistan. "We listened to their concerns and tried to act accordingly," Klosek said. "We didn't want to over-Americanize the laws." The Afghanistan government's involvement in the process was very important, according to Klosek, and a goal is to help the Afghans preserve their cultural heritage and recover objects that have been plundered. "We would like to go there and do training," Klosek said. "I hope I'll be able to go on one of the trips."

Klosek, who was a psychology major at New York University, said she almost pursued that field instead, but it was
Cardozo that fostered her interest in international relations. Klosek was senior articles editor of the Cardozo Journal of International and Comparative Law and received the Telford Taylor Fellowship in Public International Law. Aside from the Afghanistan project, she also works on pro bono cases through the organization Human Rights First. Since 2002 she has helped refugees gain asylum in the United States, including a man from Guinea who was beaten for his involvement with human rights in his country. In 2003, she won Goodwin Procter's pro bono award. “It's nice to know they appreciate what you do,” Klosek said.

**Brokering International Deals Instead of Practicing Law**

In an office on Wall Street high above the bustling financial district, Rotem Rosen LL.M. ’02 works at the international law firm Herzfeld & Rubin, P.C. and is a partner in Israel’s largest firm, Balter, Guth, Aloni & Co. But Rosen does not practice law.

“I'm not doing legal work per se at all,” Rosen said. What he does is act as a liaison between the Israeli firm and the New York firm, which entered into an agreement in August 2004 to service clients of both firms. This is the first venture of its kind between American and Israeli firms, and Rosen helps structure deals to connect clients in Israel with business in the United States and vice versa. “People say that I'm an entrepreneur,” Rosen said. “I like to create something from nothing.”

Rosen was an attorney in Israel for more than four years and became friends with the Israeli firm’s senior partner, Moshe Balter. “He's like my father,” Rosen said, pointing to the laptop on his desk, which is a direct link to Balter's computer. When Balter came up with the idea to create a branch of his firm in the United States, he turned to Rosen to lead the effort.

Rosen researched about 10 law firms and said he was looking for a mid-sized firm with business in cities having large Jewish communities, such as New York, Miami, and Los Angeles. “The potential in New York and Los Angeles is unbelievable,” Rosen said. According to Rosen, there is an opportunity for Balter, Guth, Aloni & Co. to play a significant part in the US market, and the match with Herzfeld & Rubin is a good fit.

Rosen, who studied biology in high school and was drafted into a top security unit of Israeli Intelligence, where he spent three years, has been working on this project since July 2003. “I knew I was not going to be a traditional lawyer,” said Rosen, who received bachelor of laws and master of business administration degrees from the University of Manchester. “I'm good at international business," but he added, “I wanted to get a legal education.”

With the seven-hour time difference between New York and Israel, Rosen works at home from about 3 a.m. to 5:30 a.m. and then goes into the office at 9 a.m., but despite the demanding schedule, he is already thinking about the next venture. “I really love what I'm doing,” Rosen said.
A Firm of One's Own

A fter graduating from Cardozo, Diane Gelon '84 went to London to install an art exhibition, The Dinner Party by Judy Chicago, and now, more than 20 years later, she is still in London with her own successful law practice.

Originally from Los Angeles, Gelon studied art history at UCLA, worked for 10 years before going to law school, and thought she wanted to teach. "I didn't intend to come here," Gelon said. "I didn't intend to start my practice."

Gelon, who started the Law Office of Diane Gelon in 1991, incorporated her visual arts background into her legal work and has a general US and international commercial practice with an emphasis on media, entertainment, and art law. "It's a small and very busy office," she said. According to Gelon, actors make up a good part of her practice, and 10% of her clients are in New York and Los Angeles. She works with agents, handles a lot of contract work, and helps with film production work. Gelon recently received her third associate producer credit for the movie Yes, released in June 2005.

Her practice tends to focus on tax and immigration matters, and Gelon often helps with tax returns for British actors working in the United States. "The tax is always an issue when you work internationally," Gelon said. She also works with US businesses that send employees to the United Kingdom and vice versa, and helps businesses that want to form companies abroad. Gelon has approximately 300 active private clients, two full-time employees, one part-time employee, and even had a summer associate from Cardozo a few years ago. "I'm not a big firm," Gelon said. "What I give my clients is individual attention."

