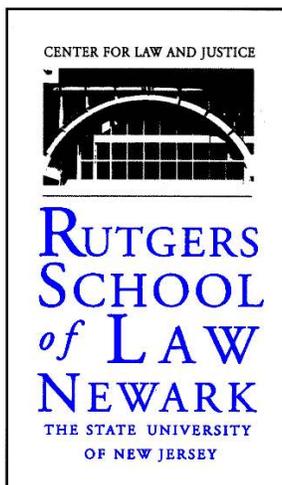


# RUTGERS LAW SCHOOL NEWS

March 2004



## ***Two \$500,000 Gifts to Bolster Library Holdings, Scholarship Funds***

The law school has been awarded two \$500,000 challenge grants – one in memory of alumnus Samuel J. Foosaner '34, a prominent New Jersey tax attorney who died in 1988, and the other by a benefactor who wishes to remain anonymous.

The grant made by Foosaner's daughter, Dee Negroni-Hendrick, and the Foosaner Foundation of Cocoa, FL, will be used to augment the library's collection of print and electronic tax and estate planning materials. With more than 500,000 volumes, the library is New Jersey's most comprehensive law library and a major resource for law faculty, students, the entire legal community, and the public.

Samuel J. Foosaner was a practicing tax attorney for more than 50 years and the author of some 500 articles and books on taxes and estate planning, including *Your Will: Don't Leave Life Without It*. He was founder, president, general and tax counsel of the Foundation Life Insurance Company of America; chairman of the National Federal Tax Lawyers Committee; and a frequent adviser to members of Congressional tax panels. The *New Jersey Law Journal* (Jan. 19), *New Jersey Lawyer* (March 1), *Star-Ledger* (Feb. 20), *Florida Today* (Jan. 10), and *Orlando Sentinel* (Jan. 12) reported on the gift.

The second \$500,000 grant has been earmarked for scholarships. The gift will enable the law school to increase both the number of students who receive scholarships and the funds available for scholarships.

## ***John Payne Named Board of Governors Distinguished Service Professor***

John M. Payne, Professor of Law and Justice Frederick W. Hall Scholar, has been named a Rutgers Board of Governors Distinguished Service Professor. The professorship recognizes sustained and exceptional service by a faculty member to the academic profession, to the state or nation, or to the broader community.

Professor Payne was honored principally for his pioneering work in establishing the legal basis for providing affordable housing to low and moderate income residents in New Jersey and nationally. For more than 20 years he has been the key participant in the *Mt. Laurel* cases, which have established the requirement that growing suburban communities include provisions for low and moderate income housing in their zoning regulations. He also has been a major force for historic preservation in New Jersey and critical to protecting the work and legacy of American architect Frank Lloyd Wright.

A member of the law faculty since 1971, Payne served as Associate Dean from 1976 to 1981 and from 1986 to 1991, and has chaired most standing and special committees at the law school. The *Star-Ledger* (Feb. 27), *Daily Targum* (Feb. 20), and *Focus* (Feb. 23) reported the honor.

## ***Professors Tractenberg, Mark, Dickerson Receive Academic Excellence Fund Grants***

Recipients of Rutgers University's first Academic Excellence Fund awards include three members of the law school faculty – Professors Paul Tractenberg, Gregory Mark and Claire Dickerson. The AEF provides support for forward-thinking, interdisciplinary proposals that enhance the university's primary missions of teaching, research and service.

The interdisciplinary Institute on Education Law and Policy, of which Professor Tractenberg is founding director, has since its establishment in 2000 addressed several education policy issues. The AEF grant will help fund its most recent project, which is a study of the elements that characterize successful urban schools and development of strategies for replicating the models.

The AEF grant to Professor Mark supports his development of the Center for Institutional Governance. The Center will support faculty research in governance issues of corporate, non-profit and small public entities, as well as outreach to the legal and governance communities.

The Global Legal Studies program, with Professor Dickerson as co-director along with Professor Saul Mendlovitz, supports academic study, clinical programs, and faculty scholarship across a broad range of international and comparative law issues.

### ***Kurtz Named Acting Coordinator of Pro Bono Activities***

Madeleine Kurtz has been appointed Acting Coordinator of Pro Bono Activities and the Eric Neisser Public Interest Program. She previously taught at New York University School of Law, where she co-directed a clinical program that served families of children in foster care.

