Law Faculty Publications and Projects

Following is a list of publications and other achievements by many members of the Law School faculty for calendar years 1997 and 1998. In many cases, only a few highlights from a person’s list of achievements are given. Some faculty and academic staff members are not represented, because they did not have a chance to respond to the call for information. This collection of publications and activities can be viewed, therefore, as a sampler of the varied work going on at the UW Law School in many subjects and many arenas. Two future projects of a more comprehensive nature are planned: a “Faculty Directory” projected for Fall 1999, and a “Faculty Publications” brochure.


Professor Baldwin has taken emeritus status, chiefly to fulfill the challenging duty of visiting 62 Rotary clubs in Wisconsin as District Governor for Rotary District 6250 in 1999-2000. His Rotary responsibilities will also take him to other U.S. cities and to Singapore.

STEVEN BARKAN. Professor Barkan, Director of the Law Library, published “Chapter 2: Special Ethical Considerations” (co-authored with Barbara S. Hughes in Advising Older Clients and Their Families (State Bar of Wisc., 1997) and “Teaching Practice Skills in Law School: The University of Wisconsin Experience” in The Bar Examiner, Vol. 67, No. 1, February 1998.

PETER CARSTENSEN. Associate Dean Carstensen reports the success of the third annual Antitrust in Energy Markets workshop, run jointly in May 1998 by the Law School and the Wisconsin Public Utility Institute of the Business School. This is a 2.5-day intensive program to introduce lawyers, executives and public officials to the rules and concepts of antitrust law as they relate to the deregulating of energy industries. A second program, on Antitrust in Telecommunications Markets, also takes place once a year. Carstensen’s co-instructors were Jade Eaton, a senior trial attorney from the US Department of Justice Antitrust Division, one of the primary staff lawyers on most energy cases; and Jerome Hochberg, a partner in a major DC law firm who has done antitrust litigation on energy issues all the way to the Supreme Court.


R. ALTA CHARO. For the 1998 Spring Semester, Professor Charo was in California at Stanford University Medical School, as a Senior Fellow at the Program in Genomics, Ethics and Society at the Stanford Center for Biomedical Ethics. Charo, who holds a joint appointment in the Law School and Medical School, has been a member of the President’s National Bioethics Advisory Commission since 1996, and was primary drafter of several chapters of the Commission’s report “Cloning Human Beings,” 1997, a topic on which she also testified before the Senate. She also gave a Congressional Briefing in 1997, “The Effect of Abortion Politics on Biomedical Research Funding.” In Spring 1998, she was one of ten UW faculty members to receive a $50,000 Romnes Fellowship, a grant which “rewards new professors who are making an immediate mark on their fields.”


WILLIAM (LARRY) CHURCH. Professor Church was awarded the degree of Honorary Doctor of Law by the
University of Giessen Law School in Germany, in May 1998, in recognition of his career achievements in legal education. The UW Law School has cooperated in an exchange program with Giessen since 1985, and Church has been an active contributor. In the German newspaper article that was published following the awards ceremony, he was cited for his contribution to legal education in developing countries, including Ethiopia, Afghanistan, Zambia and Indonesia, and for his pioneering work in environmental law, constitutional law, and criminal law. Finally, he was commended for being a “supporter of clear expressions”—a proponent of clear legal language and readable articles. Professor Church’s monograph (in Indonesian and English) on law teaching methodology was published by the ELIPS Project in Indonesia, 1998.


KENNETH DAVIS. Dean Davis continues to serve as a member of the American Bar Association’s Corporate Laws Committee, which is responsible for the Model Business Corporation Act, the model for corporate laws in a majority of states, including Wisconsin. He will now chair that committee’s new task force on directors’ conflicts of interest. His law review article “Corporate Opportunity and Comparative Advantage” is forthcoming in the Iowa Law Review. In March, he was one of a group of six law school deans invited to meet with Attorney General Janet Reno to discuss issues facing law school admissions policy. In June, he and Emeritus Professor Zigurs Zile journeyed to Lima, Peru, to celebrate the 30th anniversary of the “Wisconsin Boys” who visited the Law School in the late 1960s and early ‘70s (see article in this issue reprinted from Wisconsin Week).