Gelon, who received an L.L.M. in international law from the London School of Economics, said, "I'm still very much an American. "She reads The New York Times every day, gets US news from ABC and NBC on cable, has family in the States, but does not expect to move back anytime soon. While she never thought she would practice law, Gelon said she is happy about how things turned out. "I was very lucky," Gelon said. "I have a great little practice here."

After four years at Debevoise & Plimpton LLP and two years at Patterson, Belknap, Webb & Tyler LLP, Juliette Passer '90 combined her international experience and her Russian-language skills to start her own company, the legal and financial consulting firm International Project Development Group LLC.

"I'm practicing American corporate law with foreign businesses," Passer said. She specializes in developing, analyzing, and financing projects in emerging market economies, and her clients include American companies doing business overseas and foreign companies doing business in the United States.

Passer is fluent in Russian and has a working knowledge of Ukrainian; her language skills helped her develop clients with Russia-related business, which was a large part of her work until the trouble crashed. "My practice is a reflection of what is going on with the economy," Passer said. During the Internet boom, she worked with many "dotcom" companies, three of which still exist, drafting Web site development and hosting agreements and sophisticated Internet back-end and front-end technology licensing agreements, which Passer said was cutting-edge work at the time. She said the Internet has made communication much easier, opening up new possibilities for international business. "The efficiency has allowed someone like me to be on their own," Passer said.

Born in Ukraine, Passer came to the United States with her family in the mid-1970s and didn't speak a word of English. Like her mother, she was a harpist. She studied at the Manhattan School of Music and has bachelor of music and master of music degrees, but decided not to pursue a full-time music career. "There were three choices: medical school, law school, or computer science," Passer said. "Law school was only three years."

Passer decided to study Soviet law and came to Cardozo to study with Prof. John Hazard, the late Soviet legal studies pioneer who taught at Columbia University and was a visitor at Cardozo. "I realized law was a great choice because I love it," Passer said. Her arts background has also filtered into her legal career. Passer said art transactions would be passed to her at the firms, and now she performs pro bono work helping artists, dancers, and musicians with issues such as contracts and setting up companies. An admirer of
In my wildest dreams I never could have planned the kind of career I have," Passer said. "I've lived the American dream."

A Korean Background: A Legal Niche

The first year of law school can be daunting, and
when you have limited English language skills,

it can be downright scary, but Yong Hak Kim '86 was not deterred and now combines his legal education and Korean background in his practice of law.

Kim, a partner at Feldman Weinstein LLP, has carved a niche for himself and specializes in international trade and commercial and customs law. "I'm doing litigation now for Korean clients," Kim said. "I'm doing research on many, many issues."

Kim's work focuses both on American clients with business dealings in Korea and on Korean firms with business in the United States. As he describes some of his recent successful cases, including one involving a subsidiary of the largest company in Korea, he adds with a laugh, "There are some cases I've lost too."

Kim joined Feldman Weinstein about three years ago and has helped expand the corporate practice to include Korean corporate clients. In a firm with approximately 17 staff members, Kim works with two other Cardozo graduates, partner Saul Finkelstein '81 and associate Matthew Chait '03. "This is a partnership," Kim said. "They appreciate my contribution."

After receiving a bachelor's degree from Seoul National University and working in Korea, Kim decided to go to law school. "I thought I needed to learn US law because it's considered international law these days," Kim said. Kim spent the first two years after Cardozo at Lamb & Lerch LLP, specializing in customs law, and then moved on to Thelen Reid & Priest LLP, where he worked for three years with both domestic and international clients. He spent 10 years at a firm specializing in customs and international trade before moving on to Feldman Weinstein.

Kim has lectured extensively on international issues and is the author of a number of influential articles on copyright, specifically on the impact of the VCR, "New Information Technology and Copyright Law Principles in The Information Age," which was published in 1987 in the ILSA Journal of International Law. "It was a hot issue at the time," Kim said, and with the current debate on file sharing and downloading music, it's still important. "I'm proud that I'm good at exploring emerging issues," Kim said.