Kurtz received her J.D. from Columbia, where she was a Harlan Fiske Stone Scholar. She began her career as a staff attorney with the Legal Aid Society in New York. At NYU, where she was first a lawyering instructor and then a clinical professor, Kurtz was involved in numerous community service and policy projects and training programs.

“Rutgers-Newark is an exciting and special place,” says Kurtz, “filled with a unique history of participation in legal change and an energy for public service. I look forward to enhancing opportunities for students to learn about and experience public sector work, to encouraging students to incorporate public service into their life paths, and to assisting them in developing and realizing their career goals.” Her plans include increasing student pro bono placement opportunities, inviting practitioners from local public interest offices to talk about their work, holding roundtable discussions on current public interest issues, and developing a guide for public interest opportunities for students. She already has worked with faculty, administration, and students on several projects, including increasing funding for public service summer grants and holding information sessions on post-graduate fellowship opportunities.

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## **CLINIC NEWS**

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The Civil Practice Rules Committee has recommended that the New Jersey Supreme Court allow limited fee shifting in successful state constitutional cases. The recommendation stems from a six-year-old **Constitutional Litigation Clinic** proposal to allow fee-shifting in public interest cases. The *New Jersey Law Journal* and *New Jersey Lawyer* (March 1) included comments on the proposed rule change by Professor Frank Askin, director of the Clinic.

In a Feb. 9 editorial, the *New Jersey Law Journal* supported the Clinic’s lawsuit seeking to restore voting rights for those on probation or parole following a felony conviction. The suit was filed in Union County Chancery Court in February. A hearing is scheduled for April 1. Askin co-authored an article in the Feb. 4 *Philadelphia Inquirer* on the lawsuit, which was the subject of a Copley News Service column by Phyllis Schlafly on Jan. 21 and a March 12 *Record* opinion piece.

On the eve of a citizen suit to be filed by the **Environmental Law Clinic** and Natural Resources Defense Council on behalf of the NY/NJ Baykeeper, Hackensack Riverkeeper and NRDC, the U.S. EPA issued an administrative order requiring Occidental Chemical and Tierra Solutions to

study contamination and remediation of the Newark Bay. The present dioxin contamination of the Bay and the blue crabs eaten by many members of minority communities originated from a Newark plant that produced Agent Orange and dumped dioxin byproducts directly into the Passaic River. The EPA's Feb. 13 order came in response to the Clinic's November 2003 letter giving 90 days notice of intent to file suit, a procedure required by the citizen suit statute. The order addresses contamination in the Bay and related waters for the first time – government agencies addressed pollution at the plant site in 1984 and made certain parts of the Passaic River a Superfund site in 1994, but until now have ignored downstream pollution.

A six-student litigation team and Clinical Professors Robin Greenwald, Carter Strickland and Susan Kraham worked on the matter. The Clinic will monitor the procedures relating to and progress on action taken under the administrative order to ensure that the EPA follows up with a meaningful investigation and cleanup.

On March 12, the Appellate Division vacated and remanded a coastal and wetlands permit issued by NJDEP for a commercial development that would adversely impact sensitive wetlands and vernal habitat. David Trindell, a 3L in the Clinic, argued the matter before a three-judge panel. Clinic students Andrea Cesena and Carol DeMarco assisted on the appellate briefs under the supervision of Associate Clinical Professor Thomas Borden. After the oral argument Judge James Ciancia praised the excellent written and oral advocacy of the clinic students.

The March 8 issue of *Focus*, the Rutgers University faculty and staff newspaper, devoted a page to the clinical programs at the Newark and Camden law schools.

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## FACULTY NOTES

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A March 23 panel on community association law sponsored by the Institute for Continuing Education will include **Professor Frank Askin**.

**Assistant Professor Karima Bennoune** spoke at the March 12 symposium Rethinking Reconstruction After Iraq, sponsored by the University of California-Davis School of Law's *Journal of International Law & Policy*, and was one of the speakers at the Feb. 24 "RightsNight" on the Rutgers-Newark campus.

**Assistant Professor Vera Bergelson** was the commentator on a paper by Stuart Green entitled "What's Wrong With Bribery?" at the March 5-6 Conference on the Theory of the Criminal Law's "Special Part," held at the Louisiana State University Law Center.

