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THE UNIVERSITY OF TENNESSEE

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**BUSINESS FACULTY NOTES**

**Professor Iris J. Goodwin** presented her current research project “Cy Pres and Rawlsian Public Reasoning: An Informative Bridge From Private Orderings to Public Good” during a New Scholars Workshop at the Southeastern Association of Law Schools annual meeting and New Scholars Conference this July in Palm Beach, Florida. She is also developing a new seminar for the College of Law curriculum titled “Ownership and Justice,” to be offered for the first time in the Spring 2007 term.

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**Professor Joan Heminway** presented a paper entitled "Sex, Trust, and Corporate Boards" at the Law and Society Association and Southeastern Association of Law Schools meetings in July. This essay, which will be published in a forthcoming issue of the *Hastings Women’s Law Journal*, collects and interprets social science research on sex and trust and uses this work to shed new light on the emerging case for gender diversity on corporate boards. In addition, three publications written by Professor Heminway came out in print this past summer: *Martha Stewart Saved! Insider Violations of Rule 10b-5 for Misrepresented or Undisclosed Personal Facts or Transactions*, 65 MD. L. REV. 380 (2006); *Caught in (or on) the Web: A Review of Course Management Systems for Legal Education*, 16 ALB. L.J. SCI. & TECH. 265 (2006); and *Acquisition Escrows in Tennessee: An Annotated Model Tennessee Acquisition Escrow Agreement* (with Timothy M. McLemore), 7 TRANSACTIONS: TENN. J. BUS. L. 273 (2006). She also presented a lecture on choice of business entity to students in the Engineering Entrepreneurship MS/MBA graduate program co-sponsored by the College of Engineering and the College of Business. Professor Heminway was quoted in the October 2 issue of *Agenda* regarding current concerns of corporate directors. In October, she was elected to The American Law Institute, an organization established to promote clarification of the law and its better adaptation to social needs, to better secure the administration of justice, and to encourage and carry on scholarly and scientific work.
Professor Amy Morris Hess was selected to receive the 2005 Treat Award for Excellence from the National College of Probate Judges in recognition of her significant contributions to the improvement of probate and trust law. The award was presented at the College’s annual banquet in November. In October 2005, Professor Hess was elected to membership in the American College of Trust and Estate Counsel. In addition to teaching and mentoring, Professor Hess continues to work on updates and revisions to Bogert: The Law of Trusts and Trustees.

Professor Jeff Hirsch was recently quoted in a Washington Post article about a major National Labor Relations Board decision that set forth a new analysis for classifying workers as supervisors under the National Labor Relations Act. Professor Hirsch’s article "The Rise And Fall Of Private Sector Unionism: What Next For The NLRA?" (co-authored with Barry Hirsch) will be published in the Florida State University Law Review. He also presented his article, "Taking State Property Rights Out Of Federal Labor Law," at the First Annual Colloquium on Current Scholarship in Labor & Employment Law, held at the Marquette University School of Law. Professor Hirsch coaches the Robert F. Wagner National Labor & Employment Moot Court team, conducted by the New York Law School Moot Court Association, which will compete in March in New York City.

Professor George Kuney received the Harold C. Warner Outstanding Teacher Award at the University of Tennessee College of Law’s annual awards banquet. His article “The Intersection of Chapter 11 and UCC Article 9” was published in the August 2006 issue of the American Bankruptcy Institute Journal. His casebook, Contracts: Transactions and Litigation, which was co-authored by Professor Robert Lloyd, was published by Thomson/West. Professor Kuney also attended the Southeastern Association of Law Schools conference in Palm Beach this summer and spoke on “Contract Law and Teaching: Transactions and Litigation.” Currently Professor Kuney, with the assistance of third-year law student Josh Ganz, is preparing the next edition of Legal Drafting in a Nutshell, which addresses the theory and practice of drafting contracts, instruments, and legislation. An expanded second edition of Professor Kuney’s The Elements of Contract Drafting with Questions and Clauses for Consideration was published this Fall by Thomson/West. Working closely
with Center for Entrepreneurial Law Research Associate Mathew Petri, he is also completing a manuscript entitled *Bamboozled: An Entrepreneur’s Journey from Business Success to Legal Failure*, covering the *Baystate v. Bowers* copyright case and its aftermath, which he hopes to publish in 2007.

