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# Transactions

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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 last July in Palm Beach, Florida. She has developed a new seminar for the College of Law curriculum titled “Ownership and Justice,” which she is teaching for the first time this spring semester.

Professor Joan Heminway edited and co-authored a book, Martha Stewart’s Legal Troubles, which was released by Carolina Academic Press at the end of 2006. Press surrounding the book includes: a podcast featuring Professor Heminway and one of her co-authors, Stetson University College of Law Professor Ellen Podgor, available at http://instapundit.com/archives2/2006/12/the_glenn_and_helen_show_a_mar.php; articles in the Knoxville News Sentinel and the Nashville Tennessean; and a lengthy feature story and interview in the March 12 Corporate Crime Reporter. In part because of the book, Professor Heminway recently spoke at the monthly luncheon meeting of the East Tennessee Association for Female Executives. Her talk entitled “Martha Stewart Went to Jail. Why? Who Cares?,” covered questions of public concern emanating from the criminal and civil actions brought against Martha Stewart. Professor Heminway also presented a paper on March 9 on executive disclosure duties under the federal securities laws at a research forum sponsored by the University’s Corporate Governance Center and was the featured presenter at the March 14 continuing legal education seminar, “Basics of Business Law,” hosted by the Tennessee Bar Association’s TennBarU and Young Lawyers Division as part of their cosponsored Skills Enhancement Series. On March 30, Professor Heminway was one of six invited speakers at the 20th Annual Business Law Symposium hosted by the Wake Forest Law Review. Her talk was entitled “Disclosure of Personal Facts About Executive Officers: A Proposal for Tailored Disclosures to Encourage Reasonable Investor Behavior.” The related article will be published in a forthcoming issue of the Wake Forest Law Review.
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 co-authored an article, “The Rise and Fall of Private Sector Unionism: What Next for the NLRA?,” that was accepted to appear in the Florida State University Law Review. He was also featured in an opinion piece in the Rocky Mountain News (Denver, Colorado) recently. Columnist Linda Seebach wrote, “Will the Internet kill the National Labor Relations Act? That’s the intriguing question raised by Jeffrey Hirsch, who teaches at the University of Tennessee College of Law in Knoxville. His thesis, briefly, is that the use of e-mail as a tool of union organizing will strain the already creaky procedures of the National Labor Relations Board to the point where unions might increasingly bypass it entirely. And without union support, it will be vulnerable to pressure from opponents who would prefer to do away with it entirely, but would probably settle for slowly reducing its budget and its influence.”

Linda Seebach, Editorial, Computer Age Poses Tricky Questions About Unionizing, ROCKY MTN. NEWS, Jan. 20, 2007. Professor Hirsch’s article, “The Silicon Bullet: Will the Internet Kill the NLRA?,” which Linda Seebach’s article was premised upon, has been accepted for publication by the George Washington Law Review. Professor Hirsch is also the recipient of this year’s Marilyn V. Yarbrough Faculty Award for Writing Excellence for his article, “Taking State Property Rights Out of Federal Labor Law,” which appeared in the Boston College Law Review.
Professor George Kuney, with students Matthew Petrie and Richard White, is preparing an amicus brief in an action originating in the Federal District Court in Chattanooga. The action challenges the so-called “means test” and income and expense guidelines of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 as being violations of the bankruptcy clause of the United States Constitution. Because the provisions of the Act provide different income and expense levels for different states and even within states, amicus argues that the uniformity requirement of the Constitution is not met. Professor Kuney’s articles “Successor Liability in Alabama,” “Successor Liability in Maryland,” “Successor Liability in New York,” “Successor Liability in Michigan,” “Successor Liability in Tennessee,” “Successor Liability in Vermont,” and “Successor Liability in Pennsylvania” will be published in the Alabama Lawyer, the Maryland Bar Journal, the New York Law Journal, the Michigan Bar Journal, the Tennessee Bar Journal, the Vermont Law Journal, and Pennsylvania Bar Association Quarterly, respectively. The articles are state-specific spin-offs of “A Taxonomy and Evaluation of Successor Liability,” which can be found at 3 Fla. St. U. Bus. Rev. 1 (2006). Another of Professor Kuney’s articles, “Slipping into Mootness,” is being published in the 2007 Annual Survey of Bankruptcy Law, a Thomson/West peer-reviewed journal. The article discusses the doctrines of constitutional, equitable, and statutory (11 U.S.C. §§ 363(m) & 364(e)) mootness and, especially in the case of statutory mootness, how aggressive use of the doctrine may unduly squelch the appellate review rights of objecting parties. Professor Kuney’s most recent contract drafting article, “To the Best of Whose Knowledge,” appears in the April issue of the California Bankruptcy Law Practitioner. Professor Kuney’s new treatise, California Law of Contracts, co-authored with Adjunct Professor Donna C. Looper, is being published by The University of California’s Continuing Education of the Bar (CEB) division. Professor Kuney is also one of four co-authors of the new American Bankruptcy Institute book Chapter 11 – 101 which is also set for release in April and is working to complete his Bamboozled book project by the end of June 2007.