"The Relation Between Autonomy-Based Rights and Profoundly Mentally Disabled Persons" by **Professor Norman Cantor** was published in the Winter 2004 edition of *Annals of Health Law*. The article is adapted from a chapter in his book, DECIDING FOR THE PROFOUNDLY MENTALLY DISABLED, to be published early next year by M.I.T. Press. Cantor spoke on Feb. 11 at a public seminar on The Right to Die that was sponsored by the Stein Scholars Program at Fordham Law School.

**Esther Canty Barnes**, Associate Clinical Professor and Director of the Special Education Clinic, will be honored on April 17 by the Association of Black Women Lawyers of New Jersey for making "significant strides in encouraging, protecting and preserving our youth." Canty-Barnes is spending March 9-19 at the University of Novi-Sad, Serbia, as part of Rutgers program

for the ABA-CEELI Balkan Law School Initiative. She is teaching interviewing and trial skills to law students and conducting a mock trial.

**Associate Dean Ronald Chen** has been reelected vice president of the U.S. Rowing Association.

“There Ought to Be a Law Against That!” was the title of **Professor Sherry Colb’s** Feb. 24 Criminal Law Workshop at Fordham Law School.

**Professor Claire Dickerson** was invited by Seattle University School of Law’s Center on Corporations, Law & Society to discuss “Corporate Governance and Corporate Social Responsibility: The North-South Dialogue and a Response to Shareholder Privacy” on Feb. 19

In February **Associate Professor Suzanne Goldberg** participated in a panel discussion on *Lawrence v. Texas* at Seton Hall Law School and a debate at Brooklyn Law School, and presented “Thinking About Sexual Freedom: *Lawrence v. Texas*, Janet Jackson, and Where Do We Go From Here?” at the South Texas College of Law *Law Review* symposium. Her March presentations include “Morality, Emotion, and the Law” at Emotion and the Law, the Harvard *Women’s Law Journal* Annual Conference; “In the Name of the Children” at the Fifth Annual Peter M. Cicchino Awards Program at American University Washington College of Law; and at Washington College of Law’s workshop on Feminism and Legal Theory Project: Celebrating 20 Years of Feminist Pedagogy, Praxis and Prisms.

On Feb. 6 **Professor Tanya Hernandez** discussed “Social Perspectives on *Brown*” at the University of Pittsburgh School of Law’s 50<sup>th</sup> anniversary symposium on *Brown v. Board of Education*. On Feb. 19 she was a panelist for “A Comparative International Perspective on *Brown*” at the annual colloquium of the NYU *Review of Law and Social Change*. Feb. 21 she moderated a panel on “Examining *Grutter & Gratz*: Where Do We Go From Here?” part of a symposium sponsored by the University of Pennsylvania’s *Journal of Constitutional Law*. On March 11 Hernandez presented “To Be *Brown* in Latin America and the Caribbean” as part of the spring seminar series of the Rutgers Institute on Ethnicity, Culture and the Modern Experience.

Federalism and preemption issues as they relate to state regulation were covered by **Assistant Clinical Professor Carter Strickland** of the Environmental Law Clinic as part of a Feb. 18 ICLE panel on MTBE contamination of drinking water.

At NYU Law School on Jan. 20 **Professor Paul Tractenberg** discussed school funding and educational reform as illustrative of the power of public interest lawyering.

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## STAFF & STUDENT NEWS

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**Associate Dean Fran Bouchoux** was a panelist at the Middlesex County Bar Association’s March 4 workshop on “Affirmative Action Survives: The U.S. Supreme Court Decisions in the University of Michigan Cases.” On March 8, she served as co-facilitator of a workshop on gender issues in the legal profession before the Justice Morris Pashman Inn of Court.

**Assistant Dean Ken Padilla** was elected a New York delegate to the 2004 Democratic National Convention.

**Brenda Liss**, executive director of the **Institute on Education Law and Policy**, and associate director Alan Sadovnik, professor of education and sociology at Rutgers-Newark, will present a workshop on “The Impact of Charter Schools and Other Forms of Choice on the Reform of Urban Education” at the National Conference on Charter Schools: Trends and Policy Issues. The March 27-28 conference in Sacramento was sponsored by the University of the Pacific McGeorge School of Law.

**Brain Blaho** has joined the library as a law library intern. A graduate of Rutgers School of Law-Camden, Blaho served as a clerk to the Honorable Sylvia Pressler. He is working on his master’s in library and information science from Rutgers School of Communication Information and Library Studies.