WALTER DICKEY. The paper “Three Strikes: Five Years Later,” prepared by Professor Dickey and research specialist Pam Hollenhorst, was issued in November 1998 in the series “Public Policy Reports” by the Campaign for an Effective Crime Policy. Professor Dickey also chaired the Campaign’s conference “Crime and Politics in the 21st Century” in Washington D.C. in November 1998. Dickey, former director of the Wisconsin Division of Corrections and an authority on prison issues, has been named to the panel working on revising the Wisconsin Criminal Code in connection with the new “truth in sentencing” law. He co-authored with Professor Michael Smith the much-commented-on article “What If Corrections Were Serious About Public Safety?” 2 Corrections Management Quarterly 12–30 (Summer 1998).

HOWARD ERLANGER. Professor Erlanger’s draft of the new Wisconsin Probate Code was passed by the Legislature in March 1998 and signed into law by the governor in May 1998. It went into effect Jan. 1, 1999. Erlanger also completed Wisconsin’s New Probate Code: A Handbook for Practitioners, published Fall 1998 by the Law School’s Continuing Legal Education and Outreach Department (CLEW). A six-page article which Erlanger wrote, describing the probate code changes, appeared in Wisconsin Lawyer (Oct. 1998). Erlanger is the new Director of the Law School’s Institute for Legal Studies. In addition, in a surprise phone call in November, Professor Erlanger was told that Lawyers and the Pursuit of Legal Rights, a book he co-authored twenty years ago, was one of two books to win the Reginald Heber Smith Book Award from the National Equal Justice Library. His co-authors for the book were former UW Law Professor Joel Handler and research associate Ellen Jane Hollingsworth. The congratulatory message to Professor Erlanger included the following explanation: “If you’re wondering why a book you wrote in 1978 is receiving an award this year, it’s because this is the first year of these awards, and any books on this subject written in the 20th century were considered.”

KEITH FINDLEY. Professor Findley of the Remington Center litigated a significant case in the U.S. Supreme Court in late 1997: as co-counsel with Professor James Liebman of Columbia University Law School, Professor Findley successfully litigated Lindh v. Murphy, 521 U.S. 320, 117 S. Ct. 2059 (1997), in which the Supreme Court ruled that the habeas corpus provisions of the Antiterrorism and Effective Death Penalty Act of 1996 may not be applied retroactively to habeas petitions pending at the time of the Act’s enactment. On remand, Professor Findley argued successfully in the Seventh Circuit that Lindh’s con-
frontation clause rights had been violated during his Wisconsin insanity trial by the trial court’s refusal to allow cross-examination of the state’s psychiatric expert witness for bias arising from the expert’s own impending criminal charges.

Professor Findley also joined the Remington Center’s John Pray in successfully litigating State v. Shonna Hobson (see description in entry for John Pray).

TED FINMAN. Emeritus Professor Finman contributed “‘Hate Speech’ Codes in Theory and Practice,” to Academic Freedom on Trial: 100 Years of Sifting and Winnowing at the University of Wisconsin–Madison 186–199 (UW Press, 1997).

MARTHA (MEG) GAINES. Meg Gaines, who began in her new position as Assistant Dean for Student and Academic Affairs this summer, has also been occupied in putting together the Patient Advocacy Project for the Law School’s Frank J. Remington Center. This course, a joint clinical offering of the Law School and the Medical School, pairs law and medical students together to advocate for cancer patients.


HERMAN GOLDSTEIN. Emeritus Professor Goldstein has been named to a fellowship with the New York-based Open Society Institute, part of the Soros Foundations Network. He will serve as a Senior Soros Justice Fellow with the Center on Crime, Communities and Culture. The Center seeks to enhance safety in communities by fostering better understanding of crime and more effective responses to it. Goldstein will spend much of next year researching new directions for urban policing. Since joining the faculty in 1964, he has gained national and international attention for his more than 40 years of research and writing on police discretion, police function, the political accountability of the police, and the control of police-citizen contacts. In 1997 he published “Problem-Oriented Policing: Restructuring the Delivery of Police Service,” in Problem-Oriented Policing: Towards Best Practice 5–11.