Professor Becky Jacobs’s paper entitled, “PMS HAHAcronym: Perpetuating Male Superiority” was recently listed on SSRN’s Top Ten download list for “Women, Gender & the Law.” Her next piece pertains to a successful female self-help housing project in South Africa. She was selected to serve on the Board of the Knox County Community Mediation Center and also is serving on the Organizing Committee for “Energy & Responsibility: A
Conference on Ethics and the Environment,” to be held in Knoxville in 2008. Professor Jacobs developed a course, “Public Health Law & Policy: Global and Comparative Perspectives,” that she will co-teach with Dr. Karen Gieseker as part of the Georgia State University Summer Legal and Policy Study in Rio de Janeiro, in consortium with Seattle University and the University of Tennessee. In that program, she also will teach “Comparative Environmental Law: Urban Issues” jointly with GSU’s Professor Colin Crawford and Professor Fernando Walcacer, Professor of Law, Director of the Environmental Law Nucleus and Coordinator of the Environmental Law Post-Graduate Program at the Pontifical Catholic University School of Law in Rio de Janeiro. Professor Jacobs is scheduled to participate on a panel discussing negotiation pedagogy at The 2007 Southeastern Association of Law Schools annual meeting. She continues to work with the Knoxville mediation community. Again, in 2007, the University of Tennessee College of Law Mediation Clinic, which she directs, and the Community Mediation Center conducted a joint training program for UT law students and Rule 31 civil mediators. Professor Jacobs coached student Moot Court teams in two separate competitions in 2006-2007: the ABA’s Representation in Moot Court competition and the Philip C. Jessup International Law Moot Court team.

Professor Don Leatherman recently spoke at the October meeting of the tax section of the American Bar Association. He also spoke at a seminar sponsored by the Practicing Law Institute. His article, “Four Consolidated Regulations and a Revenue Ruling: § 1.1502-35, § 1.1502-47T, § 1.1502-76T(a), § 1.1502-77T, and Rev. Rul. 2006-11,” will be published in *Tax Strategies for Corporate Acquisitions, Dispositions, Spin-Offs, Joint Ventures, Financings, Reorganizations and Restructurings 2005* 849 (Practicing Law Institute 2006). In May, Professor Leatherman will be leading a panel at the American Bar Association meeting to discuss the proposed consolidated loss disallowance rules.

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. 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 Lloyd’s article, “Proving Lost Profits After Daubert: Five Questions Every Court Should Ask Before Admitting Expert Testimony,” was published in the January issue of the University of Richmond Law Review.

Professor Carl Pierce’s article, “Client Misconduct in the 21st Century” was published in the University of Memphis Law Review – 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 - i.e., 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 Pierce’s article “Representing One Client At A Time In Connection With The Formation And Organization Of A Corporation” is featured in this Issue of Transactions.

Professor Thomas Plank participated in a symposium on federalism and bankruptcy that focused on the January 2006 Supreme Court decision, Central Virginia Community College v. Katz, which held that a state's sovereign immunity did not prevent a bankruptcy trustee from recovering a preferential transfer to a state agency under the Bankruptcy Code. The symposium was held on February 9 at the St. John’s Law School in New York City. Professor Plank shared a panel with Professors Martin Redish of Northwestern University Law School and Ralph Brubaker of the University of Illinois School of Law. At the symposium, Professor Plank presented a paper entitled “State Sovereignty in Bankruptcy after Katz,” arguing that a state retains

Professor Gary Pulsinelli's article entitled “Freedom to Explore: Using the Eleventh Amendment to Liberate Researchers at State Universities from Liability for Intellectual Property Infringements” will be published in the May 2007 volume of the Washington Law Review. His previous 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-Knoxville.

Professor Greg Stein's article, “Nuance and Complexity in Regulatory Takings Law,” has been published in the William and Mary Bill of Rights Journal. His book review, “Doomed to Re-Repeat History: The Triangle Fire, The World Trade Center Attack, and the Importance of Strong Building Codes,” has been accepted for publication by the St. John's Journal of Legal Commentary. The article reviews two books and describes how building codes often are strengthened immediately after calamities and then slowly relaxed as time passes without incident. He has also agreed to co-author a second edition of his book A Practical Guide to Commercial Real Estate Transactions, which will be published by the American Bar Association in 2008. Professor Stein's article, “The Chinese Land Use Right: Is It Property?,” will appear in a symposium issue of Probate and Property focusing on Chinese real estate law. Professor Stein has been asked to serve for a second year as a Peer Reviewer for the Fulbright Senior Specialists Program.
Program. He will review applications from candidates who wish to be placed on the Fulbright Senior Specialists Roster for a term of five years. Professor Stein also is the recipient of this year’s W. Allen Separk Faculty Scholarship Award.

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. During 2006-2007, she presented two Business Law Workshops in conjunction with the City of Knoxville’s Equal Business Opportunity Program. Professor Williams took office as the President of the Clinical Legal Education Association in January 2007, and in that capacity has testified before the American Bar Association’s Accreditation Task Force on the role of Accreditation Standards in improving legal education. She continues to serve on the Executive Committee of the Clinical Section of the Association of American Law Schools and 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,” 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).