

PEPPERDINE LAW

SPRING/SUMMER 2010

ANDRÉ BIROTTE

Takes the Helm as U.S.
Attorney

JUSTICE ANTHONY KENNEDY

Speaks on
Issues that Move Him

PROFESSOR SHELLEY SAXER

Distills the Water Law
Controversy

Project Masindi

FOUR ALUMNI FIGHT
FOR IMPRISONED
CHILDREN IN UGANDA



THE ONE PERCENT SOCIETY

Join our charter members
and learn how you can give
back to Pepperdine Law.

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Jennifer Allison 2007
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Professor Robert Anderson
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Sabrina Ashjian 2007
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Casey Ball 2005
Dane Ball 2005
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More information to come in July.

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Cover: *Inside a remand home in Masindi, Uganda.*
Photo by Jay Milbrandt

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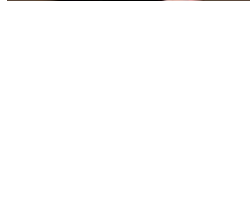


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The Journey Continues



As many of you know, I will embark on a new professional journey in June as the 14th president of Baylor University. As I prepare to leave Pepperdine—my home of these six years—I am reminded of what makes this special place exceptional.

Over the last few years, Pepperdine became the fastest rising law school in the nation. We have hosted Supreme Court justices, expanded endowed chairs and programs, attracted wonderful new faculty members, and increased scholarly activity. We've encouraged students, faculty, and alumni to journey to the four corners of the world to seek justice and promote the rule of law abroad.

We have reconnected with many of you—our more than 8,000 alumni—who have gone forth across the country and the globe. You have called, e-mailed, and returned to campus. You have mentored students. You have hired students. You have given freely of your time and resources. For all these gifts, time, and resources, you have our unending gratitude for coming alongside us in this mission.

In this issue of *Pepperdine Law*, we celebrate you—our treasured alumni—the lifeblood of this institution. We celebrate in a special way your fellow alumnus André Birotte (JD '91), who was recently confirmed as the United States Attorney for the Central District of California. We celebrate our alumni and staff who traveled to Uganda to seek justice for young people accused of crimes. We celebrate our many public defenders who uphold a crucial part of our justice system, often representing “the least of the least.”

We also celebrate my colleague and friend—and our new interim dean—Tom Bost. As a much-beloved professor and revered member of the Pepperdine family, Tom is uniquely situated to lead our community during this time of transition. Indeed, our law school is in good hands.

At Pepperdine, we have the privilege of strengthening students for lives of purpose, service, and leadership. Our commitment to Pepperdine's Christian mission and to the highest standards of academic excellence will not waiver. As I take leave of this special place, I am convinced that Pepperdine is and will always be an extraordinary institution, where great things are being done, with ever greater contributions to the law and to the country destined to come.

Blessings,
KEN STARR



Christian Mardelli performs at the Clear Water Café event to benefit Haiti.

PEPPERDINE STUDENTS AND ALUMNI LAUNCH NEW RELIEF EFFORTS FOR HAITI

Pepperdine law students and alumni have found new ways to help relief efforts in Haiti since the January 12 earthquake that struck just a few miles west of the country's capital, Port-au-Prince. Working on the ground with relief agencies and devising new ways to raise money here at home, the Pepperdine community has come together to ease some of the burden that the 7.0 magnitude quake created.

Students organized the Help for Haiti campaign, which included the annual dodgeball tournament, clothing drives, the Clear Water Café, and the Share the Love campaign.

The Clear Water Café featured 10 student musicians performing for an audience of more than 100 in the law school cafeteria. The Share the Love campaign helped students raise money for Haiti in competition between sections. Through these initiatives, significant funds were raised and donated to World Vision's relief efforts.

Clear Water Café organizer and musician Lana Harfoush, a first-year, was pleased with the results of this first-time event. "I wanted to do something to help students give back by raising money for Haiti at a point in the

semester when donations would be dropping, but the need was still strong, and I wanted to provide an opportunity for law student musicians to perform for their peers."

Pepperdine alumni have worked in partnership with different organizations on the ground in Haiti. Alumnus Philip North (JD '75), who is a pilot, flew doctors into Haiti shortly after the earthquake hit. He and his team later flew five children, all under the age of 5, whose adoptions had been finalized before the earthquake, into the United States to live with their adoptive families. "It was so emotional," said North. "These parents had been waiting for these children for so long. They were just beside themselves to finally get them home."

Alumnus Christopher Cotton (JD '97) is working in conjunction with the Hands and Feet project to care for orphans and abandoned children in and around southern Haiti. "Bringing awareness to the needs of the Haitian people—especially those not in Port-au-Prince—is crucial right now," said Cotton.

To learn more about Pepperdine's relief efforts for Haiti, please visit www.pepperdine.edu/haiti-response.

PEPPERDINE HOSTS 80 FEDERAL JUDICIAL CLERKS

Pepperdine hosted more than 80 judicial clerks from across the country for the 10th Annual Wm. Matthew Byrne, Jr., Judicial Clerkship Institute (JCI) on March 18-20 at the School of Law.

Each year, Pepperdine brings law students and graduates who have been accepted into federal judicial clerkship positions to its campus for the Byrne JCI. During the past decade, the Byrne JCI has trained more than 865 judicial clerks representing more than 130 law schools. Clerks have the opportunity to gain distinctive, comprehensive training by many of the most highly respected federal judges in the U.S.

Judges spoke on topics such as the role of the law clerk, judicial clerkship ethics, legal writing for law clerks, and evidence issues from the judge's perspective. Friday's schedule included a lecture by Erwin Chemerinsky, dean of UC Irvine School of Law, and Ken Starr, dean of Pepperdine's School of Law, on important recent and pending Supreme Court cases.

Later in the day, Pepperdine hosted the Wm. Matthew Byrne, Jr. Annual Lecture, entitled, "Detention and the Constitution," with Judith Resnik, Arthur Liman Professor of Law at Yale Law School. Commentators included Judge Harris Hartz of the U.S. Court of Appeal for the Tenth Circuit; Judge Paul Friedman of the U.S. Court of Appeal for the District of Columbia; Bob Pushaw, Pepperdine's James Wilson Endowed Professor of Law; Akhil Amar, Yale's Sterling Professor of Law and Political Science; and Ken Starr, Duane and Kelly Roberts Dean.

Visit the Byrne JCI at law.pepperdine.edu/judicial-clerkship-institute.

NOOTBAAR INSTITUTE PRESENTS CONFERENCE ON THE ROLE OF THE CHURCH IN DOING JUSTICE

Pepperdine University's Herbert and Elinor Nootbaar Institute on Law, Religion, and Ethics hosted "The Role of the Church in Doing Justice," on February 19, at the School of Law.

Featuring an impressive array of Christian leaders, the event explored the biblical foundations of justice, the history of the church's leadership and failure of leadership on social justice issues, and the ways that churches today can address the mandate to "seek justice." The conference was cosponsored with the International Justice Mission (IJM) and Advocates International (AI).

"The second millennium brought with it the closing of some tragic events and a

sobering landscape for the future," said Robert F. Cochran, Jr., director of the Nootbaar Institute and Louis D. Brandeis Professor of Law. "With the genocide in Rwanda and ethnic cleansing in the Balkans still fresh in our minds, other horrors began filling the headlines: a slaughter in Darfur, child soldiers in the Congo, 27 million lives enslaved, and two billion around the globe living in poverty. In all of this, where was the Christian church? With biblical commands to 'seek justice' entrenched in its very being, the church should be front and center in the human rights crisis."

Distinguished speakers included Rich Stearns, president of World Vision U.S.; Bethany Hoang, director of International Justice Mission Institute; Mark Labberton, Lloyd John Ogilvie Associate Professor of

Preaching at Fuller Theological Seminary; Sam Casey, executive vice president and general counsel, Advocates International; Jim Martin, national director of church mobilization, International Justice Mission; and Tim Jones, director of mission and outreach at Malibu Presbyterian Church, among many others.

The purpose of the Herbert and Elinor Nootbaar Institute on Law, Religion, and Ethics is to bring the redemptive capacities of religious faith and moral insight to law, to find ways in which persons trained in law can serve "the least of these" throughout the world, and to explore how the practice of law might be a religious calling.

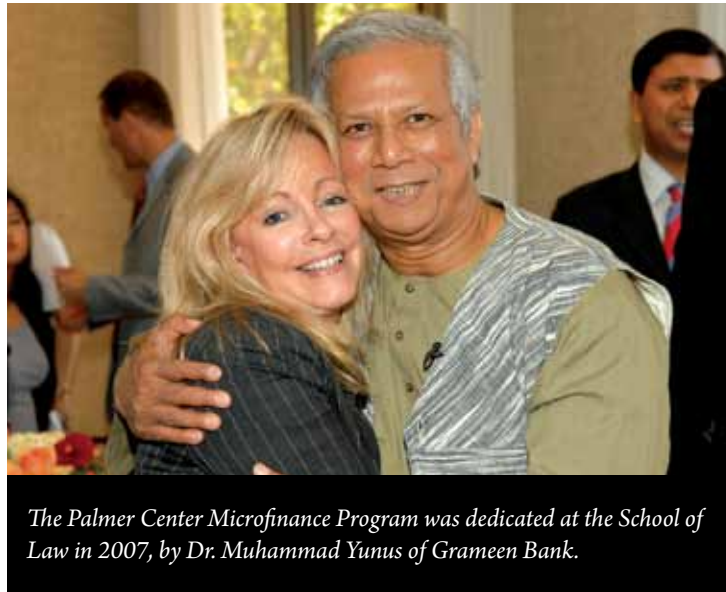
View videos from the conference at law.pepperdine.edu/nootbaar.

PALMER CENTER TO LAUNCH MICROFINANCE PROGRAM

Pepperdine's Geoffrey H. Palmer Center for Entrepreneurship and the Law has partnered with the Union Rescue Mission to launch the Palmer Center Microfinance Program in September 2010. Students, faculty, and alumni will participate in the program.

The Palmer Center Microfinance Program was established to provide microenterprise training and microloans to impoverished individuals in downtown Los Angeles. The program will provide microenterprise training to selected residents of the Union Rescue Mission and will prepare them to receive microloans. Students and alumni will provide training and counseling to qualified participants.

The pilot group will consist of five to 10 individuals selected from the residents of the Los Angeles Union Rescue Mission. Prior to loan disbursement, the prospective borrowers will participate in a 12-week training



The Palmer Center Microfinance Program was dedicated at the School of Law in 2007, by Dr. Muhammad Yunus of Grameen Bank.

session, taught by Palmer Center faculty. The sessions will teach the basic principles of financial management, business planning, and accountability.

Students from the law school will participate as teaching fellows for the instructional components of the program and also serve as

coaches for individual borrowers throughout the duration of the program.

Loans will be funded by community members through a Web site, where borrowers' profiles and business plans will be posted for review by potential lenders. Borrowers will have 12 months within which to repay the loan.

"The Geoffrey H. Palmer Center for Entrepreneurship and the Law proves that innovation, leadership, ethics, social responsibility, and entrepreneurship can go hand in hand," says Janet Kerr, professor of law and executive director

of the Palmer Center. "This unique business model offered by an ABA-accredited law school remains ahead of the curve."

Visit the Palmer Center Microfinance Program at law.pepperdine.edu/palmer/microfinance.

STRAUS INSTITUTE AWARDED FINRA GRANT FOR ARBITRATION CLINIC

Pepperdine's Straus Institute for Dispute Resolution has been awarded a \$250,000 grant by the Financial Industry Regulatory Authority (FINRA) Investor Education Foundation. The grant, which was given to four top dispute resolution schools, will establish a securities arbitration clinic at Pepperdine.

The securities arbitration clinic will provide legal help to underserved investors involved in securities disputes and will help fill the gap in representation for investors who have small claims and lack the financial resources to obtain legal counsel.

Longtime attorneys and adjunct professors Judith Norris and Robert Uhl will oversee the clinic. Students must take the securities arbitration course, taught by Uhl in the fall, in order to be eligible for the clinic. The clinic will begin this spring semester with five students.

"If you're interested in representing investment brokers, this is the way to go about learning how," says Uhl, who has 20 years of experience in securities arbitration. "It's also a tremendous opportunity to provide legal service to the community. Many investors have lost under \$100,000, which is considered a small claim. Lawyers often won't take their cases, and the investors often don't have the money to pay for legal counsel."

The securities arbitration clinic will join Pepperdine's four other clinical programs: the Pepperdine Legal Aid and Family Law clinics at the Union Rescue Mission, the Special Education Advocacy Clinic, and the Asylum Clinic.

Visit the Straus Institute at law.pepperdine.edu/straus.

PEPPERDINE HOSTS EIGHTH NATIONAL CONVENTION OF THE JEWISH LAW STUDENTS ASSOCIATION



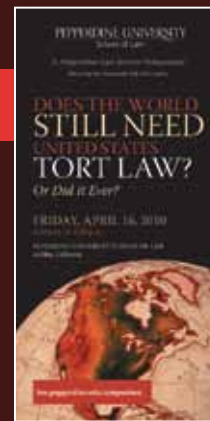
Pepperdine University School of Law presented the Eighth National Convention of the Jewish Law Students Association, hosted by the Pepperdine chapter of the Jewish Law Students Association, in association with the Diane and Guilford Glazer Institute for Jewish Studies, on February 13 and 14.