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**Professor Becky Jacobs** article, “Brazil's Agricultural Trade War: Success and Failure on the Southern Route to Antarctica” appears in the Spring 2005 edition of the *University of Miami Inter-American Law Review*. Her article, “The Post-Apartheid City in the New South Africa: A Constitutional Triomf?” will appear in the Fall volume of the *Pace International Law Review*. Professor Jacobs taught two courses, “Cross-Cultural Communication in International Dispute Resolution and Creative Conflict Prevention and Community Improvement,” at the Georgia State University Summer Legal and Policy Study in Rio de Janeiro, in consortium with Florida International University and Seattle University. University of Tennessee will join the consortium for the 2007 program. While in Rio, Professor Jacobs spoke at a seminar on Environmental Law and Women’s Health at the Fundação Oswaldo Cruz (“FioCruz”), an entity associated with the Brazilian Ministério da Saúde (Ministry of Health) that is similar to our CDC. Professor Jacobs made her presentation entitled “The Importance of Environmental Law to Women’s Health,” in Portuguese. Professor Jacobs also taught transaction-related courses in the South African Black Lawyer’s Association Commercial Law Training Program in July and August of 2006. As part of a team of lawyers associated with the International Senior Lawyers Project, Professor Jacobs reported on the 2004 offshore oil auction process in the Joint Development Zone of Nigeria and São Tomé and Principe. She continues to work with the Knoxville mediation community. In 2006, the University of Tennessee College of Law Mediation Clinic, which she directs, and the Community Mediation Center conducted a joint training program for civil mediators. Professor Jacobs coached student Moot Court teams in two separate competitions in 2005-2006: the ABA’s Representation in Mediation Competition and the Philip C. Jessup International Law Moot Court team. The Jessup team advanced to the Semi-Finals at the Regional level.

Professor Robert Lloyd’s contracts casebook, co-authored with Professor George Kuney, Contracts: Transactions and Litigation, was published by Thomson/West. The book explores contract law doctrine from a transactional planning perspective as well as from a hindsight driven litigation perspective, focusing on modern case law as well as many of the classic cases in the field. Professor Lloyd’s article, "Proving Lost Profits After Daubert: Five Questions Every Court Should Ask Before Admitting Expert Testimony," will appear in the Winter issue of the University of Richmond Law Review. Anyone interested in obtaining a copy can email him at rlloyd@utk.edu. Soon, Professor Lloyd will be writing a chapter about Pennzoil v. Texaco, which resulted in an $11 billion verdict against Texaco and forced Texaco into a Chapter 11 bankruptcy, in a book entitled Trial Advocacy Stories. The book is authored by noted trial lawyer Michael Tigar, who defended Terry Nichols in the Oklahoma City bombing case.

Professor Carl Pierce’s article, “Client Misconduct in the 21st Century” was published in the University of Memphis Law Review and can be found at 35 U. MEM. L. REV. 731 (2005). The article, part of a larger examination of ABA Model Rule 1.2(d), examines the Rule’s specification of the client’s conduct that a lawyer may not encourage or assist—criminal or fraudulent conduct. It examines the client conduct embraced by this prohibition and argues for the broadening of the prohibition to include additional misconduct, such as breaches of fiduciary duty, intentional torts, and wrongful discharge of a lawyer for complying with the lawyer’s professional responsibilities. Professor Pierce continues to serve as a reporter for the Tennessee Bar Association Standing Committee on Legal Ethics and Professional Responsibility, which is reviewing and generating proposals for revision of the Tennessee Rules of Professional Conduct in light of the approval by the ABA in 2002 of the recommendation of its Ethics 2000 Commission for revision of the ABA’s Model Rules of Professional Conduct. In
collaboration with Karen Britton, Director of Admissions and Career Services at the College of Law, Professor Pierce helped coordinate the presentation by the Knoxville Chapter of the Association of Legal Administrators of a four-part lunch and learn program on the “Business of Practicing Law.”

