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**BUSINESS FACULTY NOTES**

**Professor Iris J. Goodwin** spent the Fall 2007 term visiting at the University of Richmond Law School where she taught Property for first-year students, in addition to Gratuitous Transfers. While there, she presented her most recent article, “What is Public about Public Charity: Robertson v. Princeton and the Frustrations of Cy Pres Reform,” at a Faculty Workshop.

**Professor Joan Heminway** recently wrote an article, emanating from her comments at an academic roundtable last spring, entitled “Hell Hath No Fury Like an Investor Scorned: Retribution, Deterrence, Restoration, and the Criminalization of Securities Fraud under Rule 10b-5.” The article was released in the University of Maryland School of Law’s *Journal of Business & Technology Law* Vol. 2 No. 1 earlier this fall. That same publication was number 1 on the Social Science Research Network’s Top Ten List for “CL: Causes & Consequences of Crime” based on the number of downloads of that paper within a 60-day period from September to November 2007. Another one of her papers, “Personal Facts About Executive Officers: A Proposal for Tailored Disclosures to Encourage Reasonable Investor Behavior,” recently published in Vol. 24, No. 3 of the *Wake Forest Law Review*, made SSRN’s Top Ten List for “Law & Society: Public Law.” Additionally, Professor Heminway led a group discussion on the question “Does Sarbanes-Oxley Foster the Existence of Ethical Role Models?” at a forum sponsored by the University of Tennessee’s Corporate Governance Center, and she spoke on the same question at the University of Maryland School of Law’s October 2007 conference entitled “The Sarbanes-Oxley Act of 2002, Five Years Later: Assessing its Impact, Charting its Future.” Professor Heminway also gave a continuing legal education seminar at the New York office of Skadden, Arps, Slate, Meagher & Flom, LLP in October 2007 entitled “What Corporate Lawyers Can Learn (About the Law) from Martha Stewart.” Finally, in November 2007, Professor Heminway was a panelist at a Drexel University program entitled “‘No Seat at the Table.’ A Discussion of Women and Corporate Boards.”
Professor Amy Morris Hess was named the Williford Gragg Professor of Law in June 2007. She is in the process of replacing several volumes of the multi-volume treatise *Bogert, The Law of Trusts and Trustees* and also prepares annual pocket parts for all volumes of the work. Thompson-West published her most recent pocket parts in the summer of 2007 and published her replacement volume dealing with the history of the law of trusts, restatements and uniform laws relating to trusts, and several other aspects of trust creation in the fall of 2007. Another replacement volume dealing with the scope of trustees’ investment duties and beneficiaries’ remedies for breach is in progress. In October 2007, Professor Hess presented a continuing professional education program entitled “Estate Planning Council of the Emerald Coast in Destin, Florida.” At the request of students in the Business Clinic, she was the principal speaker at an estate planning workshop for low-income homeowners.

Professor Jeff Hirsch recently served as a moderator at the American Constitution Society for Law and Policy and West Virginia University College of Law’s conference entitled “Reversing Field: Examining Issues of Commercialization, Race and Labor in 21st Century Sports Law,” moderating the panel “Balls or Strikes: Are Economic Weapons Finding the Zone?” Professor Hirsch also presented his paper entitled “Regulatory Pragmatism in the Workplace,” proposing a single, universal law governing all termination claims as a means to minimize the confusion that currently exists on the subject, at the Second Annual Colloquium on Current Scholarship in Labor and Employment Law held at the University of Colorado Law School and the University of Denver Sturm College of Law. Professor Hirsch’s essay “Taking States Out of the Workplace,” questioning the efficiency of permitting state regulation of the workplace, will be published in the Yale Law Journal Pocket Part. Additionally, Professor Hirsch’s “Understanding Employment Law,” which he co-authored with Professors Rick Bales (Northern Kentucky) and Paul Secunda (Mississippi) has been published by LexisNexis as part of its Understanding series.