The conference discussed emerging topics in Jewish law and celebrated expanded interfaith relationships. Saturday featured a gala dinner at the Museum of Tolerance with keynote speaker Gil Artzyeli, deputy consul general of Israel to Los Angeles.

Sunday featured the conference and a keynote address by Alan M. Dershowitz, noted civil liberties lawyer, at Pepperdine's Villa Graziadio Executive Center. Sunday's panel topics included international law, genocide and the Holocaust, emerging topics in Jewish law, expanding interfaith relationships, and the death penalty.

The Jewish Law Students Association is a national institution dedicated to connecting Jewish students on campuses all over the country.

Visit Pepperdine's Glazer Institute at www.pepperdine.edu/glazer-institute.



INTERNATIONAL SCHOLARS DISCUSS U.S. TORT LAW AT THE PEPPERDINE LAW REVIEW SYMPOSIUM

The Pepperdine Law Review hosted international scholars for a symposium titled, "Does the World Still Need U.S. Tort Law? (Or Did it Ever?)" on April 16, at the School of Law.

Speakers included 16 law professors and international tort scholars, including Michael D. Green, Bess and Walter Williams Chair at Wake Forest University School of Law; Ellen Bublick, Dan B. Dobbs Professor of Law at the University of Arizona; Ellen S. Pryor, Homer R. Mitchell Professor of Law at SMU's Dedman School of Law; Peter Cane, professor of law at Australian National University; and Allen M. Linden, Distinguished Visiting Jurist at Pepperdine University School of Law, and former supernumerary judge of the Federal Court of Appeal of Canada. Linden was honored for his distinguished contributions to the development of tort law.

"Over the past century, United States tort law has served as a model, in many ways, for the world," said event organizer Professor Rick Cupp. "Although most nations are less litigious and award less in damages, many nations have looked to the more active United States courts for guidance in forming and reforming tort doctrines. However, at the same time that globalization has rapidly expanded, since the 1980s United States tort law has retrenched on many fronts."

Learn more about the conference at law.pepperdine.edu/news-events/events/tort-law.



THOMAS G. BOST NAMED INTERIM DEAN OF PEPPERDINE UNIVERSITY SCHOOL OF LAW

Pepperdine University President Andrew K. Benton and Provost Darryl Tippens have named Thomas G. Bost interim dean of Pepperdine University School of Law. Bost, former chair of the University's Board of Regents, has served as a professor of law at Pepperdine since 2000. He served as associate dean for academics in 2009.

"Professor Bost is one of the most valued friends and respected individuals the University has ever known," said President Benton. "I could not imagine a more qualified person to lead our law school while we search for a new dean."

Bost's appointment became effective June 1, the day departing Dean Kenneth W. Starr becomes president of Baylor University in Waco, Texas. "It is our aspiration to announce our new dean by the summer of 2011," noted Benton. He added that the executive search firm Korn/Ferry International had been retained by Pepperdine and that an internal search committee was being formed under the direction of cochairs Provost Tippens and Professor Greg Ogden.

Bost earned his bachelor of science degree summa cum laude in 1964 from Abilene Christian University and his juris doctor in 1967 from Vanderbilt University, where he was elected to the Order of the Coif and was the Founder's Medalist (First in Class). He was a note editor for the *Vanderbilt Law Review* and served for a year as an assistant professor of law at Vanderbilt after graduation.

As associate dean for academics at the School of Law, he had primary responsibility



for academic affairs, including student academic counseling, class scheduling, recruitment of adjunct professors, and development of the law school's academic programs.

"Tom Bost is a wonderful choice to serve as interim dean of the law school," noted Tim Perrin, vice dean. "He is a superior classroom teacher, a distinguished scholar, and a wise and much-beloved colleague. He is uniquely prepared to lead the law school at this moment in its history."

Bost specializes in tax and corporate law and has been prominent in the professional legal community for more than four decades. He was an associate at Latham & Watkins LLP, Los Angeles, California, from 1968 to 1975 and partner from 1975 to 1999. He has been a member of the American Bar Association and State Bar of California since 1968 and an elected member of the American Law Institute since 2005. He holds many other memberships and leadership roles in

professional associations, including serving as a member of the Board of Trustees of the Pacific Legal Foundation since 1995, and as chair in 2001, 2002, and 2009.

Bost is active, along with his wife Sheila K. Bost, in the Culver-Palms Church of Christ and he has served many years as an elder. In addition, he is currently a member of the Fuller Theological Seminary Board of Trustees.

At Pepperdine, Bost was a member of the Pepperdine Board of Regents from 1974 to 2001 and chair for two decades from 1980 to 2000. He served on the Pepperdine School of Law Board of Visitors for two decades as well, from 1981 to 2000.

Bost and his wife Sheila, who currently serves on the Board of Regents, have endeared themselves in many ways to the Pepperdine community. Their devotion to the institution and its mission has been reflected in their generosity and service to the Pepperdine University Boone Center for the Family and the University's Center for Faith and Learning, among many other programs and initiatives.

Responding to Benton's invitation to become interim dean of the School of Law, Bost said, "A very strong foundation for success has been laid by those who have gone before, and I am certain that the school will reach new heights not yet imagined. I am honored to serve as interim dean along with our dedicated faculty, administrators, and staff—all of whom are committed to our students."

LEADERSHIP LEGACY

DEAN KEN STARR JOINS THE RANKS OF PEPPERDINE GREATS WHO HAVE TAKEN LEADING ROLES AT SCHOOLS ACROSS THE COUNTRY.



KEN STARR, who served as the Duane and Kelly Roberts Dean of the School of Law for almost six years, became Baylor University's 14th president on June 1. Dean Starr joins an impressive group of Pepperdine professors and administrators who have taken important leadership roles in higher education. Deans Charles I. Nelson and Richardson Lynn, and founding director of Pepperdine's Straus Institute, L. Randolph Lowry, each served at Pepperdine for many years before accepting posts at universities and law schools across the country.



Hailing from Texas, CHARLES NELSON served Pepperdine's law school for 33 years in positions such as professor of law, assistant dean, associate dean for academics, and interim dean. In 2004, he accepted the deanship at Faulkner University's Thomas Goode Jones School of Law in Montgomery, Alabama. During the past six years, Nelson has put in countless hours to help the 80-year-old school earn ABA accreditation. After a lengthy application process, the school was fully accredited on December 5, 2009. "We have an incredible, hard working faculty and staff," says Nelson. "This is a major step forward for our university."



Like Nelson, RICHARDSON LYNN served the School of Law for more than 20 years. He was professor of law, associate dean for academics, and dean of the school for six years. In 2003 he accepted an appointment as dean and professor of law at Atlanta's John Marshall Law School, a school founded in 1933 in Atlanta, Georgia.

"Georgia had a long tradition of law schools that offered part-time evening programs for nontraditional students," says Lynn. "John Marshall Law School is the sole surviving heir to that tradition."

After taking the helm, Lynn also facilitated the ABA accreditation process for the school. John Marshall was fully accredited on the same day as Faulkner: December 5, 2009. Lynn continues to spearhead new plans for the school, from major renovations to the addition of an LLM degree.



L. RANDOLPH LOWRY, who earned a BA from Pepperdine in 1974, founded Pepperdine Law's acclaimed Straus Institute for Dispute Resolution in 1986. Nearly 25 years later, the world-renowned institute remains the top-ranked program for dispute resolution in the country. Taking office as Lipscomb University's 17th president in September 2005, Lowry has overseen a \$34 million renovation of facilities and a dramatic improvement of academic programs at the school's campus in Nashville, Tennessee.

During his tenure, a new College of Pharmacy has been established, creating the first Lipscomb doctoral degree, 16 new graduate programs have been developed, and four new institutes have been founded.



(1)

**Pepperdine Students
Excel in Moot Court,
Trial, and ADR
Competitions during the
2009-2010 Season.**

MAKING NOISE



Pepperdine had a banner year as student teams succeeded in winning one international championship, four national championships, and three regional championships, along with many other team and individual accomplishments.



(3)

(2)



INTERNATIONAL CHAMPIONSHIP

(1) **AARON ECHOLS** and **JON MATTHEWS** were the champions at the Foreign Direct Investment International Moot Competition on October 23–24, 2009, in Frankfurt, Germany, defeating a team from St. Petersburg State University in the Final Round. Echols won Best Oralist.

NATIONAL CHAMPIONSHIPS

(2) **SETH LAURSEN**, **HANNAH MONTGOMERY**, **RICHARD GILLESPIE**, and **ZACH SHINE** claimed the national championship of the National ABA Labor and Employment Law Trial Advocacy Competition in Washington, D.C., on January 28–31, 2010. This marks the second time in three years that Pepperdine has taken top honors at this competition.

(3) **KIMBERLY McCALL** and **REBECCA LEE** were the national champions at the Braxton Craven Constitutional Law Moot Competition in Chapel Hill, North Carolina, on February 23–26, 2010.

(4) **WILL GLASER** and **MELISSA THORNSBERRY** were the champions at the Chicago Bar Association Moot Court Competition in Chicago, Illinois, on November 19–21, 2009. **WILL GLASER** was named Third Place Advocate in the preliminary round, and (5) **AMY POYER**, **DUSTIN MAY**, and **JANELLE WHITE** won Semifinalist Team and Second-Place Brief.

REGIONAL CHAMPIONSHIPS

(6) **KAREN CHO** and **TOM FEHER** were named the champions at the ABA Regional Negotiation Competition in Provo, Utah, on November 13–14, 2009. They reached the semifinals at the ABA National Negotiation Competition in Orlando, Florida, on February 4–6, 2010.

(7) **LAUREN MOON**, **ROBERT PENDERGRASS**, **AMBER LEE**, and **DEREK THAIN** were the champions at the American Association for Justice Trial Advocacy Regional Competition in Santa Monica, California, on February 24–26, 2010. At the same competition, (8) **MICHAEL MEWBORNE** was awarded Second Place Advocate in preliminary rounds. The team reached the quarterfinals at the national competition in New Orleans, Louisiana, March 25–27, 2010.

HANNAH MONTGOMERY, **RICHARD GILLESPIE**, **ALICIA CAMPBELL**, and **SETH LAURSEN** won the ABA Labor and Employment Law Trial Advocacy Regional Competition in Los Angeles, California, on November 14–15, 2009. **IAN GODBURN**, **C.J. MARTIN**, **MICHAEL MEWBORNE**, and **KELSEY STAPLER** reached the semifinals.

ADDITIONAL SUCCESSES

LEON DIXSON, **RABI DAVID**, **AARON ECHOLS**, **JON MATTHEWS**, **ANDY RUSSELL**, and **MELISSA THORNSBERRY** were named the champions at the Thornes Pre-Vis International Commercial Arbitration Competition in San Diego, California, on February 26, 2010. **JOSHUA KREBS** and **DESIRI SCHULTZE** were semifinal and final round participants.

JOSHUA KREBS and **MELISSA THORNSBERRY** were awarded Honorable Mention Oralists at the Vis Hong Kong International Commercial Arbitration Competition in Hong Kong on March 15–20, 2010.

(9) **ANTHONY GRECO**, **SHANE MICHAEL**, **LAUREN WILSON**, and **JOHN WHITE** finished in Third Place at the California Attorneys for Criminal Justice Trial Competition in San Francisco, California, on October 22–25, 2009.

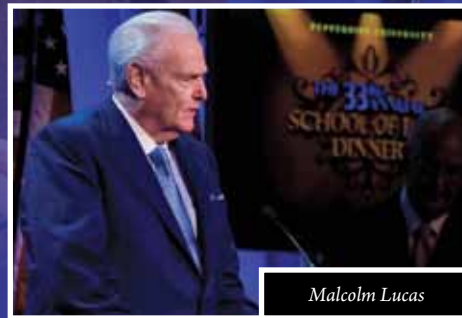
PEPPERDINE UNIVERSITY
THE 33RD ANNUAL
SCHOOL OF LAW
DINNER

INTERNATIONAL ENGAGEMENT

Pepperdine's 33rd Annual Law Dinner
Features LORD NICHOLAS PHILLIPS



Dean Ken Starr



Malcolm Lucas



from left: Dean Starr, Lee Short, Amy Poyer, Lord Phillips

Pepperdine University School of Law welcomed more than 750 students, staff, faculty, alumni, and friends of the school for the 33rd Annual Law Dinner on Saturday, March 6, at the Beverly Hilton Hotel.

The event featured opening remarks by Pepperdine University president Andrew Benton, news from the school by Dean Ken Starr, and a keynote address from Lord Nicholas Phillips, president of the Supreme Court of the United Kingdom. Lord Phillips gave an overview of the history of the United States Supreme Court as well as Britain's high court.

After commenting on the four U.S. Supreme Court justices who have recently spoken at Pepperdine, Lord Phillips called his speech a first for both him and the audience. "This is the first time the president of the Supreme Court of the United Kingdom

has spoken at this dinner," he said. "Indeed, I have to tell you, this is the first time the president of our Supreme Court has ever spoken outside the United Kingdom."

As Lord Phillips explained, the Supreme Court of the United Kingdom was established by the Constitutional Reform Act of 2005 in order to enhance the independence of the law lords and increase the transparency between the top levels of the U.K. judicial system and Parliament.