Admitting that the first year at Cardozo was tough, Kim said once he got past it, the second year was easy. "I owe a lot of thanks to Cardozo."
Attorney General Eliot Spitzer Gives Keynote Address at Cardozo’s 27th Commencement

Students, families, and faculty members gathered on June 7 to celebrate Cardozo’s 27th commencement. The featured speaker, New York State Attorney General Eliot Spitzer, encouraged the class of 2005 to follow their hearts and not be afraid to question the system. At the ceremony, held in Avery Fisher Hall at Lincoln Center, 369 men and women received J.D. degrees and 44 received LL.M. degrees, which Yeshiva University President Richard M. Joel conferred upon the graduates.

Dean David Rudenstine set the tone for the festive ceremony by congratulating the graduates and wishing them well in their next endeavors. “This is your day,” Rudenstine said. In introducing the Attorney General, who is well known for investigating conflicts of interest and illegal practices, Dean Rudenstine said Spitzer has been compared to legendary figures King Arthur, Superman, and Batman, and has been called the “sheriff of Wall Street.”

During an inspiring and lively commencement address, Attorney General Spitzer, who has a longstanding relationship with Cardozo, quoted lyrics from Russell Norman, SBA president and winner of the Steven Eric Tanenbaum Leadership Award, presented the favorite faculty award to Prof. Mitchell Engler (at podium).
the song "Once in a Lifetime" by the Talking Heads and cited two famous Homers—the Greek poet and the cartoon character Homer Simpson. He told the students to work hard and be ambitious, but also to help restore the public's trust in institutions we all depend on. "There will come a time in your careers when your ethics will be tested," Spitzer said. "I urge you to speak the truth in your heart."

Randi Weingarten '83, president of the United Federation of Teachers (UFT), received the third annual Distinguished Alumna Award for Contribution to Public Service. As head of the UFT, Ms. Weingarten represents more than 140,000 educators in the New York City public school system and also leads the Municipal Labor Committee, an umbrella organization for 100 city employee unions. Ms. Weingarten, who taught legal writing at Cardozo from 1986 to 1991, encouraged the graduates to fight for their beliefs and challenged them to make a difference. "This law school gave you the wherewithal not to just dream your dreams, but to achieve them," Weingarten said. "Please leave our city, our country, and our world in a better place than you found it."

In a rousing speech on behalf of the class of 2005, graduate Kavin Edwards reflected on his time at Cardozo, noting that the Law School is known "not only for its intellectual vigor, but also for its human touch." He told his classmates to "always carry yourself in a manner that commands respect," and urged them to represent Cardozo well. "We will see you on the other side of greatness," Edwards said.

(From left) LL.M. graduates Claudio Di Biasi, Agnes de Montseignat, a friend, and Ludwig von Riga-von Kriegsheim were among several hundred graduates who attended the Dean's party for the class of 2005 and their families.
In early December, an informal celebration for those J.D. and LL.M. students receiving degrees in January 2005 was held in the Law School lobby. Dean David Rudenstine (fourth from left) gave each student a copy of The Nature of the Judicial Process, a treatise on judicial reasoning written by Benjamin Cardozo.
Class of 1980
CELEBRATES 25TH ANNIVERSARY

On June 9, Cardozo's lobby was filled with laughter and lively stories as nearly 100 members of the class of 1980 reconnected at their 25-year reunion. Dean David Rudenstine, who first encountered the Class of 1980 when he was a new faculty member, Professors Peter Lushing, Stewart Sterk, and Ed Zelinsky shared their fond memories. As class speaker, Muriel Kaplan described how the bonds with her Cardozo family helped her achieve her personal and professional goals in San Francisco. Representing the 1980 Reunion Committee, Rosemary Byrne and Gary Galperin colorfully explained how fellow graduates can play an active role in Cardozo's future by giving generously to the 1980 Scholarship Fund. To view more reunion photos visit www.cardozo.yu.edu/admissions/alumni.
FOCUS ON: marc simon

MARC SIMON '01
Associate, Dreier LLP
Producer/writer of After Innocence

The documentary film, based on Marc's experience on the Innocence Project, won a special jury prize at the 2005 Sundance Film Festival and will be released in theaters in the fall and broadcast on Showtime in 2006. Marc is a member of the Order of the Coif and was on the Cardozo Arts and Entertainment Law Journal in which he published "Vertical Integration and Self-Dealing in the Television Industry: Should Profit Participants Be Owed a Fiduciary Duty?"