Professor George Kuney had the second edition of his *Legal Drafting: Process, Techniques, and Exercises*, co-authored with Prof. Emeritus Thomas Haggard of the University of South Carolina School of Law, published by West as part of its American
Casebook Series. This work parallels the authors’ *Legal Drafting in a Nutshell*, which West also published earlier this year. A CD-ROM edition of Prof. Kuney’s book “Chapter 11 – 101,” co-authored with Professor Jack Ayer, Michael Bernstein, and Jonathan Friedland, was published by the American Bankruptcy Institute earlier this fall, as well. Additionally, the *Hastings Business Law Journal* will publish Prof. Kuney’s article “What Your Lender and Mortgage Broker Didn't Tell You: A Proposal for Increased Disclosure of Purchase Money Borrower Protections and their Loss on Refinance,” an article particularly relevant during the current real estate market downturn in California and other locations.

**Professor Becky Jacobs’** article, “Unbound by Theory and Naming: Survival Feminism and the Women of The South African Victoria Mxenge Housing and Development Association,” will appear in an upcoming edition of the UCLA Women’s Law Journal. She also contributed an essay, “The Red-Headed Step Child Matures: A Lexical Examination and (Unscientific) Survey of Expanded Clinical Experience in U.S. Law Schools,” to the Tennessee Law Review as part of its Charles Miller Legal Clinic 60th Anniversary Symposium edition. Professor Jacobs also organized and moderated a panel on “Expanding Clinical Experiences” at the symposium. She also participated in a roundtable discussion on “Teaching Negotiation” at the annual SEALS conference in the summer of 2007 and a panel addressing “Coalition Building, Globally and Locally” at the LatCrit VII in Miami in October 2007. Also in October 2007, she provided introductory remarks at the Mediation Day Award Luncheon in honor of University of Tennessee Professor Emeritus Grayfred Gray. In the Georgia State University Summer Legal and Policy Study in Rio de Janeiro, in consortium with Seattle University and the University of Tennessee, Professor Jacobs designed and taught Public Health Law & Policy: Global and Comparative Perspectives and co-taught International Environmental Law with the Program’s Director Professor Colin Crawford. She also continues to work with the Knoxville mediation community. 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 Rule 31 certified mediators seeking to become CMC volunteer mediators. Professor Jacobs again coached student Moot Court teams in two separate competitions in 2006-2007: the ABA’s Representation in Mediation Competition and the Philip C. Jessup International Law Moot Court team.
Professor Don Leatherman moderated a panel discussing the proposed unified loss disallowance rules for consolidated groups at the May meeting of the American Bar Association tax section. At the October meeting of the ABA tax section, Professor Leatherman moderated a panel on the history of the consolidated return regulations. In November, Professor Leatherman participated on a panel discussing asymmetric acquisitions at the University of Chicago Federal Tax Institute. Professor Leatherman will submit an article on asymmetric acquisitions to be published in the December issue of TAXES that will follow up on his presentation at the University of Chicago Federal Tax Institute. Also in November, Professor Leatherman is scheduled to speak on current developments for consolidated groups at the Practicing Law Institute’s Los Angeles meeting on Mergers, Acquisitions, and Joint Ventures. Additionally, his article entitled “The Proposed Unified Loss Disallowance Rules” is forthcoming in *Tax Strategies for Corporate Acquisitions, Dispositions, Spin-Offs, Joint Ventures, Financings, Reorganizations and Restructurings 2007* (Practicing Law Institute 2007).

Professor Robert Lloyd’s article, “Discounting Lost Profits in Business Litigation: What Every Lawyer and Judge Needs to Know,” appears in this issue. Chapters by Professor Lloyd will also appear in forthcoming books. *Trial Advocacy Stories* edited by Michael Tigar and Angela Davis will contain Professor Lloyd’s chapter describing the multi-billion dollar lawsuit arising out of the battle for control of Getty Oil Company. *The Complete Guide to Lost Profit Damages* will include Professor Lloyd’s chapters on discounting future damages and excluding the testimony of lost profits experts.