The new court began operations in October 2009 and, as in the U.S., serves as the final court of appeal in the United Kingdom. The court also handles devolution issues—cases in which the legal powers of the devolved governments of Northern Ireland, Scotland, and Wales come into question.

Prior to assuming the presidency of the Supreme Court, Lord Phillips served since October 2008 as the senior lord of appeal in ordinary, also known as the senior

law lord, and as president designate.

In addition to giving the dinner address, Lord Phillips judged the 36th annual Vincent S. Dalsimer Moot Court Competition on Pepperdine's Malibu campus earlier that day. "If I had been offered the choice of anywhere in the world to speak for my first offshore speaking engagement, I could not have done better than Pepperdine," said Lord Phillips. "The beauty of your campus is legendary."

Later in the evening, Dean Starr presented the awards for Student Bar Association Professors of the Year, which went to Steve Schultz and Rob Anderson. Dean Starr announced the winners of the 36th annual Vincent S. Dalsimer Moot Court Competition (story on page 11). Dean Starr also presented special guest Malcolm Lucas, the 26th chief justice of the Supreme Court of California, with the 2010 Robert H. Jackson Award for exemplary legal service. ■

VINCENT S. DALSIMER MOOT COURT COMPETITION

→ Showcases Stellar Advocates



Third-year Amy Poyer addresses the court.



Judge Janice Rogers Brown gives feedback from the bench.



The final round of the 36th annual Vincent S. Dalsimer Moot Court Competition was held in the afternoon on March 6. The final round was presided over by Lord Nicholas Phillips, president of the Supreme Court of the United Kingdom; Judge Diane Wood of the U.S. Court of Appeals for the Seventh Circuit; and Judge Janice Rogers Brown of the U.S. Court of Appeals for the District of Columbia Circuit.

Second-year students David Rancilio and Spencer Davidson competed against third-years Lee Short and Amy Poyer. Short and Poyer were named the champions.

“Arguing in front of Lord Phillips was truly the opportunity of a lifetime,” said Poyer, who with Short won First Place. “While British Moots are run much differently than American Moots, his quick adaptation to our style was impressive. He asked really good questions that got to the heart of the policies behind the constitutional issues at stake.”

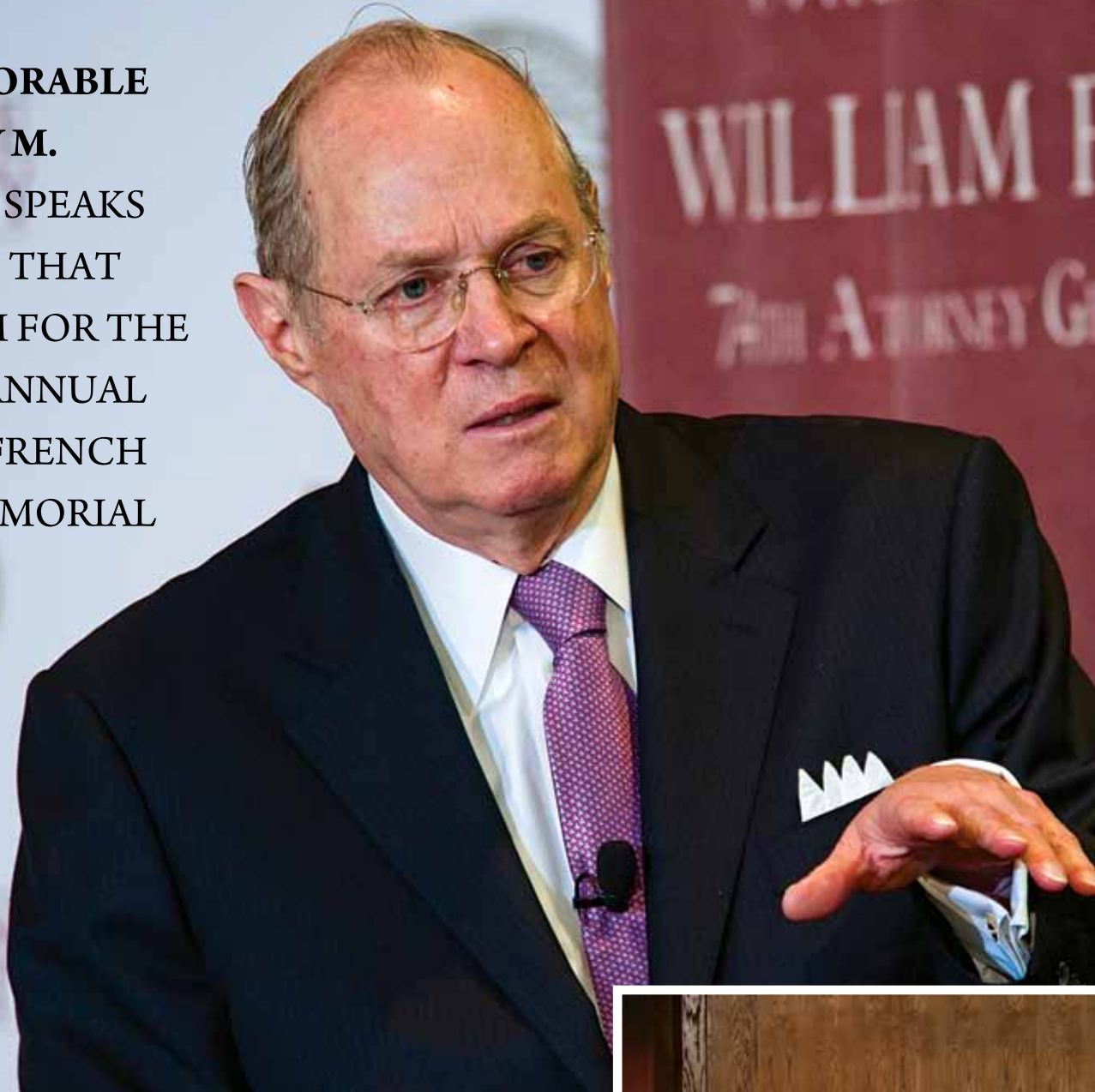
Praising the students, Judge Wood said she treated the student advocates exactly how she would treat anyone who argued before her in the Seventh Circuit. “This bench of judges attempted to make this problem as real world as it could be,” said Short. “I think that was the most helpful thing the judges did, which truly gives me a ton of confidence for the future.”

“There was special excitement with Lord Phillips presiding as chief justice, and with distinguished jurists Judge Brown and Judge Wood serving as associate justices,” said Professor Nancy McGinnis, the moot court faculty advisor. “All four students did a great job holding their own under the intense, pointed questioning by the bench.” ■

Visit Pepperdine’s advocacy programs at law.pepperdine.edu/academics/programs/advocacy.

**THE HONORABLE
ANTHONY M.
KENNEDY SPEAKS
ON ISSUES THAT
MOVE HIM FOR THE
FOURTH ANNUAL
WILLIAM FRENCH
SMITH MEMORIAL
LECTURE.**

by Emily DiFrisco



JUST CAUSES

Marking his fourth visit to Pepperdine University School of Law, the Honorable Anthony M. Kennedy, associate justice of United States Supreme Court, traveled to Malibu to give the fourth annual William French Smith Memorial Lecture on February 3 to an overflow audience in the Henry J. and Gloria Caruso Auditorium.





After teaching a constitutional law course at Pepperdine earlier in the day, Justice Kennedy spoke in conversation with Dean Ken Starr, Professor Babette Boliek, Professor Trey Childress, and alumna Mary Huebert Lang (JD '08), an associate at Gibson, Dunn & Crutcher LLP. The justice gave a lively review of his career and reflected on the role of the Supreme Court.

He spoke to topics such as growing up around public servants in Sacramento, California; on cases that “teach;” on the art of opinion writing; and on the civility among justices on the Court.

Justice Kennedy offered perhaps his strongest comments on mandatory sentencing. “California now has 185,000 people in prison at \$32,500 a year,” he said about the overcrowding. He emphasized that U.S. sentences are on average eight times longer than those issued by European courts.

He noted that California’s three strikes law, which mandates life sentences for third-time criminal offenders, was sponsored by the correctional officers’ union, a reality the justice called “sick.”

“I was very glad to see, Dean Starr, that you offer a course in sentencing,” he continued. “Very few law schools do, and it is an important part of our justice system.”

Toward the end of the event, Justice Kennedy answered written questions from the audience, many of which centered on the court’s recent ruling in *Citizens United v. Federal Election Commission*, which changed campaign spending laws.

Justice Kennedy did not specifically address queries about the case, but in response to questions about the criticism of the decision, including from President Obama, he said it is “important to have robust, principled debate within the legal community after opinions.”

Born in Sacramento, California, in July 1936, Justice Kennedy has served on the U.S. Supreme Court for more than 22 years. He earned a BA from Stanford University and the London School of Economics, and his LLB from Harvard Law School.

Following law school, he established a private practice in Sacramento that spanned criminal and civil litigation, probate and estate planning, and corporate and international transactions. During that time, he designed a model to allow American corporate investment in Mexico; the initiative was approved by the Mexican government and remains in use today.

He entered the academic sphere in 1965 when he taught as a professor of constitutional law until 1988 at the McGeorge School of Law, University of the Pacific. He was a member of the California Army National Guard in 1961, served on the board of the Federal Judicial Center from 1987 to 1988 and on two committees of the Judicial Conference of the United States: the Advisory Panel on Financial Disclosure Reports and Judicial Activities, subsequently renamed the Advisory Committee on Codes of Conduct, from 1979 to 1987, and the Committee on Pacific Territories from 1979 to 1990, which he chaired from 1982 to 1990.

In 1975 Justice Kennedy was appointed to the Court of Appeals for the Ninth Circuit by President Ford, at the time making him the youngest appellate judge in the nation and the third youngest in history. President Reagan nominated him as an associate justice of the Supreme Court, and he took his seat February 18, 1988.

“Justice Kennedy is a pivotally important member of our nation’s highest court,” says Dean Starr. “We were honored by his time with us and delighted by his extraordinary wit and wisdom.”

The William French Smith Memorial Lectures on Law and the Judiciary are named for William French Smith, who served as U.S. Attorney General from 1981 to 1985. ■

For more information, visit law.pepperdine.edu/william-french-smith-lectures.



Project Masindi



**Four Alumni Travel to Uganda
to Provide Legal Services for
21 Imprisoned Children**

by Jim Gash (JD '93) and Jay Milbrandt (JD '08)

Masindi is a sleepy town in Africa's bush.

It is a gateway to war-ravaged northern Uganda and a traditional rest point for Western safari-goers. Although the town is only three hours out of Kampala—Uganda's modern capital—Masindi is a place where rural, subsistence living is the norm. Little seems to have changed since the days of the early explorers.

An unlikely place to be an important part of Uganda's justice system, Masindi houses one of the country's five "remand" homes, a prison for children ages 13-17. These children have been arrested, held in jail with adults, charged with crimes, and sent to a remand home to await their trials.

Because of a massive case backlog, many of the children have been kept in the remand home for years—held much longer than their sentences would have been had they been tried and found guilty.

In early January, Pepperdine sent a contingency of faculty and alumni to meet with the children at the Masindi remand home and to provide much-needed legal service.

The team consisted of Jim Gash (JD '93), associate professor of law and associate dean for student life; Jay Milbrandt (JD '08), director of Pepperdine's Global Justice Program; alumnus David Barrett (JD '91), assistant general counsel, San Diego Gas & Electric Company; and alumnus Ray Boucher (JD '84), partner, Kiesel, Boucher & Larson LLP.

Day 1

Shortly after arriving, we met up with John Napier (JD '09), a recent Pepperdine law graduate who is serving in Uganda on a one-year Nootbaar Fellowship, and John Niemeyer, Uganda country director for Restore International, an American organization dedicated to giving hope to the children of Uganda.

The six of us hit the ground running and started at the courthouse, where we met with the magistrate judge and collected initial information about the children's cases. We had six murders, one abduction, three thefts, one weapon possession, nine aggravated defilements, and two simple defilements. (Defilement is Uganda's term for statutory rape.)

We also met the probation officer assigned to each of the children and one of the lawyers who would be representing the kids in court. The probation officer and the judge traveled with us down a bumpy red clay road to the remand home.

The main building was a windowless structure with a few iron-rod air passages near the convergence of wall and roof. The façade was simple with a large wooden door and large padlock. Inside, the room was cool and the stale air was heavy with the smell of mold. Eighteen boys lined the walls and shared a dozen mats—reeds covered with a bed sheet.

The walls were covered with carvings: names of current and past residents, messages, and phone numbers. The boys sat in the front half of the room—the floor on the back half of the room was covered with water, along with the yellow water jugs ubiquitous throughout Africa and a small chalkboard. We didn't see any girls at this time—they were locked in a much smaller concrete building nearby.

The magistrate judge and probation officer told the kids that we were lawyers from America and that they needed to answer the questions we asked. (This was explained in multiple languages.) The judge then asked which of them spoke English. Only two of them did. Both were assigned to be the interpreters.

We soon discovered that our interpreters were brothers, Henry and Joseph, who had been in the remand home for two years awaiting a hearing. Both were polite, pleasant, and very sharp. We learned that the boys, along with their father, were accused of beating a man to death. The man who was killed worked for their father as a herdsman for two days before he stole 225,000 shillings (equal to approximately \$115) from under the boys' parents' mattress.