Most memorable (funny) experience while in law school:
My Contracts professor, Larry Cunningham, made fun of my hair in a five-minute monologue.

Most significant experience in law school:
There are two. My involvement in the Innocence Project and when I walked out of a Criminal Law final in my first year convinced that I had failed. I actually got an A+, which set the tone in realizing that law school is its own animal—you just have to prepare.

Favorite city:
New York! I've lived in Gramercy Park since law school, although I think it's time to upgrade from my studio.

Best thing about being a lawyer:
The doors that are opened. There are so many opportunities with a law degree. I never could have written or produced After Innocence without my degree, and I wouldn't have gotten the opportunity to be a special correspondent on A Current Affair.

What you wanted to be at age five:
A New York Yankee.

Common misconception of the wrongfully convicted:
There are really two. The general public believes that the wrongfully convicted have committed some crime, if not the one for which they were convicted, so they deserve to be in prison. In actuality, many have never committed a crime in their lives. And two, people assume that when the wrongfully convicted are exonerated they get a large monetary award. This is also not true. It is extremely difficult for them to get a monetary award, and the vast majority receive nothing.

Average day:
Wake up. Squeeze in the gym. In the office by 9:30 a.m. and there until after 10 p.m. I have to fit in the law and the film. My to-do list is three columns—personal (the smallest), firm, and film.

Gadget you can't survive without:
None! I don't have a Palm or Blackberry—I have no time to figure them out. But I just bought an iPod. Get back to me in a month and I'll let you know if I figure it out.

Best film seen recently:
The documentary Murder Ball about wheelchair rugby. It's our biggest competition at film festivals. My favorite movie of all time is Rocky, especially Rocky I and Rocky II. They are about perseverance and fighting for the underdog.

What you hope to accomplish in 10 years:
To be able to continue to combine law and filmmaking. My firm, Dreier LLP, has been very supportive of
my moonlighting as a filmmaker.

Professor who made the greatest impact:
Barry Scheck and Peter Neufeld of the Innocence Project. I couldn't have made the movie without their blessing and support.

Travel destinations:
I travel every week right now, but it's all for the film. April 26 is the Tribeca Film Festival here in New York—After Innocence sold out in two hours.

Hopes for the movie:
I hope it will lead to reform in the criminal justice system, including the implementation of compensation statutes in states that don't have them. The film was shown to the Florida and Pennsylvania legislatures, neither of which has adopted bills to compensate victims of wrongful imprisonment. It's being used to educate by affecting people emotionally.

Advice to law students:
What you put in is what you'll get out of it.

One regret:
That I didn't take more corporate/finance classes. The business sense is invaluable.
Spring Training with the Florida Marlins

Spring training provided a special treat for South Florida alumni, parents, and friends during Dean Rudenstine's annual visit. David Samson '93, president of the Marlins, hosted Cardozo for a barbecue on the party deck of Roger Dean Stadium in Jupiter. A gracious host, he brought his World Series Championship ring for all to admire.

Lisa Lippman joined the real estate firm of Brown Harris Stevens as senior vice president in its West Side office.

Richard Moss was named special counsel at Kramer Levin Naftalis & Frankel, focusing on intellectual property and technology law.

Christopher Seeger, partner at Seeger Weiss LLP, was the lead lawyer representing 900 plaintiffs, and the driving force behind the recent settlement in which Eli Lilly & Company agreed to pay $690 million to settle about 8,000 lawsuits filed by people who claimed they developed diabetes and other diseases after taking Zyprexa. Additionally, Seeger Weiss LLP, recognized as one of the nation's preeminent law firms handling complex individual and class action litigation on behalf of consumers, was appointed in April to be colead counsel in the federal Vioxx litigation.
SAN FRANCISCO
Alumni and parents in the Bay Area met with Dean David Rudenstine, faculty, and administrators, who were in San Francisco in January for the AALS annual meeting. (From left) Mark Greenberg '80 and Steven Sherman '88.

WASHINGTON, DC
Alumni from Washington, DC and Baltimore attended a reception at Crowell & Moring, hosted by Cliff Elgarten '79. Admitted students were invited to meet with graduates pursuing careers in the nation's capital. (From left) Allan Blutstein '97, Delta Castillo '92, Cliff Elgarten '79, and Jesse Mendelson '03.