MICHELE CAMMERS GOODWIN. Ms. Goodwin, one of this year’s William H. Haste Fellows, presented papers at: the 23rd Annual Law & Mental Health Conference in Paris; the 1998 Critical Legal Studies Conference (Lancaster, England); and the Mid-Atlantic People of Color Legal Scholarship Conference (Rutgers University, New Jersey); gave a talk at the University of Kentucky on “Women, Affirmative Action and the Law”; and coordinated and spoke at the Race, Class and Education Workshop on Brown v. Board of Education at the UW Law School.

LINDA GREENE. Professor Greene was one of three featured speakers at the September 1998 symposium “Historical Perspectives on Race and Law in the United States,” which was co-sponsored by the Law School and the Department of Afro-American Studies. She presented the results of her study of Gaines ex rel Missouri v. Canada, the first Supreme Court decision to reject exclusion of African-Americans from state-supported higher (legal) education, with particular emphasis of Missouri’s response to that decision. She also published “Hate in the Cloak of Liberty,” in Academic Freedom on Trial: 100 Years of Sifting and Winnowing at the University of Wisconsin–Madison 176–185 (UW Press, 1997).


CHARLES IRISH. Professor Irish participated in a training program for Chinese lawyers in October 1998 in Shanghai, lecturing on the effects of the East Asian Financial Crises on international trade laws and policies. Wisconsin Bar Association President Susan Steingass also lectured. In November, he lectured on US trade laws and policies at a training program for the Taiwanese Ministry of Economic Affairs.

LEONARD KAPLAN. Professor Kaplan was installed as president of the International Academy of Law and Mental Health this June in Paris, at the academy’s 23rd International Congress, where Kaplan chaired a panel on “Law, Psychology and Literature,” and delivered a paper entitled “The Metaphysics of Responsibility: The Philosophical and Political Limits of Human and Group Agency.” Professor Kaplan also worked on organizing this October’s conference in memory of Professor Fannie LeMoyne, “Living with Divinity: The Place of the Spiritual in Academic Discourse.” Kaplan won a Villas Associate Award in the humanities division in 1998, for a project in which he is studying the implications for our understanding of criminal law and criminal responsibility that can come from fiction accounts of crime and its investigation. He published “A Poetics of Transgression and Forgiveness” in 4 Graven Images 250–265, the journal which he co-edits with English professor Andrew Weiner.
BETTY KARWEICK. Ms. Karweick, a Law School lecturer in legal research, spoke in October 1998 at the Midwestern Regional Law Librarian Conference, LibraryFest MidWest, held in Milwaukee. She highlighted developments in teaching legal research strategies to law students and attorneys in an age of “sound bites and Sesame Street.”

BEN KEMPINEN. Professor Kempinen supervised 25 second-year law students who completed internships in 20 district attorney offices during summer 1998 as part of the Remington Center’s Prosecution Project. Under the supervision of local prosecutors, students conducted pre trial conferences and hearings, and, in some instances, tried cases before juries. Kempinen presented talks at the winter and summer State Prosecutors’ Conferences on ethical issues of significance to prosecutors, and he is a member of the Wisconsin District Attorney Association’s Ad Hoc Committee on Revision of the Ethical Rules on prosecutor conduct with unrepresented defendants.

JOHN KIDWELL. Professor Kidwell, winner of the 1997 Law School Teacher of the Year Award, will serve as the new chairperson of the drafting committee for contracts questions for the National Conference of Bar Examiners, responsible for composing the questions for the Multistate Bar Examination.

BRUCE KITTLE. Through an arrangement between the Law School and the Department of Corrections, Professor Kittle of the Remington Center’s Restorative Justice Project is working to develop victim-offender conferencing as part of the Dane County Enhanced Supervision Project. In June, Professor Kittle’s work was honored by UW Chancellor David Ward as a “University Community Partnership.”


KATHERINE KRUSE. Professor Kruse, of the Law School’s Frank J. Remington Center, published the article “Race, Angst and Capital Punishment: The Burger Court’s Existential Struggle” in 9 Seton Hall Constitutional Law Journal (Fall 1998).

STANLEY KUTLER. Professor Kutler edited and wrote the introduction and commentary to Abuse of Power: The New Nixon Tapes (New York: Free Press, 1997).