The beating by a mob took place near their home between 8 a.m. and 9 a.m., while Henry and Joseph were in school. Later in the week, we had their mother brought out from a town about 30 miles away to interview her.

She verified that the kids were in school, as did the schoolteacher with whom we spoke. We also learned through their mother that the boys were at a special school on scholarship from the government because they were gifted.



Ray Boucher (far right) explains the briefs to the children while Henry (far left) translates.

Day 2

We decided to divide and conquer—Barrett and Gash resumed interviewing the children, while Niemeyer and Napier returned to the courthouse and police station to resume collecting the files for each child, some of which had to be driven in from other villages. Milbrandt and Boucher interviewed family members and witnesses.

It was another heartbreaking day of interviews. One of the three girls, Natakunda Scovia, was charged with murder. She turned 17 on Christmas Day; three months earlier, her two-week-old baby had died. After she got pregnant, the father left to serve in Iraq. She went to live with her alcoholic grandmother, who didn't want her there, but allowed her to stay. Shortly after the baby was born, it appeared to Scovia that the baby was sick because it kept vomiting. She asked her grandmother for some

money to go to the hospital, but the grandmother told her that the baby was fine and this was normal.

Shortly thereafter, while the grandmother was out drinking, the baby died. When the grandmother returned, she refused to let Scovia bury the baby on the land because of the evil spirits that would accompany such a burial, and because she didn't own the land. Not knowing what to do, Scovia wrapped the baby in a blanket, took the baby out into the bush, and left it there. When the corpse was found, the grandmother told the police that Scovia must have killed the baby. No other facts suggest that Scovia killed the child.

When we left that evening, four children still had to be interviewed the next day. We worked until late that night on the interview summaries, integrating the information from the files.



Day 3

We woke up early and headed straight to the remand home, where we finished the remaining interviews. One case involved a 14-year-old orphan from the Congo who moved to Uganda when he was young. A policeman found him in the streets (his parents had died) and allowed the boy to live with him because they were both members of the Lango tribe. At the barracks, the other boys living there rejected him because of his distinctive tribal look. Hopelessly discouraged, he stole a gun from the storage area to kill himself. He was arrested for possession of a firearm.

Throughout the process, we determined that several of the children were innocent of their crimes, but this was not the case with all of them. One boy stole the keys to a store, opened it up at night, and stole the equivalent of \$40 and a tin of bubblegum. He bought a cell phone and some clothes, and chewed the gum with his friends. He admitted to the crime.

After finishing all the interviews, we took time to play soccer with the children before returning to our briefs. That evening was frenzied as we worked as fast as possible to integrate our summary notes into a briefing template. The printer we brought from the U.S. worked overtime as we printed out drafts and made edits, and again we worked late into the night.



Day 4

Before daylight, we spread out typing, editing, and printing. By the end of the day, we had written 21 briefs and scheduled the children's trials with the court. Throughout the process, we worked collaboratively with the Ugandan government offices. The Department of Public Prosecutions provided police reports, the high court provided court files and indictments, and the probation office worked with us to track down witnesses.

After completing the briefs, we presented them to the presiding justice, Justice Ralph Ochan, who, after reviewing the briefs, indicated that most of the cases would be dismissed.

We had promised the children that we would make one last visit to the remand home before we left. When we arrived, we gathered everyone together and said our goodbyes. Boucher showed them an example of the briefs we prepared on their behalf, and we passed out food, school supplies, and photographs of each child (their favorite).

As we were about to leave, they sang us a song—a song they all seemed to know. The first verse was in Swahili, and then the next two verses were in English. It was a simple song: *"Let the Spirit of the Lord Come Down . . . Let the Angels of the Lord Come Down."* These kids certainly need just that. ■



At press time, 19 of the 21 children have been released, all but one of whom returned home to their awaiting families. The boy who stole the gun and had no home to return to was placed into a Christian foster home with other Lango boys.

Jim Gash returned to Uganda in April to advocate for Henry in another case. Henry was released from all charges on May 14 and returned home. He and Joseph began school at the Restore Leadership Academy in Gulu, Uganda, in May.



**Alumnus André Birotte
Represents More Than
18 Million Californians as
United States Attorney.**

by Emily DiFrisco

PEPPERDINE LAW

- A film executive and his spouse paid bribes to a Thai tourism official to secure lucrative film festival contracts.
- Two men in a homegrown, prison-based terrorist cell conspired to attack military facilities and Jewish targets.
- Two Orange County women schemed to bilk \$34 million from health insurance companies by billing for unnecessary medical procedures.

These are actual cases handled by the United States Attorney's Office for the Central District of California—a district that includes Los Angeles and six other counties and serves more than 18 million people. At the helm of the 275-attorney office, is Pepperdine alumnus André Birotte (JD '91), who was nominated by President Obama in December and took office in early March.

“It's so far beyond my wildest dreams that I would even get this job,” says Birotte, who is the first African American man to serve in this post. “I am honored and humbled to be given this incredible opportunity.”



Birotte's office is the second largest U.S. attorney's office in the country, the first being Washington, D.C., where crimes such as jaywalking are considered a federal offense and are processed through its office. The Central District of California office has roughly 275 assistant U.S. attorneys with a rotating number of special assistants on loan from other departments.

The office also has one of the most diverse practices of any public law firm. "We have a civil division, a tax division, and a criminal division,"

Birotte explains. "Within our criminal division, we handle a myriad of cases, violent crime, narcotics, fraud, and human trafficking. You name it and we probably cover it."

Birotte, whose position requires Secret Service protection, calls the diversity of cases a plus for the community. "One of the beauties of the job is that these are the kind of cases that have a direct impact on the communities that we serve, whether it's the person who has been swindled out of their retirement because of some fraudster or the community that's affected by violent gang activity."

In his first few months as U.S. attorney, Birotte has hit the ground running. "If there is anything typical about my days it's that every day is completely different," he says of the schedule that sends him throughout the Southland daily.

In this early stage, Birotte is spending time meeting the stakeholders and with what he calls the "alphabet soup" of law enforcement agencies: FBI, DAs, ATF, ICE, etc. He has also committed to getting to know all of his 275 assistant U.S. attorneys.

"That's what cars, trains, and video conferencing are for," he says of the lofty goal. "We have a responsibility to groom, nurture, and develop our employees. I want them to get to know me during my tenure here."

Working again in the office where he served more than 10 years ago as an assistant U.S. attorney is a particularly satisfying experience for Birotte. The office has changed in many ways, the most visible change being the size. When he first arrived, he was determined to make the rounds on the four floors the office occupies. The only problem was that while the office had four floors in 1999—now it has 10.

Getting to the top of the U.S. attorney's office was a long road for Birotte, who grew up in Newark, New Jersey, the son of Haitian immigrants. He attended Tufts University for his undergraduate studies in order to experience living in Boston before Pepperdine lured him to the West Coast.

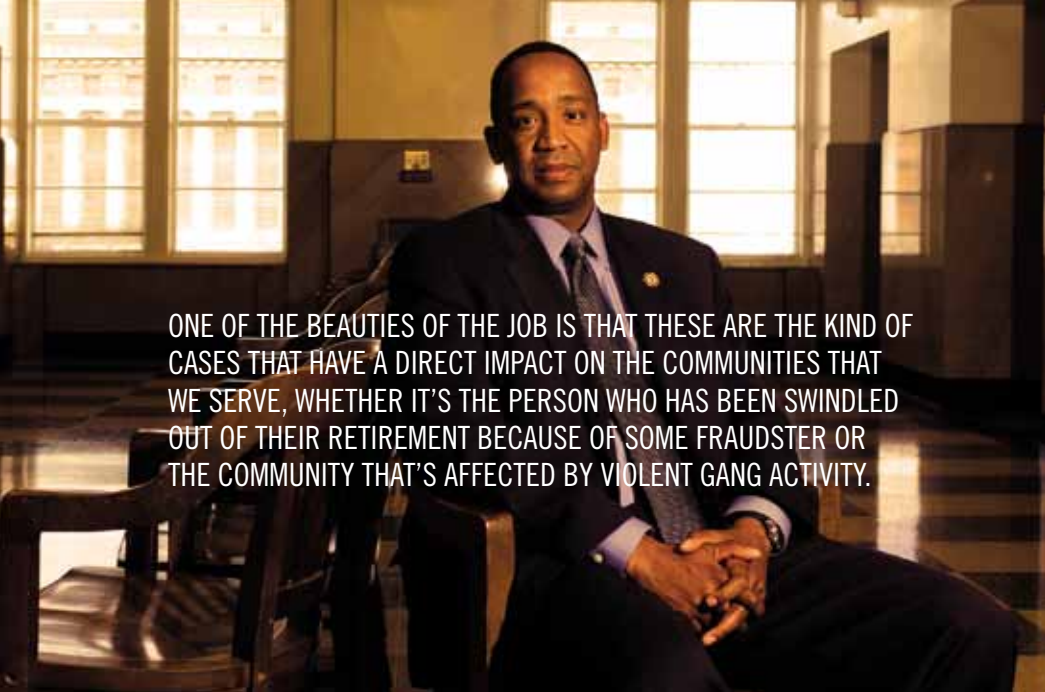
Professors who served as mentors made the difference for Birotte. "I always felt from the moment I got there that I was supported by the school," he says of the faculty. "From the time I came in as a student, I was introduced to law professors who had worked in the district attorney's office and public defender's office, in addition to former assistant U.S. attorneys, and they supported me."

Through networking, Birotte landed externships at the U.S. attorney's office and the public defender's office. The externships provided the foot in the door he needed in order to be hired as a deputy public defender in the Los Angeles County Public Defender Office upon graduation. Three years later, he was hired as an assistant U.S. attorney before serving for three years as assistant inspector general of the Los Angeles Police Department.

During that time, he met fellow Pepperdine alumnus Rick Caruso (JD '83), who was the president of the Police Commission for the City of Los Angeles. It was Caruso who appointed Birotte inspector general of the Los Angeles Police Department in 2003.

The multifaceted position involved overseeing a staff of 32 employees, which included lawyers, professional auditors, and former law enforcement executives. Birotte was responsible for conducting and overseeing LAPD internal investigations and audits to ensure compliance with both LAPD policies and mandates from the federal Civil Rights Consent Degree.

"The organization at that time had the reputation for being very insular," says Birotte of the commission. "Navigating within that quasi-military structure, while at the same time trying to build bridges between the community and the police department, had its challenges."



ONE OF THE BEAUTIES OF THE JOB IS THAT THESE ARE THE KIND OF CASES THAT HAVE A DIRECT IMPACT ON THE COMMUNITIES THAT WE SERVE, WHETHER IT'S THE PERSON WHO HAS BEEN SWINDLED OUT OF THEIR RETIREMENT BECAUSE OF SOME FRAUDSTER OR THE COMMUNITY THAT'S AFFECTED BY VIOLENT GANG ACTIVITY.

"It's the kind of job where, quite frankly, at some point someone may not be happy with you," he continues. "The community members may not be happy with you based on a decision, the officers may not be happy with you based on a decision. I spent a lot of time developing the relationships on both sides of the spectrum, and I think I was able to help our office gain a reputation such that they felt, whether they agreed or disagreed with our decisions, that those decisions were based on the facts and were principled decisions."

Caruso was impressed by Birotte's tenure

as inspector general. "André is a smart and thoughtful lawyer," he says. "He fulfilled his duties in the department with exemplary style and a great degree of insight and grace. It's no surprise to me that he was nominated to be U.S. attorney for Los Angeles. I have no doubt that he'll exceed the standard of excellence in the department."

California senator Dianne Feinstein took notice of Birotte's success as inspector general. When she recommended him to President Obama, she cited his support from both the police officers he

investigated and the various community groups who turned to his office with complaints regarding alleged police abuses.

When asked about his advice for law students who want to be U.S. attorneys, Birotte advised students to work hard in school and get involved in moot court and trial teams. "I would submit that whether you want to go into the civil arena or the criminal arena, no matter what practice you get into, you're going to have to speak in front of the public," he says. "Getting involved with moot court and trial practice, those are skills you can take with you wherever you go."

"I took advantage of externships in law school," he continues. "It's not only an opportunity for you to earn credit, but also to learn what it's like in the day-to-day life of being a prosecutor, public defender, or city attorney."

When he's not in the office, Birotte rides his Harley Davidson motorcycle and spends as much time as possible with his wife and three young children. When he is in his office or on the road throughout the Southland, his biggest concern is running the U.S. attorney's office in a way that serves the community. He concludes, "I want to generate the kind of cases that are responsive to the entire district. We want to have a footprint and a presence in all seven counties that we represent." ■



The Central District of California is made up of seven counties: Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara, and Ventura. The district extends from the Pacific Ocean on the West to the Nevada and Arizona borders on the East, covering over 40,000 square miles.

BIROTTE'S FAST FACTS:

- Worked as a deputy public defender in the Los Angeles County Public Defender Office, where he represented clients charged with felony and misdemeanor offenses in criminal proceedings such as preliminary hearings, pretrial conferences, and arraignments and more than 30 trials.
- Served for three years as assistant inspector general of the Los Angeles Police Department before his six years as inspector general.
- Received the Wind Beneath My Wings Award from the National Association of Black Law Enforcement Executives in 2008.
- Hired as an assistant U.S. attorney for the Central District of California, a post he held from 1995 to 1999.
- Was honored as Pepperdine's Distinguished Alumnus of 2010, and spoke at commencement on May 21.
- Worked at the Quinn Emanuel law firm, where he represented clients in white-collar crime and commercial litigation matters.