ATLANTA
Ronni Abramson '94 (right), shown here with Cathy Nash '88, coordinated a lunch in March for fellow alumni in Atlanta. The conversation focused on professional contacts and opportunities to connect with Cardozo. Barbara Birch, director of alumni affairs, updated the group on Cardozo news.

NEW JERSEY
More than 20 alumni working in central New Jersey met in May at Drinker Biddle & Reath in Princeton, where Lisa Presser '85 is a partner. Seth Goodman Park '91 (left) and Joseph Fontak '91 cohosted the event with Lisa. Dean Rudenstine provided an update on the Law School.

WESTCHESTER
Dean Rudenstine (left) and Stuart Schnaer '81 at the home of Prof. Stewart Sterk, who graciously hosted Westchester alumni in May.
Nearly 150 alumni from the classes of 1985, 1990, 1995, and 2000 joined classmates, faculty, administrators, and guests to reminisce and catch up at the Manhattan Penthouse on May 19. Graduates attended from as far away as Boston, Miami, and Atlanta and had the opportunity to see the Law School's physical transformation. If you didn't make it to the reunion, please don't wait another five years to get in touch with classmates and Cardozo. To view more reunion photos, visit our Web site at www.cardozo.yu.edu/admissions/alumni. All photo captions read from left.
James Kosakow joined the Westport, CT firm of Nevas & Capasse & Gerard as counsel in the firm's trusts and estates practice. He remains a partner at Kove & Kosakow, LLC of NYC.

Izabel Pasagian-McDonald was named special counsel at the firm of Kramer Leven Naftalis & Frankel, focusing on employment and labor.

Fred Zemel became partner at Scarinci & Hollenbeck in Lyndhurst, NJ. He is a member of the firm's commercial real estate and business law group and is a member of its intellectual property and health care and hospital law practice.

Joseph Nohavicka, a partner at Jaffe & Nohavicka in NYC, was named Arbitrator of the Year by Arbitration Forums, Inc.

Linda Brown joined the law firm of Cacace, Tusch & Santagata in Stamford, CT as an associate. She focuses her practice on trusts and estates and taxation.

Stephanie Spietz Eveschick and her husband, David, had a son, Zachary Matthew, in July 2004.

Jeffrey Wild was named partner at Benesch Friedlander Coplan & Aronoff, in Cleveland, OH. He focuses his practice on commercial financing, leasing, acquisitions, dispositions, and development.

Debra Altschuler joined the Stamford, CT law firm of Day Berry & Howard as an associate in its real estate practice group.

Jay Zweibel joined Hahn & Hessen in NYC as a partner and co-head of its equipment finance practice group.

Harley Goldstein, a partner in the Chicago firm of Freeborn Peters, was profiled in the July 2005 edition of 40 Illinois Attorneys Under 40 to Watch. His practice focuses on corporate reorganization, bankruptcy, and creditors' rights.

Jill Mandell joined WolfBlock, a Pennsylvania-based firm, as an associate in the business litigation practice group.

Alan Mindel won the Nassau Council of Chambers of Commerce Small Business Person of the Year Award for his involvement and participation in community affairs, his proactive approach to business, and his generosity and hospitality. He has been in the hotel business since 1969, opened the Inn at Great Neck in 1995, and serves on the planning board for the Village of Lake Success. He is on the board of the Great Neck Chamber of Commerce and the Lake Success Jewish Center.

Neil Cohen joined the firm of Herrick Feinstein as an associate. He practices tax law in the NYC office.

Jesse Mendelson joined the Washington, DC firm of Gilbert Heintz & Randolph as a staff attorney.

David Greenbaum married Rachel Lavim in July. He is an associate at Fross Zelnick Levin & Zissu in NYC, where he practices intellectual property law.

Rebecca Mendel joined the NY firm of Rosin & Reininger as a partner.

CARDOZO WOMEN Valerie Zurblis, director of new business and client relations for Business Development Group, Inc., was the featured speaker at Cardozo Women's winter event at the Law School. (From left) Jennifer Sobol and Rachel Nash of the class of '99.