Professor Alex B. Long recently presented his paper entitled “Retaliatory Discharge and the Ethical Rules Governing Lawyers” at the Second Annual Colloquium on Current Scholarship in Labor and Employment Law held at the University of Colorado Law School and the University of Denver Sturm College of Law. The paper will also be published in an upcoming issue of the University of Colorado Law Review. Professor Long’s article “The Troublemaker’s Friend: Retaliation Against Third Parties and the Right of Association in the Workplace” will be published in the Winter 2007 issue of the Florida Law Review.
Professor Carl Pierce published “Representing One Client at a Time in Connection with the Formation and Organization of a Corporation” in Volume 8 Issue 2 of Transactions, and he is currently working on two follow-up pieces: one covering joint representation in the same context and the other dealing with representing an entity to be formed without representation of any of the promoters. Professor Pierce is also working with University of Tennessee Professor Judy Cornett on a professional responsibility course book to be published by Thompson West in 2009. Professor Pierce continues to serve as Chairperson of the Tennessee Supreme Court Task Force on the Study of Self-Represented Litigant Issues.

Professor Thomas Plank gave a presentation in August on “Legislative Proposals for Regulating Mortgage Finance-Federal v. State Regulations, Subprime Mortgages, and Predatory Lending,” describing possible Congressional responses to the Supreme Court’s decision in Watters v. Wachovia Bank, N.A. (decided April 17, 2007), upholding the OCC’s ability to preempt state regulation of mortgage lenders and to the current market conditions in the mortgage market that saw a large increase in the foreclosure rates for sub-prime mortgage loans, as part of the panel on the “United States Supreme Court and Legislative Preview: Economic Rights and Regulation” at the Southeastern Association of Law Schools’ annual meeting. In October, as part of the “Bankruptcy From a Government Perspective Seminar” sponsored by the National Association of Attorneys General (NAAG) and States’ Association of Bankruptcy Attorneys (SABA), Professor Plank travelled to Chicago to participate in an analysis of “What’s Left Post-Katz?” 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 from a state agency a preferential transfer to the state agency under the Bankruptcy Code.

Professor Gary Pulsinelli’s article “Freedom to Explore: Using the Eleventh Amendment to Liberate Researchers at State Universities from Liability for Intellectual Property Infringements” appeared in 82 WASH. L. REV. 275 (2007) (available on Professor Pulsinelli’s SSRN page, http://ssrn.com/author=880362). He has recently completed an article entitled “Harry Potter and the (Re)Order of the Artists: Are We Muggles or Goblins?” (also
available on his SSRN page) and submitted it for publication. This paper made SSRN’s Top Ten List for “Property, Citizenship & Social Entrepreneurism.” Professor Pulsinelli also presented this paper in a talk at the Gordon Ford College of Business at Western Kentucky University. He is currently working on completing his article “Fixing Festo: How the Foreseeability Test for the Doctrine of Equivalents Punishes Innovation (and What to Do about It),” which he presented last summer as a work in progress at the Intellectual Property Scholar’s conference held at DePaul University.


Professor Maurice E. Stucke participated in round-table discussions in Chicago earlier this year hosted by the Institute for Consumer Antitrust Studies and the Competition Law Forum of the British Institute of International and Comparative Law, which focused on single firm dominance from a comparative EU-US perspective. His recent article, “Better Competition Advocacy,” which will be published in St. John’s Law Review, questions the assumption that the free market is a self-initiating, self-correcting sphere operating independent of the government, and outlines how the government may play a key role in providing or promoting the necessary institutions for our industries to remain or become competitive.
Professor Paulette J. Williams teaches the Business Law Clinic. She is President of the Clinical Legal Education Association for 2007, and she serves on the Executive Committee of the Clinical Section of the Association of American Law Schools. She is actively involved in efforts to reform legal education, including dissemination of Best Practices for Legal Education published by CLEA in 2007, and participation in a conference on “Legal Education at the Crossroads: Ideas to Action, Part I” held at the University of South Carolina in November 2007. Professor Williams is the co-chair of the Legal Educators Committee of the Forum on Affordable Housing and Community Development of the American Bar Association. Her current scholarship is in the area of homeownership for low income people. She presented her article as a work in progress at a conference on “Affordable Housing and Public/Private Partnership: The Intersection of Housing, Property and Real Estate” at the University of Colorado Law School in October 2007.