JUSTICE *for All*

Pepperdine's Public
Defenders Raise the
Banner of Justice for
Indigent People in
their Communities

by Samantha Troup

They are overworked and underpaid. Their offices are often critically understaffed. They take on cases ranging from the mundane to the inhumane, arguing day after day in front of juries who are apt to put away their clients simply because of their station in life.

They are public defenders—lawyers paid by the government to represent those charged with crimes who cannot afford an attorney. Pepperdine has more than 64 public defenders in its alumni ranks, upholding this crucial part of our justice system every day. The four featured here are passionate and quite possibly exhausted, yet they are determined to give their clients first-rate legal representation and to lift the banner of justice for all.



WEB EXCLUSIVE:

Visit our Web site at law.pepperdine.edu/pepperdinelaw/justice to read about two students who are pursuing careers in the public defense field.

LaShae Henderson (JD '03)



To be able to do that for somebody else, to stand there and let them know what is going on and to be an advocate for people is something that I feel very passionate about.

LaShae Henderson

When she was a young girl, LaShae Henderson had the chance to go to court with her mother, who was a court reporter. She loved watching trials, and decided that she wanted to be an attorney or “the one talking.”

Her family paved the way for her career in public defense too. After her parents passed away, she had to figure out how to become the legal guardian for her siblings. “I saw what it felt like to be helpless in the system and to be scared stiff about what is going to happen to your family,” she explains. “To be able to do that for somebody else, to stand there and let them know what is going on and to be an advocate for people is something that I feel very passionate about.”

After law school and before she passed the bar, she fought for her younger brother to get the help that he needed to function outside of the juvenile court system. Henderson researched options for her brother and when his trial date came, she was able to plead his case to the judge, both as his legal guardian and as his attorney.

Impressed with Henderson’s tenacity and dedication, the opposing attorney in the case told her that she should be a public defender in the Los Angeles County Public Defender Office—where the attorney worked. Henderson passed the bar, applied for a position, and was accepted. Later, she found out that the woman who had recommended her was one of the most experienced public defenders in the office.

Now Henderson works primarily with juveniles on cases ranging from a young boy who stole a sandwich because he was hungry, to more serious cases. “Being in juvenile law has been very rewarding because they’re kids,” she explains. “If you can get them connected with services they need, you can help prevent them from living their life with a disability that they didn’t even know they have. I look at my job as a way of counseling these kids.”

Henderson calls the public defender office a supportive environment because of the nature of the work. At the end of the day, nothing compares to the satisfaction she feels when she sees her clients’ faces after they receive a good outcome. “I’m just very practical and very real with what I do,” she says. “Those in need shouldn’t get run over just because they can’t afford an attorney.”

Scott Van Camp had always wanted to be a district attorney. During law school, he did a summer externship at a public defender's office thinking he would "see what the other side was like," and his career path was completely changed. "When I started doing the work I found that I really liked it a lot," he remembers. "I found it to be challenging and rewarding, and I also felt that it was important to help those people who are indigent and obviously facing very serious consequences in the system."

Van Camp works in the writs and appeals section of the Orange County Public Defender Office as a deputy public defender. "You can affect all of the defendants in the state with one case," he says of his work.

"To me liberty is the most important thing that anyone has, certainly much more than money," he continues, explaining that there are critical areas of the law that have not changed to help the accused in ways that they need. "The three strikes law (which enforces mandatory sentencing) is making it harder for public defenders to help their clients get fair treatment within the justice system."

Van Camp finds his purpose in representing clients with serious problems. "A large percentage of them have either some degree of mental disorder and/or a substance-abuse problem," he says. "To me these are the kind of the people in our society who need representation the most. They need lawyers who are truly dedicated."

Van Camp, who credits Pepperdine's trial teams for teaching him how speak in court, feels that public defense is a calling due to its unique position within the law community. "Believing in what I'm doing keeps me motivated," he says.

Another motivator is a tip he picked up from Professor Doug Kmiec's constitutional course years ago. "He showed us that he always carries around a pocket copy of the Constitution, and he does that to remind himself that this is why he does what he does," Van Camp explains. "And frankly, I stole that from him because when I go to court I always have a copy of the Constitution in my pocket. As much as I enjoy and work hard for individual clients I feel like what I'm really doing is helping to ensure that our Constitution is enforced and followed."

Scott Van Camp (JD '99)



To me these are kind of the people in our society who need representation the most. They need lawyers who are truly dedicated.

Scott Van Camp

A defense lawyer has a gratifying potential for effecting positive outcomes, whether through effective negotiation or effective trial advocacy.

Barbara McDonald



Barbara McDonald (JD '73) & Christine McDonald (JD '94)

The mother and daughter pair are both alumnae of the School of Law and both served as public defenders in Orange County. Barbara, who is now retired, served for more than 35 years as a public defender, first in Orange County and later in San Diego County. She first became interested in the profession when she worked as a counselor at the Orange County Juvenile Hall, where she found many aspects of the job “troubling.”

“I was bothered by the prevailing attitude toward the minors housed there, and by practices by probation officers and some of the juvenile hall administration,” says Barbara. “My misgivings coalesced into a belief that more could be done for the juvenile charges from outside that system than inside.”

After completing her law degree at Pepperdine, where she was a standout student and the editor-in-chief of the inaugural *Pepperdine Law Review*, Barbara started on the path to help children from the outside as a public defender. “My clients were, for the most part, greatly disadvantaged people, but not the evil geniuses so often portrayed in crime novels,” she says.

In addition to representing countless disadvantaged clients, Barbara had the opportunity to help create a new law. The case involved a Mr. Cegars, who was charged with attempted murder

and assault with a deadly weapon for stabbing his adult son and his sister. The son and sister, who had been drinking heavily, had broken into his home in the middle of night. According to Barbara, Mr. Cegars, who had previously been homeless and was terrified of being harmed in his sleep, seemed genuinely confused about the events that night.

Barbara contacted Dr. Merrill Mitler at the sleep clinic at Scripps Research Institute, who tested Mr. Cegars and found that he had a rare sleep disorder akin to sleepwalking. Because the disorder was not yet listed in the Diagnostic and Statistical Manual (DSM), which lists recognized psychological disorders and conditions, the trial judge did not let the doctor testify regarding the disorder. Mr. Cegars was convicted, and later the case was overturned on appeal. The court declared that the judge should have allowed Dr. Mitler’s testimony, and the case resulted in a new law and clarification of rules relating to the admission of expert-opinion testimony.

“A defense lawyer has a gratifying potential for effecting positive outcomes, whether through effective negotiation or effective trial advocacy,” says Barbara of her long career. “Despite any stress, I have thoroughly enjoyed being a lawyer and have had the greatest of good fortune to have been able to handle many, many interesting cases.”

Daughter Christine McDonald grew up hearing her mother’s stories about representing those less fortunate. As the daughter of two attorneys, Christine was drawn to the profession. “I believe strongly in what we do in representing the indigent, and in defending the Constitution,” says Christine. “Having been introduced to those concepts by my parents, I grew up with those ideals.”

Christine transitioned straight from law school to the Orange County Public Defender Office, where she has 16 years of experience in a job she calls addictive. “I have clients that I don’t want to let go [to other attorneys’ care],” she says of knowing that each case will be life changing for the client.

“In a lot of ways we are giving people a second chance,” she says of one of her top motivating factors. Her attitude toward her clients is one of respect and care. “I’m not here to judge whether or not you can change. I’m just here to give you the resources.”

Working directly with clients often results in an inside look into their lives, says Christine. Many grew up with little resources and feel that they have never had anyone “in their corner.” The potential for positively impacting their lives is huge. She explains, “You work very closely with the clients over a long period of time, and eventually you can help get these people back on track.” ■

A Case of Calling

THIRD-YEAR STUDENT MELISSA THORNSBERRY LEAVES AN INDELIBLE MARK ON THE SPIRITUAL LIFE AT PEPPERDINE.



Melissa Thornsberry can clearly recount the moment she decided to be a lawyer. During the summer after her sophomore year at Wheaton College she visited a high school for young mothers in Santiago, Chile, where she connected with the women as they took care of their children between classes.

In one conversation, a high school student asked Thornsberry what she wanted to do after graduating. Instead of “I don’t know,” she gave an answer out of the blue: become a lawyer. The student replied that she too had wanted to be a lawyer and noted that Thornsberry “could do a lot of good as a lawyer.”

The conversation sealed the deal for Thornsberry, who envisioned helping others with her law degree.

Little did she know that she would have so many opportunities to be of service during law school. As a recent graduate, Thornsberry has left her own indelible mark on the school.

She has been a staff member on the *Pepperdine Law Review*, research assistant for Professor Bob Cochran, student mentor, and highly successful oral advocate on the moot court team.

But perhaps her greatest contributions have been to the spiritual life on campus. She served as president of the Christian Legal Society during her second year and as a spiritual life advisor to the deans all three years. She also coordinated the weekly Bible study at Vice Dean Tim Perrin’s home during her third year.

“Melissa has been a remarkable spiritual leader at the law school during her time as a student,” says Dean Perrin. “Under her leadership we had as many as 90 students at the Bible study, smashing our previous record.”

Professor Cochran credits Thornsberry’s “wise, humble leadership” for the growth of the Bible Study. Third-year student Aaron Echols says she grew the group by being a good friend to classmates, maintaining a positive attitude, and showing true Christian love to others.

During the summer after her second year, Thornsberry’s desire to make a difference landed her an internship in the legal department of World Vision International, where she was able to be an advocate for people in need across the globe. After reflecting for a time about what to do post-graduation, she accepted a job as a Fellow with the Presidential Management Fellowship program, where she will work as a program manager at the Space and Missile Systems Center at Los Angeles Air Force Base.

“I am excited to begin my career by working for the federal government and serving my country, even in a small way,” she says. Wherever her career takes her, Thornsberry will no doubt make an impact as a leader in her chosen field.

“Pepperdine has given me so many great opportunities,” she reflects. “I found my stride and my calling here.” ■

THE LAWYER **WILL SEE YOU NOW**

Orange County medical
malpractice attorney
DANIEL HODES rights
the wrongs of negligent
health care.

by Sarah Fisher



WITH A STYLE THAT IS PART DETECTIVE AND PART THESPIAN, DANIEL HODES (JD '81) GIVES AGATHA CHRISTIE THE CREDIT FOR INSPIRING HIS CAREER AS ONE OF THE MOST SUCCESSFUL MEDICAL MALPRACTICE TRIAL LAWYERS IN ORANGE COUNTY, CALIFORNIA.

“In college, I tried out for the school play and, to the chagrin of the theatre majors, got a nice role in an Agatha Christie play,” recalls Hodes, who was an undergraduate business major at State University of New York in Oswego.

Having already considered law school, he realized he could combine law and theatre in a career that would perfectly suit his talents—as a trial lawyer.

Hodes came to Pepperdine for law school, where he was president of the Student Bar Association. Upon graduation, he landed a job at a firm specializing in medical malpractice. Besides a six-year period as a defense lawyer, he has stayed in the field with the firm of Lopez Hodes for 20 years, before founding Hodes Milman two years ago.

With his energetic, indefatigable courtroom style, Hodes won the two largest wrongful death victories in Orange County’s history. In 1997 he proved that an HMO failed to diagnose a young woman’s cervical cancer in time, and in 2006 he defeated an urgent care center for negligently discharging a man with chest pains who died of a heart attack hours later.

Last fall, Hodes made the headlines again when he settled a 15-year-old stolen eggs and embryos case against the University of California at Irvine.

He first heard about the UC Irvine case in the mid-1990s, and was astonished to learn that couples who had undergone

fertility treatment at the institution in the late 1980s—including egg harvesting and the creation of embryos for implantation—had discovered their genetic property had been sold to other couples without their consent.

“At that point I had never before seen such a profound breach of medical ethics,” says Hodes, who represented a dozen couples and 137 separate incidents. “One woman, who had been struggling for years to become pregnant without success, produced eggs through ovarian stimulation, some of which were given to friends of these two doctors. Some of these friends produced children. Getting to know these couples was a very moving experience.”

One couple, Shirel and Steve Crawford, received a \$675,000 settlement but still wonder what happened to their two embryos given to someone listed as “Mrs. S,” in documents. The Crawfords never had a child because they ran out of embryos and money to pay for more fertility treatments.

“Our children are still out there somewhere,” Shirel told the *Los Angeles Times*. “Maybe someday they will find us.”

Securing justice for devastated fertility patients, including payments totaling more than \$24 million, was a satisfying experience for a lawyer who fights in the hopes of preventing future negligence.

“I would like to think that fertility doctors who are thinking of going astray will now think twice,” says Hodes. He adds that plaintiff’s attorneys often suffer a negative public image despite helping to bring about protective laws through civil action, such as the laws regarding seat belts. “Our actions make the world a safer place,” he says.

His 1997 victory against the Friendly Hills Medical Group of La Habra, which has since closed its doors, on behalf of the family of a young wife and mother has, he hopes, led to increased vigilance by HMOs in their safekeeping of patient records.