Professor Thomas Plank recently made a presentation, “Cost Savings From Securitization: Avoiding the Bankruptcy Tax on Secured Credit,” as part of Teaching Consumer Law: The Past, Present and Future of Consumer Law, sponsored by University of Houston Law Center’s Center for Consumer Law. Professor Plank was also recently appointed as a member of the Editorial Advisory Board of American Securitization, the publication of the American Securitization Forum, which is a forum for participants in the U.S. securitization market. Professor Plank’s article, “Calamities in the Assignment of Receivables under Article 9: Structural Incoherence and Filing,” will be published in Volume 68 of the Ohio State Law Journal in early 2007, as part of a symposium on Commercial Calamities. Professor Plank has been invited to present an article criticizing the 2006 Supreme Court’s decision abrogating state sovereign immunity in bankruptcy, Central Virginia Community College v. Katz, at a symposium on Katz and related issues of bankruptcy and federalism at St. John’s University Law School with Martin Reddish (Northwestern School of Law) and Elizabeth Gibson (University of North Carolina School of Law). The article will be published in the American Bankruptcy Institute Law Review. After that, he will present his article, “The Good Trumps the Bad and the Ugly in the 2005 Bankruptcy Code Amendments,” at a symposium “Shredding the Safety Net: A Critical Examination of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005,” and he will publish the article in the Southern Illinois University Law Review.

Professor Gary Pulsinelli’s article, “Share and Share Alike: Increasing Access to Government-Funded Inventions under the Bayh-Dole Act,” can be found at 7 MINN. J. L. SCI. & TECH. 393 (2006). He subsequently presented this paper as part of a panel on "Incentives and Invention" at the Conference on Patent Policy in the Supreme Court and Congress, held at Santa Clara University School of Law. Professor Pulsinelli was also invited to comment on a paper entitled “Are Patents an Efficient and Internationally Fair Means of Funding R&D for New Medicines?” at the Ethics and the Business of Biomedicine Conference held at the University of Tennessee. He has recently completed an article entitled “Freedom to Explore: Using the
Eleventh Amendment to Liberate Researchers at State Universities from Liability for Intellectual Property Infringements” and submitted it for publication.

**Professor Greg Stein** has been elected to membership in the American College of Real Estate Lawyers. He also has been elected to the position of Chair-Elect of the Real Estate Transactions section of the Association of American Law Schools. Two of Professor Stein’s articles will be published shortly: “Nuance and Complexity in Regulatory Takings Law,” which will appear in the *William & Mary Bill of Rights Journal*, and “Acquiring Land Use Rights in Today’s China: A Snapshot from on the Ground,” which will be published in the *UCLA Pacific Basin Law Journal*. Professor Stein also has accepted an invitation to speak at a conference on mortgage law in honor of Professor Dale Whitman, who will be retiring.

**Professor Paulette J. Williams** teaches the Business Law Clinic. She and her students are working on several projects for new businesses, non-profits, and community organizations. Professor Williams takes office as the President of the Clinical Legal Education Association in January 2007, and continues to serve on the Executive Committee of the Clinical Section of the Association of American Law Schools. She is also the Co-chair of the Legal Educators Committee of the Forum on Affordable Housing and Community Development of the American Bar Association. Her most recent publications include “Preservation of Affordable Housing,” which can be found in Chapter 12 of the ABA LEGAL GUIDE TO AFFORDABLE HOUSING (Tim Iglesias and Rochelle E. Lento, eds.), and *Making a Difference: A Role for Lawyers in Economic Development*, 15 J. OF AFFORDABLE HOUSING AND COMMUNITY DEV. L. 20 (FALL 2005), a book review of SUSAN R. JONES, LEGAL GUIDE TO MICROENTERPRISE DEVELOPMENT (2004).