JANE LARSON. Professor Larson’s book Hard Bargains: The Politics of Sex, co-authored with Linda Hirshman, was published by the Oxford University Press in 1998. She also received a grant from the Land Tenure Center to pursue further research on land and housing conditions along the Texas-Mexico border, and published “ ‘Even a Worm Will Turn at Last’: Rape Reform in Late Nineteenth Century America,” 9 Yale Journal of Law and the Humanities 1 (1997).

MICHELE LAVIGNE. Professor Lavigne, of the Remington Center, was appointed in 1997 to the Wisconsin Attorney General’s Task Force on Children in Need. Both she and Meg Gaines worked on the faculty of the National Criminal Defense College, Macon, Georgia, and the Institute for Criminal Defense Advocacy, California Western Law School, in San Diego. She is currently at work on a mock trial program at the Wisconsin School for the Deaf, in Delavan.


ARTHUR McEVOY. Professor McEvoy was a co-creator of the photo and text exhibit, “Slavery and Freedom in Wisconsin,” which was on display in the Law School atrium throughout October to mark the Wisconsin Sesquicentennial. With numerous photographs and documents from the Wisconsin State Historical Society, this exhibit presented the little-known history of Wisconsin’s African-American population through the end of the Civil War. Preceding the official opening on Sept. 27, an overflow crowd attended the related Sesquicentennial Symposium, “Historical Perspectives on Race and Law in the United States,” whose speakers included two Law School alumni, Lea VanderVelde and Anthony Baker, and Professor Linda Greene. Professor McEvoy also published “Markets and Ethics in US Property Law,” in Who Owns America?: Social Conflict over Property Rights, ed. Harvey M. Jacobs and Kurt Brown (UW Press, 1998).

STEPHEN MEILI. Professor Meili published “Cause Lawyers and Social Movements: A Comparative Perspective on Democratic Change in Argentina and Brazil,” in Cause Lawyering: Political Commitments and Professional Responsibilities, Sarat and Scheingold, eds. (Oxford U. Press, 1998) and presented the paper “Latin American Cause Lawyering Networks” at the annual meeting of the Law & Society Association, in

His paper “Paradigms for Prevention and Resolution Conflict: Experiences of the Consumer Law Litigation Clinic at the University of Wisconsin Law School” was presented at the UCLA/IALS Fourth International Clinical Conference, Los Angeles, in 1997. In April 1998, he presented an overview of state and federal consumer protection laws in a continuing legal education seminar entitled “Protecting Consumers for Fun and Profit,” sponsored by the Wisconsin State Bar. In June 1998, the Consumer Law Litigation Clinic, which Professor Meili directs, received a grant from the Consumer Protection Committee of the State Bar to publish a legal manual informing Wisconsin consumers of their rights and obligations in a wide variety of situations, including consumer loans, credit cards, automobile repairs, insurance claims, and fraudulent sales tactics.


RICHARD MONETTE. Professor Monette, director of the Great Lakes Indian Law Center, completed the supplement for the Clinton, Newton casebook on Indian law and “American Constitutionalism and Indian Tribes: An Old World to a New,” a chapter for American Constitutional History at the Millennium, ed. Van Burkleo. He finished drafting the constitution of the Eastern Band of Cherokee (surrounded by North Carolina), and the Saginaw Chippewa (surrounded by Michigan). He completed his term on the Environmental Protection Agency’s advisory committee on Environmental Justice, and was appointed to another EPA advisory committee dealing with application of Title VI (the Civil Rights Act) in the environmental arena, and completed his term as president of the National Native American Bar Association.

BEVERLY MORAN. Professor Moran published “Exploring the Mysteries: Can We Ever Know Anything about Race and Tax?” in 76 University of North Carolina Law Review 101 (1998); and Taxation in Eritrea (Wisconsin Center on Law and Africa, 1998); and has made numerous presentations, including talks at Duke University Law School and Georgetown University Law Center on “A Black Critique of the Internal Revenue Code,” based on a historical article of the same name that she co-authored with Professor William Whitford (1996 Wisconsin Law Review 751–820).


