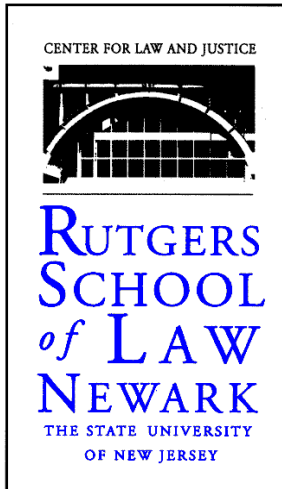


# RUTGERS LAW SCHOOL NEWS

June 2005



## **Rep. Robert Menendez '79 Delivers Convocation Address**

"If you see something worth fighting for, don't look around for someone else to do it – take it on yourself," the Honorable Robert Menendez (NJ-13) exhorted graduates in his convocation address at the law school's May 27 commencement. "Many great nations and societies, throughout human history," he recalled, "have lost ground in their march towards freedom and progress because those who had the tools to fight for what was right looked away or failed to act." A graduate of the Class of 1979, Rep. Menendez is the third-ranking Democrat in the

House, the highest ranking Hispanic in Congressional history, and the only Hispanic ever elected to a leadership position, in either chamber.

Commencement, during which the J.D. degree was conferred on 233 students, was held at the New Jersey Performing Arts Center following a procession from the law school. Professor Sherry Colb, Judge Frederick B. Lacey Scholar and a FindLaw columnist, was the faculty speaker.



Rep. Robert Menendez (2<sup>nd</sup> from left) talks after the commencement ceremony with (l-r) Dean Stuart L. Deutsch, Walter Leib, emeritus member of the Rutgers Board of Trustees, Rutgers-Newark Provost Steven J. Diner, and Professor Sherry Colb.

## ***New Book by Norman L. Cantor Considers Health Care Decision Making for Severely Mentally Disabled Persons***

"Making Medical Decisions for the Profoundly Mentally Disabled" by Professor Norman L. Cantor was published this month by MIT Press. Cantor, Professor of Law and Justice Nathan L. Jacobs Scholar Cantor, is the author of two other well-received books as well as numerous law review and medical journal articles on legal and ethical issues in end-of-life care. His new book focuses on the many issues involved with surrogate decision making for the never competent in a variety of medical contexts, including end-of-life decisions, organ donation, and human experimentation.

Cantor, who earned an A.B. *cum laude* from Princeton and a J.D. *magna cum laude* from Columbia Law School, has been a member of the Rutgers faculty since 1970

## ***"Black Trials" by Mark S. Weiner Wins ABA Silver Gavel Award***

The American Bar Association has honored Associate Professor Mark S. Weiner's book "*Black Trials: Citizenship From the Beginnings of Slavery to the End of Caste*" (Knopf, 2004) with a Silver Gavel Award. The award is the ABA's highest honor in recognition of communications

media that have been exemplary in helping to foster public understanding of the law and the legal system. Presentation of the award will be made on Aug. 7 during the ABA annual meeting in Chicago. The *New Jersey Law Journal* (May 30), *Star-Ledger* (June 3), and *New Jersey Lawyer* (June 13) reported on the award.

A chapter on *Jones v. Van Zandt* in Weiner's book was in part the inspiration for a Van Zandt Reconciliation Weekend, during which the United Methodist Episcopal Church, which in the early 1840s had excommunicated Van Zandt because of his antislavery activities, posthumously reinstated him. Weiner spoke about the 1847 case at the National Underground Railroad Freedom Center and participated in the unveiling of a state historical marker indicating John Van Zandt's former home in Evendale, OH, near Cincinnati. The June 25 *Oregonian* noted his role in helping to tell Van Zandt's story.

### ***Library Reading Gallery Dedicated to Samuel J. Foosaner '34, Prominent Tax Attorney***

The law school on May 20 dedicated its first floor west reading gallery in memory of Samuel J. Foosaner – alumnus, successful tax and estate planning attorney, and noted philanthropist – who died in 1988. The named gallery acknowledges the generosity of Samuel Foosaner and the Foosaner Foundation of Cocoa, FL, which is headed by Foosaner's daughter Dione L. ("Dee") Negroni-Hendrick. In January 2004, the Foosaner Foundation awarded a \$500,000 challenge grant, its largest gift ever, to the Law Library.

Among those joining Dean Stuart L. Deutsch, Dee Negroni-Hendrick and family members at the dedication were Attorney General Peter C. Harvey, Rutgers University President Richard L. McCormick, Rutgers-Newark Provost Steven J. Diner, Marc E. Berson '68, chairman of the Fidelco Group and former law clerk of Samuel Foosaner, and Kevin Collins '64. The *New Jersey Law Journal* (May 23 and June 6) and *Star-Ledger* (June 3) reported on the event.