More than 100 alumni and friends attended the February 27 performance of Avenue Q, after which cast members and Tony Award-winning writer Jeff Marx discussed the show.

SUMMER 2005
**CLASSactions**

### 1999 cont.

**Joshua Schwartz** was named of counsel at O'Melveny & Myers, working at the firm's NYC office. He is a member of the litigation department, where he focuses on securities, white collar, insurance, and general commercial litigation.

**Jeffrey Seewald** was appointed an administrative law judge in the Bronx.

**Peter Yu** was appointed a faculty associate of the James H. and Mary B. Quello Center for Telecommunication Management & Law at Michigan State University.

### 2000

**Betty Chen** joined the real estate firm of Houlihan Lawrence in Pound Ridge, NY as an associate broker.

**Steven Maksin** and his wife, **Natalie '03**, had a daughter in November.

### 2001

**Matthew Forman** married **Emily Baser '03** in October; he is an associate at the law firm of Paul, Weiss, Rifkind, Wharton & Garrison LLP.

### 2002

**Thomas Crowell** opened his own firm in Glen Ridge, NJ, concentrating in entertainment and intellectual property. He also was recently hired as the executive director of the New Jersey Volunteer Lawyers for the Arts. He was lead counsel on a number of film projects, including *The Unholy*, starring Adrienne Barbeau and Nicholas Brendon, and has published articles on intellectual property for filmmakers in film industry publications. He lectures frequently at film and video conferences.

### 2003

**Elizabeth Rotenberg-Schwartz** has joined the NY office of Sheppard Mullin as an associate in the business trial practice group.

### 2004

**Mark Dumas** won an appeal he argued as a Cardozo student in the Criminal Appeals Clinic that reversed a sentence given by Judge Leslie Crocker Snyder, now a candidate for Manhattan District Attorney. The case was reported in *The New York Times* and the *New York Law Journal*. Mr. Dumas is a trademark attorney at General Electric Company in Fairfield, CT.

**Julia Fuld** has joined the Chicago firm of Much Shelist Danenberg Ament & Rubenstein as an associate in its wealth planning and succession planning practice.

**Leah Lederberger** is an associate in the Lakewood, NJ office of Samuel Brown working in general practice litigation, including personal injury, product liability, contract disputes, business management, and real estate.

**Jonathan Spiegel** joined Herrick Feinstein as an associate in real estate. He is working in the Newark office.

**Scott McCoy** won election to the Utah State Senate.

**Eric Radz** is an associate in the Baltimore office of Ober/Kaler working in the firm's construction practice.

**Marc Simon**'s documentary feature, *After Innocence*, won a Special Jury Prize in the American documentary category at the 2005 Sundance Film Festival. (See story on p. 50.)

**Pamela Gold '03** (left) and **Nicole Seidel '03** returned to campus for the screening of the original teleplay *Judgement at Nuremberg*. The film opened Cardozo's conference on the Nuremberg Trials.
LLM CLASSactions

2000

Ruth Hay is senior counsel for Scottsdale Insurance Company in Arizona.

Stacey Chesser is in the graduate program in journalism at Emerson College, Boston.

Julie Herzog is associated with Wilkie Farr & Gallagher and works at the firm’s Paris office.

Junko Ishibashi is a manager of arrangers and composers, and has been working on copyright royalties and contracts with several music-publishing companies.

Melanie Meyer is completing her doctoral thesis in Berlin while working at Becker Buttner Held.

2001

Christina Ostertag is working for General Motors Acceptance Corporation-Residential Funding Corp. in Frankfurt.

Nilii Weitzman is the general counsel of Technion in Israel.

Lisandro Frene’s article “International Jurisdiction in the Internet Era: The Effects of the Effects Doctrine” was published in EIDial, an online legal publication in Argentina.

2002

Daniel Biene is at UFA Film and TV Production, a subsidiary of Bertelsmann Media Worldwide. His article “Celebrity Culture, Individuality, and Right of Publicity as a European Legal Issue” will be published in the International Review of Copyright and Competition Law. Daniel was the featured speaker and panelist in October 2004 at the Medialex International Entertainment and Communications Law Conference in Fribourg, Switzerland.

Yi Chen is working in the Shanghai office of Sidley Austin Brown & Wood, LLP.