**Jessica Kitson ’02** has joined the Office of Career Services where, in addition to counseling students and assisting with OCS programs, she is working with students who are planning public interest careers. Together with Acting Coordinator of Pro Bono Madeleine Kurtz, she has planned two information sessions in April for students seeking post-graduate fellowships. Kitson is also serving as the law school’s liaison with several public interest organizations, including Equal Justice Works and PSLawNet, and creating calendars and how-to guides for public interest students.

The *New Jersey Law Journal* (Feb. 2) noted that the North Jersey Chapter of the American Board of Trial Advocates has awarded civil trial practice scholarships to Fei Cheuk ’04 and Terry Johnson ’04.

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### RUTGERS-NEWARK LAW IN THE NEWS

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Remarks delivered by Appellate Division Judge Jose L. Fuentes ’82 at the law school’s Fiesta con Sabor, sponsored by the Association of Latin American Law Students, were published in the Feb. 16 *New Jersey Law Journal*.

The *Record* (Feb. 5) reported that the Ridgefield Borough Council has amended its restrictions on the use of a borough park and other grassy areas to residents. The action was prompted by last year’s **Constitutional Litigation Clinic** class action lawsuit challenging the constitutionality of such ordinances in 13 New Jersey municipalities.

**Professor Frank Askin** was quoted by the *Record* (Jan. 27) on the Paterson City Council’s proposed ordinance allowing the seizure of cars used in buying drugs or soliciting prostitutes; the *Express Times* (Jan. 29) on a proposed bill to ban the illicit use of picture phones; the *New York Daily News* (Feb. 5) on the Massachusetts decision legalizing same-sex marriage; the *Daily Journal* (Feb. 5) on the New Jersey Supreme Court ruling that grand juries and not prosecutors are to determine whether a case will be a capital case; the *New York Times* (Feb. 15) on a pending New Jersey Supreme Court case over the public availability of tire safety data held by Goodyear Tire; the *New Jersey Law Journal* (Feb. 23), the *New York Times* (Feb. 18 and 22),

*Star-Ledger* and *Trenton Times* (Feb. 18) on a ruling against the Constitutional Litigation Clinic's challenge to homeowners associations; and the *Star-Ledger* (March 10) on whether New Jersey law prohibits same-sex marriages.

**Professor Bernard Bell** commented for a Feb. 25 *Newsday* article about a Congressional report on privacy infringement concerns.

**Associate Clinical Professor Tom Borden** was quoted in the Feb. 6 *Express-Times* on a judge's decision in the Windy Acres development case, in which the Environmental Law Clinic represents a community coalition, and the Feb. 19 *Record* about the addition of "environmental justice" to the list of criteria by which all new permits and site plans in the state are judged.

A *New Jersey Law Journal* article (March 8) on the salaries paid to assistant prosecutors included a comment by **Associate Dean Fran Bouchoux** about the interest of law students in criminal justice careers.

The *New York Times* interviewed **Associate Dean Ron Chen** for a Feb. 1 article on the New Jersey American Civil Liberties Union, and noted that he has argued some of the organization's most prominent cases. The *Daily Targum* (March 11) included his comments on the constitutionality of a municipal ban against the posting of signs.

**Professor Sherry Colb** was mentioned in a *National Review Online* article (Feb. 5) about fetal homicide legislation.

A Jan. 20 *Denver Post* article on the animal rights movement quoted **Professor Gary Francione**, as did a March 1 *New Jersey Law Journal* story on a trial judge's decision to allow a suit for intentional infliction of emotional distress over injury to an animal to go forward.

*American Banker* interviewed **Professor Helen Garten** for a Jan. 28 article about new preemption regulations issued by the Office of the Comptroller of the Currency.

The Feb. 23 *New Jersey Lawyer* included comments by **Associate Professor Suzanne Goldberg** about the state's new domestic partnership law. *Time* magazine (March 8) and California's *Press Democrat* (March 7) quoted her on legal issues for gay couples who want to dissolve their relationships; the Associated Press (March 6) on civil unions; the *Daily Targum* on the Massachusetts marriage ruling (Feb. 5); and WBGO (March 4) and the *Asbury Park Press* (March 15) on gay marriage and civil rights.