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## **CLINIC NEWS**

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Carter Strickland, an experienced environmental litigator and assistant clinical professor at the law school for the past three years, has been appointed Acting Director of the **Environmental Law Clinic**.

The New Jersey Supreme Court has granted certification in two of the Environmental Law Clinic's cases dealing with the scope of public participation in the state's environmental decisions. Associate Clinical Professor Susan Kraham is handling the appeals. Kraham and Professor John Payne are involved in an appeal from new affordable housing regulations, and seek to ensure greater compliance with the Mount Laurel doctrine and an appropriate balance between affordable housing and the environment.

Legislation recently introduced by Rep. Frank A. LoBiondo (NJ-2) and others to help prevent oil spills into the Delaware River and other waterways is a modified version of legislation drafted by Carter Strickland following last winter's massive oil spill in the Delaware. The Strickland draft would require and fund frequent surveys of the river for underwater obstructions, staging of adequate response equipment, a dedicated port oversight committee, a citizens' advisory council, and increased liability for single-hulled tankers.

As part of the clinic's urban health initiative work, Assistant Clinical Professor Lisa Garcia filed Environmental Justice petitions on behalf of residents of Newark's west ward and Linden. The Environmental Justice Program enables communities to file a petition asserting that residents are subject to disproportionate adverse exposure to environmental health risks. The petitions have been accepted by the state Department of Environmental Protection and now

trigger the development of action plans to address cumulative sources of pollution in those communities. The clinic will negotiate on behalf of the communities.

Clinic advocacy also resulted in the decision by authorities to shut down redevelopment work on the Pabst Brewery site in Newark until proper asbestos controls can be put in place and to stop an application to build a statewide medical waste facility in Linden.

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## FACULTY NOTES

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**Professor Frank Askin** is the only listing under Constitutional Law in the 2005 New Jersey Super Lawyers, published by Law & Politics and *New Jersey Monthly* magazine.

**Assistant Professor Karima Bennoune** has been elected to the board of directors of Amnesty International USA. In April she presented a paper on “Secularism and Human Rights” at the International Institute for the Sociology of Law conference held in Onati, Spain. Next month she will speak at the biennial conference of the ACLU on a panel with former Irish President and UN High Commissioner for Human Rights Mary Robinson.

“Victims and Perpetrators: An Argument for Comparative Liability in Criminal Law” by **Associate Professor Vera Bergelson** is the forum article in the current issue (vol. 8, no. 2) of the *Buffalo Criminal Law Review*. The article is accompanied by commentaries from leading criminal law theorists, as well as a response by Bergelson.

In April **Assistant Professor Neil H. Buchanan** was a panelist at the Critical Tax Workshop at Seattle University Law School. This month at the Law & Society Association annual meeting he served as a panelist for “Changing Society Through Large-Scale Redistribution: Political Economy in the Second Bush Administration,” and as a chair/discussant for “New Data and Research on the Workplace.”

**Professor Norman Cantor’s** op-ed, entitled “Our Shining Knights to the Rescue,” on the interference of Congress and President Bush in the Terri Schiavo case was published in the April 25 *New Jersey Law Journal*. Cantor spoke at the *Loyola University Chicago Law Journal* April conference on Death and Dying: An Examination of End of Life Issues 30 Years After *Quinlan*. His presentation, “Hastening Death Without Violating Legal or Moral Prohibitions,” was part of a panel on contemporary perspectives on death and dying. On June 13 he testified before the New Jersey Assembly Committee on Seniors’ Issues on the topic of how to make advance medical directives more effective.

A paper by **Assistant Professor Donna Dennis** on obscenity regulation in 19<sup>th</sup> century America was one of seven selected for the Law & Humanities Junior Scholar Interdisciplinary Workshop held this month at Georgetown. The juried competition received more than 70 submissions for the workshop. Professor Dennis, a Ph.D. candidate at Princeton, will defend her dissertation on the topic this summer.

**Professor Claire Moore Dickerson**, co-chair of the Global Legal Studies Program, has been designated the 2005-2006 Shuchman Fellow. Her empirical research focus is OHADA, a system of uniform business laws in West Africa. The designation honors the late Philip Shuchman, Justice Joseph Weintraub Professor of Law Emeritus and a nationally recognized expert on the use of empirical research in legal studies.

“Our hypocrisy” by **Professor Gary Francione** was published in the June 4 issue of the *New Scientist* magazine. The essay was part of a feature that included Jane Goodall, Simon Blackburn, and Franz deWaal.