Zohar Efroni is a scholarship fellow at the Max Planck Institute for Intellectual Property, Competition and Tax Law in Munich. He recently had an article published in the Illinois Journal of Law, Technology and Policy.

Clemens Kohnen received a Ph.D. in spring 2004 in copyright law. His dissertation was “Termination Rights Under U.S. Copyright Law and How It Could Work in Germany.”

Eva Kovacs is an associate in the Budapest office of Weil Gotshal & Manges.

Guizeng (Wayne) Liu is a partner in the intellectual property group at King & Wood in Beijing.

David McDonald was named senior trademark attorney at Wyeth, a pharmaceutical company in Madison, NJ.

Vasundhra Prasad spoke on “Legislative Approaches to Spam” at a conference organized by Microsoft. Vasundhra is head of the intellectual property law department of Amarchand & Mangaldas & Suresh A. Shroff & Co. in New Delhi.

Donna Ross is a principal in the law firm of Nydick & Ross, PC in NYC.

ORATORY SKILLS REWARDED

All Cardozo students are invited to compete for prize money in the annual intramural Langfan Constitutional Oratory Prize Contest. The Langfan family established the competition in 1999 to promote constitutional law and the importance of oratory as an educational tool, especially for lawyers who must think on their feet. Shown here are this year’s winners: Kavin L. Edwards ’05, first prize (center); Douglas M. Schneider ’05, second prize; and Beth J. Rotenberg ’05, third prize (on either side of Kavin). Guest judges were (from left) Deborah Glick, assembly member, 66th District; Eric Hecker, Esq., Emery Celli Brinkhoff & Abady; and Gary Casimir, Esq., Anderson Kill & Olick.
Chry s t e l G a ri pu y had a solo exhibition of her photographs at Warp Designs in Brooklyn.

Jose Maria Arrufat Gra cia announced the opening of Arrufat Gra cia, PLLC, in NYC. Bianca Mileck '02, Marta Talarek '03, and Julio Vera '03 work with the firm.

Anne Kimotho is working at PricewaterhouseCoopers Ltd. in Nairobi.

Marie Lemoine returned to Paris and is working in the business affairs office of mk2.com.

Rusudan Leviashvili is associated with Kurzman Karesl & Frank, LLP, in NYC.

Dina Niron is chief operating officer of Halpert Capital LP, a hedge fund in NYC.

Marian Aziz Mahmoudi is an attorney advisor at the United States Patent & Trademark Office in Washington, DC.

Kelly M. Slavitt is associate counsel of the American Society for the Prevention of Cruelty to Animals (ASPCA).

Shay Markus is associated with Coblenz & Warner in NYC.

Dina Niron is chief operating officer of Halpert Capital LP, a hedge fund in NYC.

Jane Strachan's article "Recent Developments in Cybersecurity Obligations" was published in the February 2005 issue of The Connecticut Lawyer.

Scott Sisun is associated with Wilson Eiser Moskowitz Edelman Dicker in NYC, where he is doing product liability and trademark work.

Nicola Tasso is working in the legal department of Sanpaolo IMI Bank in NYC.

Jingliang Wang is working in the intellectual property group of Baker & McKenzie in Hong Kong.

Lorenz Wolfers is at the Law Offices of Adam Perlmutter, PC in NYC.

Nilesh Zacharias is associate privacy compliance officer at DoubleClick Inc. in NYC.

Lora DeMark is an assistant district attorney in Harrison County, WV.

Elvira Marzano is working in the office of the inspector general at the Metropolitan Transit Authority in NYC.

IN MEMORIAM

Stanley Gould '86
Clifford Ryan '80
Jonathan Spanbock '80
Emanuel Srebro '83
US Supreme Court Admission

On March 29 and 30, 23 Cardozo alumni were admitted to the Bar of the Supreme Court of the United States. Alumni and their guests heard oral arguments for landmark cases regarding copyright infringement, FCC regulations, and prisoners’ rights. Judge Sandra J. Feuerstein ’79 of the Eastern District of New York made the motions for each group.