JOHN PRAY. Professor John Pray of the Remington Center recently won a significant case in the Wisconsin Court of Appeals on the subject of prosecutorial misconduct, State v. Lettice, Slip. Op. No. 97–3708–CR (July 21, 1998). In Lettice, the Court of Appeals held that the defendant’s double jeopardy rights would be violated by retrial, where his conviction was vacated on the ground of egregious prosecutorial misconduct (the prosecutor charged the defendant’s attorney with a crime on the eve of trial, and dropped the charge as soon as the defendant was convicted). The State declined to petition for review in the Wisconsin Supreme Court. Professor Pray, along with Remington Center Professor Keith Findley, also successfully defended dismissal of the charges against the defendant in State v. Shonna Hobson, 218 Wisc. 2d 350, 577 N.W.2d 825 (1998). In Hobson, the Wisconsin Supreme Court abrogated the common rule that a citizen has the right to use force to resist an illegal arrest. However, on ex post facto grounds, the Court upheld dismissal of the charges against Ms. Hobson, who tried to prevent the police from taking her five-year-old son into custody for allegedly stealing a bicycle.

MARY BARNARD RAY. Ms. Ray, a legal writing specialist who conducts the Law School’s Individualized Instruction Service, writes the regular column “In Plain English” for Wisconsin Lawyer. Recent columns include “Writing Good


DAVID SCHULTZ. Associate Dean Schultz, director of Continuing Legal Education and Outreach (CLEW), reports the success of the 34th annual ALI-ABA Summer Program at UW, co sponsored by CLEW in 1998. Titled “Estate Planning in Depth: A Comprehensive Review of the Principles and Techniques of Lifetime and Testamentary Planning,” the program featured a faculty of experts from around the U.S. The week-long program, attended by approximately 210 participants, received the highest ratings of any program that year and perhaps the highest ever—among the top five in the history of the long-standing cooperative program between CLEW and the ALI-ABA.


MICHAEL SMITH. Professor Smith, in collaboration with the Wisconsin Department of Corrections, has received a grant to conduct four seminars a year with judges, academics and corrections professionals to search for more satisfactory ways to use the combination of the sentencing power and the corrections system to achieve important societal objectives, including justice and safety. Smith is also collaborating with scholars from Harvard and Minnesota in leading the National Executive Seminar on Sentencing and Corrections. This group of scholars and policy-makers also meets four times a year and focuses on issues related to the corrections system. Professor Smith co-authored with Professor Walter Dickey the article “What If Corrections Were Serious About Public Safety?” 2 Corrections Management Quarterly 12-30 (Summer 1998).


CLIFF THOMPSON. Professor Thompson returned full-time to the Law School in Fall 1997 after serving more than four years as the Legal Education Adviser to the Government of Indonesia, the world’s most populous Islamic country, on an economic law project of the
government and USAID. He assisted the 26 public law schools to strengthen their capacity to teach the coming generation of lawyers, conducting training programs for 100 faculty full-time for one semester, 100 faculty full-time for one month, and 1600 teachers and lawyers in one- or two-day workshops. He was in residence at the University of Indonesia, and learned the Indonesian language for this project, which produced and published six basic books and produced three new sets of teaching materials and revisions of ten others. His documentation of the project, “Analysis of Economic Law Curriculum and Faculty in the 26 Public Law Schools of Indonesia, 1992-93 through 1996-97,” was published by the ELIPS Project of the Ministry of Finance of Indonesia, 1998.


FRANK TUERKHEIMER. Professor Tuerkheimer, who was associate prosecutor for the Watergate Special Prosecution Force, testified on Sept. 9 before the Constitutional Law Subcommittee of the Senate Judiciary Committee on the possibility of indicting a sitting president, in connection with Independent Counsel Kenneth Starr’s report on alleged offenses by President Clinton. Tuerkheimer’s recently released electronic evidence text, Evidence: Theory and Practice, (Lexis-Nexis, 1997) is the first of its kind. Currently, he has undertaken representation of an indigent person on death row in Alabama, and has four UW law students assisting on the case. He also published “United States v. Martinez on Appeal: The Disturbing Anatomy of Harmless Error,” 21 American Journal of Trial Advocacy 269–291 (1997). Tuerkheimer received a Vilas Associate Award in the social studies division in January 1998, for his investigation of the fifth amendment, the privilege against self-incrimination.