**Clinical attorney Susan Kraham** of the Environmental Law Clinic was quoted by the *East Brunswick Sentinel* (Feb. 5) and *Bond Buyer* (Feb. 24) about the clinic's representation of groups opposed to the proposed construction of a school in Thompson Park, Monroe, and by the *Record* (March 4) about the environmental review process for Xanadu, the sports and entertainment complex to be developed in the Meadowlands.

The *Star-Ledger* (Feb. 18) interviewed **Professor Gregory Mark** about a New Jersey woman's use of federal racketeering laws in a countersuit against record industry executives who have accused her of sharing copyrighted music files over the Internet.

Comments by **Professor George Thomas** were included in *Courier News* and *Home News Tribune* (Feb. 15) articles about juror selection in the Jayson Williams manslaughter trial and a *Star-Ledger* story (Feb. 18) about a death penalty case.

A Feb. 25 *Baltimore Sun* article on state and city takeovers of troubled school districts included comments by **Professor Paul Tractenberg** on New Jersey's takeover of the Newark school system.

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## EVENTS

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“Reflections on a Life in the Law” is the topic chosen by the Honorable Sylvia B. Pressler '59, Presiding Judge for Administration of the Appellate Division, Superior Court of New Jersey, for the **22<sup>nd</sup> Annual Chief Justice Joseph Weintraub Lecture**. The March 25 lecture will be followed by the Annual Alumni Judges Dinner.

On March 27, the law library hosts the annual **Bridge the Gap** program. Sponsored by the New Jersey Law Library Association, the program typically attracts about 100 students from area law schools who will hold summer law jobs. **Marjorie Crawford**, head of the law library's technical and automated services, is one of the speakers.

From the Margins to the Mainstream: Examining the Impact of Non-Traditional Families and Identities on the Law is the theme of the April 1 symposium sponsored by the **Women's Rights Law Reporter**. June Carbone, Presidential Professor of Ethics and the Common Good and Professor of Law at Santa Clara University School of Law, will give the keynote address on “Understanding the Biological Roots of Commitment: Does One Size Fit All?” Topics to be discussed during the 12:30 - 5pm symposium include gender identity, sexual orientation, assisted reproduction, egg donation, post-divorce parenting, and estate issues of same sex.

On April 2-4, the law school will host the 2004 **Critical Tax Conference**, a by invitation-only event that is held at a different law school each year. The keynote, set for 5:30 - 6:30 pm, will be delivered by David Cay Johnston, Pulitzer Prize-winning business reporter for the *New York Times* and author of the current best-seller **PERFECTLY LEGAL: THE COVERT CAMPAIGN TO RIG OUR TAX SYSTEM TO BENEFIT THE SUPER-RICH – AND CHEAT EVERYBODY ELSE**. The Johnston presentation is open to general audiences.

The Honorable Eddie Jordan, Jr. '77, the first African-American District Attorney for New Orleans, will be the keynote speaker when the **Minority Student Program** celebrates its 36<sup>th</sup> anniversary at an April 15 banquet. The theme will be “Commemorating 50 Years of *Brown v. Board of Education*.” For details, contact Elvirra Gallashaw at 973-353-3047 or [egallashaw@kinoy.rutgers.edu](mailto:egallashaw@kinoy.rutgers.edu).

**Jonathan Schell** – journalist, author, and one of the world's foremost authorities on peace and disarmament – will be the principal speaker on April 22 when the law school hosts the 2004 meeting of the U.S. Steering Committee of Global Action to Prevent War. Schell's topic is “The Proliferation Crisis in Weapons of Mass Destruction and Preventing Armed Conflict.” Commenting on the presentation will be: Dr. Waheguru Pal Singh Sidhu, senior associate at the

International Peace Academy and professor of international relations at New Delhi University; Mariano Aguirre, program officer for the Ford Foundation's governance and civil society unit; and Felicity Hill, program officer at UNIFEM, the UN Development Fund for Women. Ambassador (ret.) Jonathan Dean, adviser on global security issues for the Union of Concerned Scientists, will moderate.

The Schell presentation and panel, scheduled to take place from 4 - 5:30 pm, is co-sponsored by the Global Legal Studies program and the International Law Society. **Saul Mendlovitz**, Dag Hammarskjöld Professor of Peace and World Order Studies Emeritus and co-director of Global Legal Studies, is a founding director of Global Action to Prevent War.