ALUMNI ADMITTED TO THE US SUPREME COURT
Richard Chem ’99
Marilyn B. Chinitz ’81
Luna Chou ’98
Karen Cushman ’96
Joseph I. Fontak ’91
Steven M. Hoffberg ’89
Nathan G. Lamm ’97
Steven V. Maksin ’00
Courtney B. Nadler ’97
Steven B. Stein ’97
Wanda Steinmann ’00
Rachel Lee Warren ’92
David F. Wertheim ’91
Peter Kar-Ming Yu ’99
Mathew T. Bergman ’99
Helen Borjas ’99
Jordan B. Comet ’88
Michelle M. Graham ’97
Maurice W. Heller ’84
Tahra N. Kerman-Mastour ’00
Marc A. Lieberman ’92
Mark B. Stillman ’99
Mark S. Yagerman ’79
BOARD NEWS

DINNER COMMEMORATES 60TH ANNIVERSARY OF NUREMBERG TRIALS
At Cardozo’s historic three-day conference on the Nuremberg war crimes trials, special guests, participants, and students attended a celebratory dinner marking the founding of Cardozo’s Program in Holocaust and Human Rights Studies. The conference, organized and presented by the Program, and the dinner were made possible by the generous support of The David Berg Foundation. (From left) Cardozo Board Chair Kathryn O. Greenberg, The David Berg Foundation President Michele Tocci and Director William Zabel, Dean Rudenstine, lead Nuremberg prosecutor and dinner keynote speaker Whitney Harris, conference coorganizers and director and deputy director, respectively, of the Program in Holocaust and Human Rights Studies—Professors Richard Weisberg and Sheri Rosenberg ’94.

JACOB BURNS PORTRAIT DEDICATION
The Cardozo board, faculty members, and students of the Moot Court Honor Society gathered in the Jacob Burns Moot Court Room for the dedication of former Board Chairman Jacob Burns’ s self-portrait. (From left) Dean Rudenstine, Board Chair Kathryn O. Greenberg ’82, and Board Treasurer Barry Shenkman, grandson of Jacob Burns, who spoke about his grandfather’s past leadership and enduring vision for the Law School.

TWO JOIN BOARD
Richard L. Perkal ’81, senior managing director at Bear Sterns, and Boaz Weinstein, head of global credit trading for the US and Europe at Deutsche Bank, were elected to the Cardozo Board of Directors at its June meeting. With Mr. Perkal, there are now 13 members of the Board who are graduates of the Law School. Mr. Perkal was an editor of the Cardozo Law Review and prior to Bear Sterns was a partner from 1988 in the Washington, DC corporate practice of Kirkland & Ellis and served on the firm’s finance and operations committees.

At Deutsche Bank, Mr. Weinstein is responsible for managing traders who cover the credit spectrum of products, client businesses, and proprietary strategies. He teaches finance at NYU’s School of Continuing and Professional Studies and holds the title of Life Master in chess. Mr. Weinstein holds a bachelor’s degree in philosophy from the University of Michigan.
CARDOZO events

AUGUST 11–12
Intellectual Property Scholars Conference

AUGUST 16
Debate: Candidates for Manhattan Borough President

SEPTEMBER 13
Geoffrey Stone’s Perilous Times: Free Speech in Wartime—From the Sedition Act of 1789 to the War on Terrorism

SEPTEMBER 14
Uri and Caroline Bauer Memorial Lecture: Lucian Bebchuk

SEPTEMBER 19
Trust Law in the 21st Century

SEPTEMBER 22
Amartya Sen, Nobel Laureate in Economics—Human Rights and the Limits of the Law

SEPTEMBER 28
Inside the Supreme Court

SEPTEMBER 29
Dean’s Leadership Circle Dinner

OCTOBER 10
Don’t Ask, Don’t Tell, Military Recruiting and the Solomon Amendment

OCTOBER 31
Cardozo Distinguished Lecture in Intellectual Property: Francis Gurry

NOVEMBER 3
Alumni Association Awards Ceremony

NOVEMBER 7
The Comparative Regulation and Protection of Hate Speech

NOVEMBER 9
Grammy Symposium: Recording Academy Entertainment Law Initiative

NOVEMBER 11
International Mediation During Times of Conflict: A Private-Public Dialogue

NOVEMBER 16
The Supreme Court and Religion: Recent Cases

NOVEMBER 20
Parents Brunch

DECEMBER 4-5
Secret Evidence and the Courts in the Age of National Security