“This woman’s death certificate indicated she died of bladder cancer,” Hodes recalls. Channeling his inner detective, he set about



“I was able to argue that the HMO had protocols for everything imaginable to save money, yet none for reviewing records of a new patient,” says Hodes of a young wife and mother who had died of cervical cancer misdiagnosed as bladder cancer. “They were more concerned with counting money than with patient care.”





“At that point I had never before seen such a profound breach of medical ethics,” says Hodes of the UC Irvine stolen embryo cases.

“One woman, who had been struggling for years to become pregnant without success, produced eggs through ovarian stimulation, some of which were given to friends of these two doctors.”

proving that she actually died of cervical cancer through DNA testing from a biopsy specimen, while proving that Friendly Hills failed to review her medical history after she moved to their health plan.

“Her former ob-gyn wanted to keep a close eye on abnormal cervical smear results and had forwarded her records, but the HMO did not review them,” he says. “This was the most fun part of the case, as I was able to argue that the HMO had protocols for everything imaginable to save money, yet none for reviewing records of a new patient. They were more concerned with counting money than with patient care.”

It is such misplacement of priorities that drives Hodes “to be there as an advocate” for those who usually cannot speak for themselves. He secured a \$10.96 million victory for the family of the young woman.

As a subspecialty, Hodes often represents women with breast cancer, as it is not uncommon for a diagnosis to be delayed past the point of curable treatment. The hardest part of the job, he says, is turning down clients when their situations are heartbreaking but impossible to prove.

“If it’s a case that, based on my analysis, I don’t believe I’ll win, then I won’t take it,” he explains. “The challenge is that a lot can, and will, go wrong in the medical profession, but I have to interpret whether something is legally actionable or if things went wrong because sometimes ‘stuff’ just happens.”

The most professionally gratifying situations occur for Hodes when he knows a case is provable and actionable, but the party accused of negligence believes he and his client stand no chance against them. This often happens in the conservative county where, according to an Orange County Superior Court judge, only 6.7 percent of malpractice plaintiff’s win their cases.

The case against Friendly Hills was won with no pretrial offer, as was his second largest wrongful death victory for Orange County in 2006, argued on behalf of the family of 39-year-old Rodney Robbins.

Robbins was released from an Orange County urgent care center on June 30, 2003, by two doctors who misdiagnosed unstable angina as gastroesophageal reflux disease following a treadmill stress test. Less than an hour after he was discharged from the hospital, his heart gave out and he died. The hospital offered no settlement money, and Hodes successfully argued that the stress test was an ineffective and potentially harmful method of testing the root cause of chest pains. He won a total of \$5.3 million for Robbins’ wife and two small children.

“To be able to turn the case around and win as resoundingly as we did was wonderful for the family,” says Hodes, adding that the impact these premature deaths have on family members can be overwhelming and heartbreaking. “I was recently representing a 7-year-old girl who testified in court that when she grows up she wants to be an angel in heaven with her mom.”

As a soccer and baseball dad to three young children—“I’ve never missed a game or not coached one of their teams,” he says—and the brother of a physician in Ethiopia, Hodes says it’s impossible to not become emotionally involved with his clients. His advice to other young lawyers is to harness those emotions to create a stronger case and fight harder for the clients.

“You need to allow yourself a certain amount of vulnerability and understand that lawyers are more than analytic machines,” he says. “We are representing real people who suffered real tragedies, and you have to allow yourself to be affected to a certain degree.”

A self-confessed competitive guy who jokes that he would like his three children to become lawyers so they could found a four-Hodes law firm, Hodes sees himself staying in the field for a long time. He remains committed to advocating for innocent people who have been devastatingly let down by medical providers.

“People come to me at a very down moment in their lives, and I mean that physically, emotionally, and financially. And to have the opportunity to impact them in a positive way in all those areas,” says Hodes, “Well, it’s very gratifying.” ■



Are There Property Rights in **WATER?**



Professor SHELLEY ROSS SAXER distills the controversy surrounding the coveted natural resource.

As I've always told my first-year students, "It's all about property!" Property rights are so much a part of a person's persona that neighbors fight neighbors and people will kill over a property dispute.

There have been gunfights over water in the arid West. It was Mark Twain who was believed to have said, "Whiskey is for drinking; water is for fighting over." And the Wild West of the United States isn't the only place water disputes have encouraged violence. In 2007 in Sydney, Australia, a 66-year-old man watering his lawn was beaten to death by his neighbor after arguing over the city's water restrictions. →

→ THE CURRENT “WATER WARS” IN CALIFORNIA

illustrate the importance of water rights, but are water rights actual property rights in the same way we think about land? As a property-rights person, my first inclination was to say YES, of course! However, as I recently taught Water Resources Law for the first time, I realized that I was unsure as to whether water rights are or even should be considered private property.

I wrote a law review article titled, “The Fluid Nature of Property Rights in Water” just to figure out for myself the extent of these rights. During my research, I discovered that others also found this to be a difficult question and that the law in regard to this question was “surprisingly unsettled” with no consistent answers. But does it really matter whether we call the right to water a property right or a right to use?



The nature of property rights in water is based upon state law. Uncertainty in defining these rights can impact how federal, state, and local jurisdictions regulate water rights and resolve conflicts among users. In addition, this uncertainty may negatively affect the success of water-rights markets as we seek to use economic theory to put this scarce resource to its highest and most efficient use. In my article, I looked at water rights first based on surface water cases and jurisprudence, then based on groundwater resources. I finally looked briefly at rainwater issues in states.

Water is an unusual resource that does not fit into our standard property characteristics. It is constantly changing form, quantity, and location and it is difficult to exclusively possess. If it is treated as private property, then extensive regulation by the government may require compensation under the Takings Clause, but if it is considered a communal right to use based upon public need, then the government

decides how to distribute water without the need to pay those who feel deprived.

When examining rights to surface water, I found that the authorities are split as to whether these rights should be considered property. Regardless of whether surface water claims were based on prior appropriation or on riparian rights, authorities vacillated between whether water rights should be considered property in the traditional sense, or whether they are merely rights to use the water. Some state constitutions define water rights as protected property, while others declare that waters of the state belong to the state for the use of its people. What then is the right answer or what should be the right answer? Even if water rights are considered to be property, they are limited by doctrines requiring that the water be put to reasonable and sometimes beneficial use. The public trust doctrine is also used to limit the right in some states and *federal reserved water rights* limit state and private rights when there is federal land management or Indian reservations involved. Finally, the *federal navigational servitude* prevents a riparian owner from obstructing navigation and limits private rights when the government acts to protect navigation.

Although many of my friends and colleagues will disagree with me, and as much as I would like to find private property rights in water, it just doesn’t make sense to me to consider water to be subject to private ownership. Water has consistently been referred to as a usufructory right. A usufruct



does not confer ownership—it only allows its holder to take and use the water. If someone must own the water in order to control its usage, then under the public trust doctrine, the people should own the water with the state holding title to it in trust for the people.

Instead of using the bundle of sticks analogy for landownership, water rights should be viewed as a license to use, similar to federal grazing rights or fishing rights. Such licenses to use will be revocable by the state or federal government in order to protect the public good and will not be subject to a *takings claim for just compensation* under the Fifth and Fourteenth Amendments when revoked.

Management of natural resources has changed over the years. Whereas our country initially encouraged exploitation of wildlife, forests, and minerals and the settlement of the West through irrigation, we have



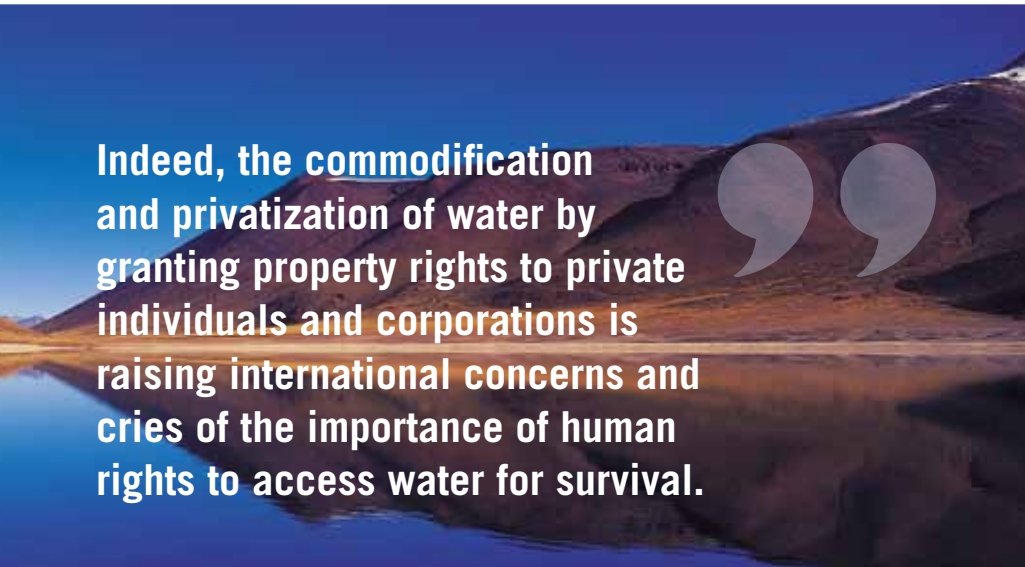
protect its water from subsequent diversion, whether the diversion is of surface or groundwater.” The ownership of aquifers underlying landowners and used for storage of water is also subject to public appropriation without compensation. In California and Nebraska, for example, the state may allow others to use these underground storage structures without compensating the overlying landowner because these structures are deemed to be state property.

There are three surface water doctrines and five different common law groundwater doctrines. This variation in state legal doctrines reflects the failure to manage these

to this resource in order to encourage efficient collection, but manage any adverse impacts to surface and groundwater flow.

If water is owned by the government in trust for the people, the government may reserve water for the public benefit, such as for the protection of endangered species. Although the government should be held fiscally responsible for contract breaches when it promises an allocation of water and fails to deliver, such actions should not be subject to a takings claim since water is a mere usufruct, not a property right that can be “taken.” The government should also be prohibited from unconstitutional “givings” by allowing water users to gain access to this precious resource for a price that is severely less than the resource’s value given the capital invested in dams and reservoirs to assure such a source. Certainly, those who have received the state’s largesse should not be permitted to assert a takings claim when the government needs to withdraw its gift.

Defining water rights as property is not required in order to develop an efficient water marketing scheme. Tradable permits for air emissions and fisheries do not rely on private property rights in clean air or property rights in the actual fish in the ocean. Indeed, the commodification and privatization of water by granting property rights to private individuals and corporations is raising international concerns and cries of the importance of human rights to access water for survival.



Indeed, the commodification and privatization of water by granting property rights to private individuals and corporations is raising international concerns and cries of the importance of human rights to access water for survival.

turned to preservation through the National Park system, environmental sustainability, limitations on fish catches and cattle grazing, and the preservation of in-stream water flows to protect endangered species.

Surprisingly, claims of landowners to groundwater underlying their property do not fare much better than claims to surface water rights, even in the face of the old property maxim that “to whomsoever the soil belongs, owns also to the sky and to the depths.” In many jurisdictions, there is no right to groundwater based solely upon ownership of the overlying land and, instead, water must be appropriated and applied to beneficial use—just as with surface water.

Public ownership of this right was upheld by the United States Supreme Court under the federal reserved rights doctrine in *Cappaert v. United States* (1976), where the Court held that “the United States can

water resources with a unified approach. However, some jurisdictions have applied the public trust doctrine to both groundwater and surface water and have not distinguished between them. The Hawaii Supreme Court decision in *Waiahole* (2000) illustrates this state’s willingness to view groundwater and surface water as inexorably connected and deserving of protection by the state.

Rainwater rights may also be subject to state ownership and control because of the interconnectedness of rainwater to surface water and groundwater. Some states make it illegal to collect rainwater on your own property because such collection impacts surface and groundwater supplies. However, states also realize that encouraging rainfall collection is good in arid areas. The state should have the right under the public trust doctrine to allow revocable access



I do not have a solution as to how existing water rights held by farmers, municipalities, and others can be transformed from perceived property rights into mere licenses. However, I believe it is important to examine underlying expectations as to property rights in water and recognize that the right to use water is a usufructory right, not subject to private ownership. Instead, our water resources should be managed by the state as revocable licenses allowing uses that do not conflict with the public good. ■

Saxer’s article, “The Fluid Nature of Property Rights in Water,” will be published in the fall 2010 issue of the Duke Environmental Law & Policy Forum.

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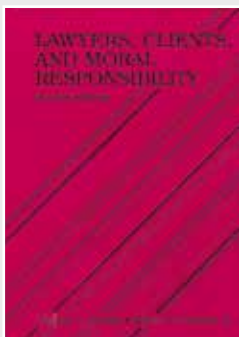
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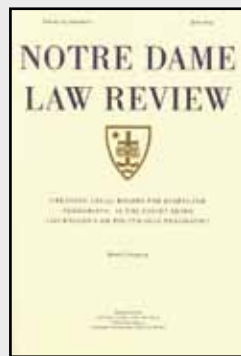
Judicial Ethics for ALJ and Current Developments in Federal and State Administrative Law, speaker, NAALJ Annual Meeting, Orlando, Florida (Nov. 2009).

Materials on Articles 4, 5, and 6 of the MSAPA, presenter, ABA Administrative Law Section Meeting, ABA Annual Meeting, Chicago, Illinois (Aug. 2009).



Robert J. Pushaw, Jr.

Justifying Wartime Limits on Civil Rights and Liberties, 12 CHAPMAN L. REV. 675 (2009) (symposium issue).



Creating Legal Rights for Suspected Terrorists: Is the Court Being Courageous or Politically Pragmatic?, 84 NOTRE DAME L. REV. 1975 (2009).

Standing in Environmental Law, speaker, Arizona State University Law School (Feb. 1, 2010).

Faculty Workshop: Limiting Standing to "Accidental" Plaintiffs, speaker, University of California, Davis School of Law (Oct. 5, 2009).



Peter Robinson

Settlement Conference Judge—Legal Lion or Problem-Solving Lamb: An Empirical Documentation of Judicial Settlement Conference Practices and Techniques, 33 AM. J. TRIAL ADVOC. 113 (2009).



Shelley Ross Saxer

Assessing RLUIPA'S Application to Building Codes and Aesthetic Land Use Regulation, 2 ALB. GOV'T L. REV. 623 (2009) (symposium issue).

Banishment of Sex Offenders: Liberty, Protectionism, Justice, and Alternatives, 86 WASH. U. L. REV. 1397 (2009).

California Water Rights—Who Is in Control?, panelist, Federalist Society, University of San Diego Law School (Oct. 2009).

Workshop on Real Estate Planning: Innovative Teaching and Research Strategies for Land Use and Development Law, panelist, Southeastern Association of Law Schools (SEALS) 62nd Annual Meeting (Aug. 2009).

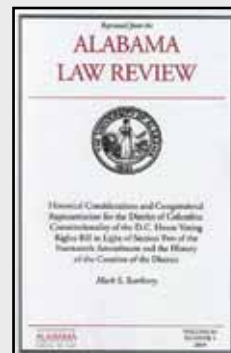


Mark S. Scarberry

A Critique of Congressional Proposals to Permit Modification of Home Mortgages in Chapter 13 Bankruptcy, 37 PEPP. L. REV. 635.

Mortgage Wars Episode V—The Empiricist Strikes Back (or Out): A Reply to Professor Levitin's Response, 37 PEPP. L. REV. (forthcoming).

John Leland and James Madison: Religious Influence on the Ratification of the Constitution and on the Proposal of the Bill of Rights, 113 PENN. ST. L. REV. 733 (2009).



Historical Considerations and Congressional Representation for the District of Columbia: Constitutionality of the D.C. House Voting Rights Bill in Light of Section Two of the 14th Amendment and the History of the Creation of the District, 60 ALA. L. REV. 783 (2009).



Kenneth W. Starr

Colloquium, *The Justices Speak: Reflections* (the third annual William French Smith Memorial Lecture: A Conversation with Retired Justice

Sandra Day O'Connor), 37 PEPP. L. REV. 63 (2009) (with the Honorable Sandra Day O'Connor, Carol A. Chase, Colleen Graffy, and Virginia Milstead).

Colloquium, *The Justices Speak: Reflections* (the second annual William French Smith Memorial Lecture: A Conversation with Justice Clarence Thomas), 37 PEPP. L. REV. 7 (2009) (with the Honorable Clarence Thomas, Shelley Saxer, Douglas W. Kmiec, and Charles R. Eskridge).

Colloquium, *The Justices Speak: Reflections—Lawyering and the Craft of Judicial Opinion Writing* (the second conversation with Justice Samuel A. Alito, Jr.), 37 PEPP. L. REV. 33 (2009) (with the Honorable Samuel A. Alito, Jr., the Honorable Michael W. McConnell, Walter E. Dellinger III, and Douglas W. Kmiec).

From Fraser to Frederick: Bong Hits and the Decline of Civic Culture, 42 U.C. DAVIS L. REV. 661 (2009) (symposium issue).



Thomas J. Stipanowich

Arbitration Awards, Finality and Second Looks, *FORDHAM L. REV.* (forthcoming).

How to Reduce Cost and Delay in Commercial Arbitration: Key Action Steps for Business Users, Counsel, Arbitrators, and Providers, (Thomas J. Stipanowich, ed., white paper for College of Commercial Arbitrators forthcoming).

Arbitration: The "New Litigation," 2010 *U. ILL. L. REV.* 1 (2010).

Lincoln's Lessons for Lawyers, *DISPUTE RESOLUTION MAGAZINE*, Winter 2010, at 18.



RESOLVING DISPUTES: THEORY AND PRACTICE FOR LAWYERS (Jay Folberg ed., 2d ed. Aspen 2010).

Address, speaker, Fifth Annual Arbitrator Training Institute, ABA Section on Dispute Resolution, Washington, D.C. (Feb. 12, 2010).

Address, facilitator, National Consumer Dispute Resolution Study Group, ABA Section on Dispute Resolution, Washington, D.C. (Jan. 15-16, 2010).

Keynote Address, speaker and cochair, National Summit on the Future of Business-to-Business Arbitration, Washington, D.C. (Oct. 30, 2009).

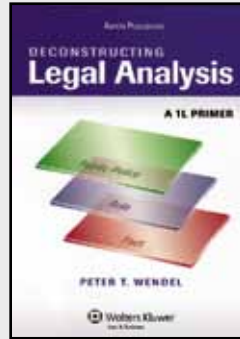
Address, speaker, STAR Mediation Program, Woodstock, Vermont (Oct. 15-17, 2009).



Peter T. Wendel

The Inheritance Rights of Adopted Adults: Trying to Fit a Square Peg into a Round Hole, speaker, Third Annual Creighton Law Review Symposium,

Estate Planning: Moral, Religious, and Ethical Perspectives (Apr. 2010).



DECONSTRUCTING LEGAL ANALYSIS: A 1L PRIMER (Aspen 2009).

Deconstructing Legal Analysis, presenter, academic success workshops for students of color, conducted at 19 law schools such as Notre Dame University School of Law, Harvard University School of Law, Boston University School of Law, Northwestern University School of Law, and Stanford University School of Law (Fall 2009 to Spring 2010).



Maureen Arellano Weston

Anatomy of the First Public International Sports Arbitration and the Future of Public Arbitration after USADA v. Floyd Landis, 2009-10 *Y.B. OF ARBITRATION AND MEDIATION* (forthcoming).

Doping Control, Mandatory Arbitration, and Process Dangers for Accused Athletes in International Sports, 10 *DISPUTE RESOL. L.J.* 5 (2009) (symposium issue).

Simply a Dress Rehearsal? U.S. Olympic Sports Arbitration and De Novo Review at the Court of Arbitration for Sport, 38 *G.A. J. INT'L & COMP. L.* 97 (2009) (symposium issue).

Arbitration Theory and Practice, speaker, Hamline School of Law (July 2009).

Ethical Issues in Representing Athletes, speaker, Sports Lawyers Conference, Chicago (2009).

Olympic Sports Arbitration, speaker, ABA Section on Dispute Resolution, New York (2009).



Did you know?

→ The School of Law faculty has produced more than 200 law review articles and 150 additional publications in the past seven years.

→ Eleven current faculty members have served as chairs or executive committee members for sections of the Association of American Law Schools.

→ Six professors are elected members of the American Law Institute, and eight professors hold endowed chairs or named professorships at the School of Law.

For more information on faculty publications, visit law.pepperdine.edu/academics/faculty

1974

TERRY M. GILES has been named custodian of the Martin Luther King, Jr., Center in Atlanta, Georgia. Giles is a lawyer, businessman, and trustee and has owned more than 30 companies, ranging from banking and manufacturing to automobile dealerships, property development, and entertainment.

1978

JOHN W. MARSHALL has become a Fellow of the American College of Trial Lawyers, an invitation-only organization comprising lawyers from the United States and Canada. Marshall is a partner in the firm Thompson & Colegate and has been practicing in Riverside, California, for more than 30 years.

1980

JOHN WENDELL HALL is the corporate counsel for Serenity Lane, a nonprofit Oregon health services corporation that provides rehabilitation services to individuals and families that are affected by addiction to alcohol or drugs. He has also attained a master's degree in addiction counseling and a master of social work from Columbia University and works as an addictions counselor, specializing in assisting judges, lawyers, and other professionals in their efforts to recover from chemical dependency.

1982

GEORGE T. BOCHANIS recently concluded his term as president of the Nevada Justice Association, formally known as the Nevada Trial Lawyers Association. He has owned his plaintiff-side personal injury and worker's compensation law firm in Las Vegas, Nevada, since 1985. He has held a Martindale-Hubbell A-V rating since 2000 and has 10 reported Nevada Supreme Court decisions.

1986

JOANNE BECKETT is now general counsel for the Tropicana in Las Vegas, Nevada. Previously she worked as general counsel for the Golden Nugget.

TRICIA A. BIGELOW was elevated to the California Second District Court of Appeal, Division Eight. She had served as an associate justice for the Second District Court of Appeal since 2008. Prior to that, she was a judge for the Los Angeles County Superior Court from 1998 to 2008 and for the Los Angeles County Municipal Court from 1995 to 1998.

1987

DONALD R. PHILBIN, JR. (JD '87, LLM '07), has been inducted as a new Fellow at the American College of Civil Trial Mediators. He is an adjunct professor at the Straus Institute for Dispute Resolution and chair of the ABA Dispute Resolution Sections Negotiation Committee. He has mediated matters in a wide variety of substantive areas and serves as an arbitrator on several panels.

1991

ANDRÉ BIROTTE was nominated by President Barack Obama to be the U.S. attorney for the Central District of California. He was sworn into office on March 4, and is the first African-American U.S. attorney for the district.

J. ROBERT FORCE is working with the United States Agency for International Development as a governance technical advisor in Phnom Penh, Cambodia. He designs, manages, and evaluates projects related to decentralization and deconcentration, governance, anticorruption, judicial reform, and trafficking in persons.

DARRIN GOWAN was named 2009 Best Major Supporting Actor in a Musical by the Encore Association, a group of vocational theatres representing central Indiana. The award recognized his portrayal of John in a production of *Miss Saigon*. He was also nominated in the category Best Minor Supporting Actor in a Musical for an ensemble role in *Crazy for You*.

1992

DARREN BROOKS was promoted to director of legal, EAME (Europe-Africa-Middle East), for Caterpillar's Solar Turbines and Turbomach divisions and will be moving to Brussels, Belgium, to oversee legal offices in Brussels; Lugano, Switzerland; and Moscow, Russia.

BENJAMIN SHATZ is now a partner at Manatt, Phelps & Phillips, LLP in Los Angeles, California. He is a certified specialist in appellate law and a member of Manatt's Appellate Practice Group. He is admitted to practice in the United States Supreme Court, in all federal circuit courts of appeals, and in the states of California and Colorado.

1993

KELLY KILGORE and Tina Denise Bowling of Oneida, Kentucky, were recently married. They have four children and live on their farm Brynderwyn in Lexington, Kentucky. He continues to practice both state and federal criminal defense and divides his time between his office in Beverly Hills, California, and his office in Lexington.

1994

ROBERT N. ERVAIS, a captain in the United States Army Reserve, Judge Advocate General's Corps, is currently deployed to the Middle East.

A woman with long dark hair, wearing a dark blue blazer and black pants, stands barefoot on a large, textured tree trunk. She is looking upwards and to the left. The background is a lush green field with a blue sky and distant hills. The overall scene is bright and natural.

When BLUE and ORANGE Met GREEN

Rhiannon Bailard (JD '06) directs
Pepperdine's Center for Sustainability

by Samantha Troup

Pepperdine's commitment to creating a sustainable campus goes all the way back to the beginning of the Malibu campus in 1972, when a water reclamation program was implemented for irrigation. Since that time Pepperdine has implemented many other practices—ranging from waste recycling to sustainable construction, maintaining native vegetation, and preserving open spaces on campus, in order to minimize environmental impact and to instill in students an eco-minded awareness.

The epicenter for these initiatives is the University's Center for Sustainability, and at the helm is Rhiannon Bailard (JD '06), an alumna who uses her law degree each day in a non-traditional way. As director of the center and associate vice president of governmental and regulatory affairs, Bailard strives to increase sustainability, educate students, faculty, and staff on ways that they can get involved, and to communicate what Pepperdine already does and what still needs to be done.

"I didn't go the traditional route of practicing at a firm, but I use my JD every day just in terms of analytic thinking," says Bailard, of her two posts. "I use my degree consistently within the regulatory world with all of the laws and regulations related to compliance as well."

After graduation, the native Hawaiian passed the California Bar Exam in 2006 and landed a job as the director of regulatory affairs at Pepperdine. Since then she has continued to ascend at the University while keeping her hand in pro bono legal work. She regularly provides legal service for Mental Health Advocacy Services in Los Angeles, where she helps children with special needs get the education and advancement opportunities they require.

"If someone had asked me what I wanted to be when I grew up, I certainly wouldn't have described this because I really didn't know," says Bailard of her multifaceted position. "But I can't imagine a better role for me or a better position. I absolutely love my job. I think it was a bit of divine intervention that I found my way here."

As she continues to develop the center's sustainability initiatives, Bailard has a vision to improve Pepperdine's triple bottom line, which involves economic prosperity, environmental quality, and social equity. She explains, "We want to tie in people's minds the connection between social and environmental sustainability because we need to do what is best for people." ■■

THE CAINS ARE ABLE



Aaron Cain



Adam Cain



Anson Cain

THE PEPPERDINE LAW LEGACY RUNS DEEP IN ONE FAMILY.

by Brad Benham

As many of you will remember, people tend to pass on one of four things when you leave for law school: fancy pen sets, lawyer jokes, advice, and more advice. Since everyone knows someone who has attended law school, everyone wants to share their two cents on how to survive the three grueling years.

I've observed that very few people give applicable advice, since law schools and law school experiences are varied. As it turns out, third-year student Anson Cain heard straight from the horse's mouth everything he needed to know about law school, as both of his older brothers—Aaron and Adam—attended Pepperdine Law before him.

His brother Aaron graduated in 2004 and now works at the firm Fennemore Craig in Phoenix, Arizona, where the Cains grew up. Adam graduated in 2006 and now works at Kaufman, Young, Spiegel, Robinson & Kenerson, LLP in Beverly Hills, California.

Was Anson pinned to the floor by his brothers until he agreed to attend Pepperdine? Surprisingly, no. "There was no pressure to attend here," says Anson. "My family has always stressed the value of receiving a quality education, and they, along with my brothers, simply advised me to select the place where I felt I would receive the best education. I took this information to heart and diligently researched schools, and through this due diligence, Pepperdine was at the top of my list."

Whether it was his family's advice or his own sound judgment, Anson followed in

his brothers' footsteps. During his three years in Malibu, Anson has been an integral member of the Pepperdine community. He has been a teaching assistant for Professor Hilary Reed (JD '05) and a research assistant for Professor Kris Knaplund, where he studied emerging legal issues in bioethics.

He has shared his own advice through the First-Year Mentoring Program, and served as editor-in-chief of Pepperdine's *Journal of the National Association of Administrative Law Judiciary*. He published an article in the fall 2009 issue, titled "Congress' First Recipe to Bailout the Financial Institutions of the United States is Leaving the Taxpayers with a Sour Taste in Their Mouths," which examined administrative law issues surrounding the financial bailout.

As Anson reflects on his experience at Pepperdine, he is reminded of why he chose the school in the first place. "As my brothers attended Pepperdine, I watched as their perception of the world changed due to their realization of what the law really means. I saw them grow into amazingly intelligent and highly-capable lawyers. I saw them both with jobs at graduation and passing the California bar on their first attempts."

Any family would be proud of three stellar Pepperdine law graduates, but the Cains' legacy may not be over just yet—Ashley Cain, Anson's younger sister, recently received her acceptance letter to join the Class of 2013. If she chooses Pepperdine, Ashley will have big shoes to fill, but as we have learned over the years, the Cains are more than able. ■

1995

RANDALL J. BRANDT is joining the Ethics and Public Policy Center in Washington, D.C., after serving for 13 years in the federal government. He is a mediator, attorney, and consultant. He is also a Senior Fellow for Convergence, a non-profit focused on consensus building efforts to find solutions to public policy challenges. He served as a senior advisor to the Ambassador-at-Large for International Religious Freedom in the Bureau of Democracy, Human Rights, and Labor at the U.S. State Department from 2007 to 2009.

• **CELESTE LIVERSIDGE** recently coauthored the book *Last One Down the Aisle Wins: 10 Keys to a Fabulous Single Life Now and an Even Better Marriage Later*. The self-help book encourages 20-somethings to become more-fulfilled persons before rushing into marriage, and outlines ways to tap into your adventurous side, develop and improve your emotional life, and create a dependable network of friends and relations.

ROGER L. LUND was sworn in on December 30, 2009, as a judge in the Ventura County Superior Court. Before his appointment by California governor Arnold Schwarzenegger, he served as a court commissioner since 2008. From 2004 to 2008 he was a principal and officer for the American Law Center, and from 1995 to 2008 he was an associate, then principal at Gose, Lechman & Lund.

1996

JAMES GRIFFIN was appointed to leadership positions of the ABA's Committee on Mergers and Acquisitions. He serves as cochair of the M&A Market Trends Subcommittee and vice chair of that committee's Task Force on Acquisitions of Public Companies.

1999

ANN BRAMSEN is the chief assistant district attorney for Northern Santa Barbara County, California, and will serve as the interim DA through June 2010.



Cervantes



Chayet



Lennox



Liversidge

KESTER L. SPINDLER was honored for his domestic violence pro bono work at the Sanctuary for Families Above and Beyond Pro Bono Awards and Benefit on November 2, 2009. He is a partner at Kirkland & Ellis.

2000

JASON M. ADAMS was named as a 2009 Rising Star in the area of personal injury and construction defect litigation. He currently works for Domine Adams, LLP.

JASON BENDEL is now special counsel at Stroock & Stroock & Lavan, LLP in Los Angeles, California. Since joining Stroock in 2000, he has represented clients in both state and federal courts on matters including insurance bad faith and securities disputes.

CARY JOY ECONOMOU is also special counsel at the Los Angeles branch of Stroock & Stroock & Lavan, LLP. She devotes a substantial portion of her practice to serving as coverage and litigation counsel to domestic and international insurance in matters pertaining to various forms of professional liability coverage.

2001

MIKE CAVA completed tours as the Staff Judge Advocate (SJA) for Regimental Combat Team 1, Fallujah, Iraq; SJA Humanitarian Assistance Survey Team, Colombo, Sri Lanka; and the SJA Humanitarian Assistance and Disaster Relief mission, Manila, Philippines. He is a marine judge advocate currently stationed in Okinawa, Japan.

E. TODD CHAYET was promoted to counsel at Tucker Ellis & West LLP in Los Angeles, California. He focuses his practice in the areas of medical and pharmaceutical litigation and appellate and legal issues. In 2008 he was identified among *Los Angeles Magazine's* Southern California Super Lawyers as a Rising Star.

SEAN FLYNN (MBA '00, JD '01) is now a partner at the office of Ropers Majeski in Los Angeles, California.

CHRISTIAN PHANCO (MBA '00, JD '01) has been promoted to assistant vice president and tax counsel of Pacific Life Insurance in Newport Beach, California. He joined Pacific Life in 2002 as a senior analyst for the Advanced Designs Unit in the Life Insurance Division. While there, he was promoted several times before moving to the Corporate Division as a tax counsel.

2002

DANIEL (MBA '01, JD '02) and **ELENA BATSALKIN** welcomed daughter Lyla Aleksandra Batsalkin on November 28, 2009. She joins older brother Maksim.

MICHAEL RAPKINE published the book *A Compendium of Notable Legal Quotations* (Outskirts Press).

CREIGHTON D. SEBRA was named partner at Morris Polich & Purdy located in Los Angeles, California. He specializes in construction litigation.

2003

ARASH S. ARABI was made partner at Bremer Whyte Brown & O'Meara, LLP in Los Angeles, California. He practices complex civil litigation.

JANET G. CERVANTES (UHLER) and husband **RENO CERVANTES** (JD '04) welcomed their son Hunter James Cervantes into the world on December 24, 2008.

NATHAN T. NEWMAN was promoted to counsel at Tucker Ellis & West LLP in Los Angeles, California. He focuses his practice on products liability, toxic tort, and business litigation.

RYAN YAHNE of Winston & Cashatt in Spokane, Washington, was named one of Washington's Rising Stars. He is one of 22 lawyers recognized statewide in the construction litigation category. He is the only LEED-accredited lawyer in all of eastern Washington. His practice focuses on contract formation, litigation, arbitrations, Miller Act claims, bid protests, bond claims, construction liens, and public works bond and retainage claims.

2004

PAIGE HREN and her husband welcomed their son Max Hren into the world on August 14, 2009.

JULIE MCGOLDRICK (BA '92, JD '04) and **JED WHITE** (JD '04) welcomed daughter Sadie into the world on November 4, 2009 in Santa Monica, California.

2005

WENDY MCGUIRE COATS together with **DANIEL L. COATS** (JD '08) officially launched McGuire Coats LLP on March 25, 2010 in Lafayette, California.



McGoldrick



Newman



Sebra



York

AMY COTTON, an attorney at Quarles & Brady, has been appointed to the Mayor's Commission on Disability Issues in Phoenix, Arizona. Her practice includes advising clients on state and federal regulatory issues and representing clients before state professional boards. While on the Mayor's Commission she will work to achieve equality for people with disabilities within the city of Phoenix.

CHRIS DE ROSE has joined the congressional election campaign for Republican Sean Duffy. As campaign manager he will be based in Ashland, Wisconsin. Previously he served as director of Election Day operations for Virginia governor Bob McDonnell.

BROOKE N. STEPHENS (STRUCK) and husband K. J. Stephens welcomed their daughter Harper Mae Stephens into the world on September 3, 2009.

2006

■ **RYAN C. LENNOX** and wife Ainsley have welcomed their son Owen Ryder Hnatiw Lennox into the world. Ryan has also joined the firm of Strikeman Elliot in Toronto, Canada, where he will continue to practice corporate law.

2008

BRAD BENHAM married Janelle Strawsburg on May 23, 2010, in Camarillo, California.

KENDRA CAMPBELL (WILLIAMS) is now assistant chief counsel for the Department of Homeland Security, Immigration and Customs Enforcement in Arizona.

JEFFREY B. HASSLER has joined the headquarters office of the international law firm McGuireWoods, LLP in Richmond, Virginia, as an associate in the Private Wealth Services Department. He will focus his practice on estate planning and trust administration. He clerked for Justice Donald W. Lemons of the Supreme Court of Virginia during the 2008-2009 term.

STEVEN G. MARTIN was hired by Best Best & Krieger to join its environmental and natural resources practices group in Riverside, California. He was formerly a summer associate with the firm in 2008.

2009

JONATHAN M. LAMB (JD/MPP '09) has joined the firm of Best Best & Krieger, LLP in Ontario, California, where he grew up. He had previously worked as a summer associate at the firm in 2008. He was admitted to the State Bar of California in December.

IN MEMORIAM

BRIAN R. CARTER, SR. (JD '70), retired judge of the Orange County Harbor Judicial District Court and decorated combat veteran, passed away on April 14, 2010. He was predeceased in 2001 by his first wife Marty. He is survived by his wife Ann, six children, eight grandchildren, and four great-grandchildren.

JACQUELINE B. KESSEL (JD '92) head of the Silicon Valley office of San Francisco-based law firm Hanson Bridgett, passed away on February 16, 2010. She is survived by her husband Rolf, daughter Olivia, and her son Anthony.

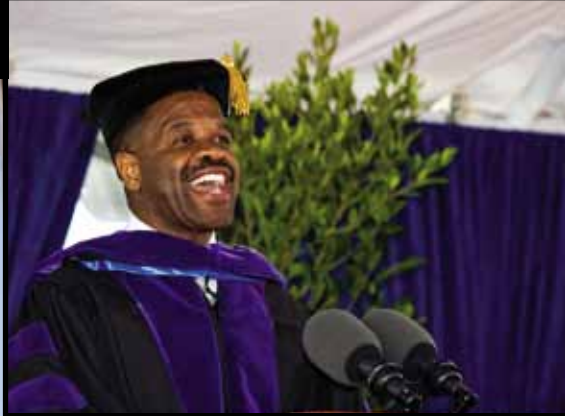
LELAND GRIFFITH SHAFFER (JD '72) passed away on January 8, 2010. Rear Admiral Leland Griffith "Jake" Shaffer USN (Ret.) had an illustrious naval and military career before he was admitted to the California Bar in 1972 and began a law practice in Long Beach, California, specializing in family law. He is survived by three children, nine grandchildren, and eighteen great-grandchildren.

LUCILLE "LOU" A. TEIXEIRA (JD '72) passed away on March 14, 2010, after a brief illness. Born July 26, 1932, she was the ninth child of Frank and Juliana Teixeira and the adored youngest sibling to surviving sisters, Mary, Hilda, and Alda. After retiring in 1986, she moved to Sun City, California, where she began a 20-year career as a volunteer working on behalf of seniors and senior issues.

■ **KENNETH YORK**, a distinguished Professor Emeritus of Pepperdine, passed away on December 31, 2009, at the age of 93. Having enjoyed good health up until his passing, he still lived in the same house that he and his wife Louise purchased in the Topanga Canyon area of Los Angeles in 1955. As a former Marine and widely respected professor of law, he was vital in helping to build up Pepperdine's early reputation. Speaking at his memorial service, vice chancellor and Dean Emeritus Ron Phillips said, "Ken York was a caring, gentle man, with a generous spirit, a strong sense of right and wrong, and a marvelous dry, understated sense of humor that often caught the uninitiated off guard at first... Ken York left his mark on Pepperdine Law School and on thousands of law students at all of the places where he taught."

GRADUATION 2010

Pepperdine celebrated commencement for the Class of 2010 on May 21, in Alumni Park. Blake Morant, dean of the Wake Forest University Law School addressed the graduates. André Birotte (JD '91), United States Attorney for the Central District of California, was the recipient of the Distinguished Alumnus Award.



Blake Morant addresses graduates.



André Birotte receives the Distinguished Alumnus Award.



Dean Ken Starr and Alice Starr wave goodbye to the graduates.



PEPPERDINE UNIVERSITY

School of Law

24255 Pacific Coast Highway
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Ray Boucher (JD '84), Jim Gash (JD '93), John Napier (JD '09), and David Barrett (JD '91) walk with Ugandans at a displaced persons' camp. Photo by Jay Milbrandt (JD '08).



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