**Associate Professor Suzanne Goldberg** was a panelist at the May 15 “Equality at the Crossroads” town hall meeting co-hosted by the Association of the Bar of the City of New York and the New York County Lawyers’ Association.

“Sexual Harassment & Critical Race Feminism Empirical Research: The Internal Complaint Black Box” was presented by **Professor Tanya Hernandez** at April’s conference on The Future of Critical Race Feminism at UC Davis Law School.

**Barbara Hoffman, Legal Research and Writing Instructor**, delivered the keynote address on the employment, insurance, and financial concerns of cancer survivors at a conference on childhood cancer survivors sponsored by the New Jersey Department of Health and Senior Services.

**Clinical Professor Robert Holmes** served as a working group leader at the AALS Workshop on Clinical Legal Education, held April 30-May 3 in Chicago. In May he and federal Judge Dickinson Debevoise were panelists for “The State of Community and Economic Development in the City of Newark,” part of the Leadership New Jersey program. Earlier this month, he was a workshop leader and presented “Coming Into Community Within the Rules of Professional Responsibility” at the Northeast Regional Clinical Law Workshop, held at Roger Williams University School of Law.

**Professor Jonathan Hyman** has been named chair-elect of the Dispute Resolution Section of the New Jersey State Bar Association and has been named to the Administration Subcommittee of the New Jersey Supreme Court Complementary Dispute Resolution Committee. Hyman made presentations on the New Jersey Uniform Mediation Act at the April 20 conference on “How the Uniform Mediation Act Affects Your Practice,” which was sponsored by the New Jersey Association of Professional Mediators, and on May 4 in Hackensack at the Bergen County Mediators Peer Luncheon. His article “Swimming in the Deep End: Dealing with Justice in Mediation” was published in the fall 2004 issue of the *Cardozo Journal of Conflict Resolution*.

On June 23 **Professor John Leubsdorf** was a panelist at a discussion of Ethics and Government sponsored by the Municipal Art Society at the Urban Center in New York.

**Emeritus Professor Saul Mendlovitz** has been elected to the board of trustees of the Center for United Nations Reform Education, and has been reappointed to the board of trustees of Global Education Associates and to the board of the Law and Humanities Institute. In May he participated in an expert meeting sponsored by the Ford Foundation on state failure in developing a UN rapid response force. He spoke as a representative of Promoting a United Nations Emergency Peace Service, a transnational network of scholars, diplomats, military personnel, and activists. Also in May he was a panelist on “Can International Treaties Promote the Goals of Disarmament and Development?” part of the Review Conference on the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons. This month he was selected to participate in the Informal Hearings of the UN General Assembly with non-governmental

organizations, civil society organizations, and the private sector. He represented Promoting a United Nations Emergency Peace Service and in his presentation during the “Freedom From Fear” session covered disarmament, rapid deployment of forces, and international tribunals.

The following three articles by **Professor George Thomas** have just been published: “Time Travel, Hovercrafts, and the Framers: James Madison Sees the Future and Re-Writes the Fourth Amendment,” in the April *Notre Dame Law Review*; “Missing *Miranda*’s Story,” a review of Gary L. Stuart’s “*Miranda: The Story of America’s Right to Remain Silent*,” in the spring issue of the *Ohio State Journal of Criminal Law*; and “Discretion in Criminal Law: the Good, the Bad, and the Mundane,” a symposium paper in the spring issue of the *Penn State Law Review*.

**Associate Professor Mark S. Weiner** recently taught Introduction to U.S. Constitutional Law at the University of Hannover School of Law in Germany.

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### STAFF & STUDENT NEWS

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**Associate Dean Fran Bouchoux** has been elected to the board of directors of New Jersey Volunteer Lawyers for the Arts.

The “Applications Review Process” panel at the annual meeting of the Northeast Pre-Law advisors, held June 9 at Fordham Law School, included **Assistant Dean of Admissions Anita Walton**.

The Rutgers School of Communication Information and Library Studies has given **Reference Librarian Renee Cullman** the Virginia Till Lemon Award. The prize is presented each year to a Master of Library and Information Science program student who has demonstrated achievement in the M.L.I.S. program and a commitment to the profession of law librarianship.

Earlier this month in Chicago **Kevin Reiss, Head of Digital Services**, presented “A REST-ful Web Services Approach to Library Federated Searching Using SRU” at the Conference on Law School Computing sponsored by the Center for Computer-Assisted Legal Instruction.

**Dana Wefer ’07** won the Democratic nomination for Morris County freeholder in the June 7 primary. Wefer told the *Record* (June 9) that she got her start in politics when she volunteered four years ago to serve on the economic advisory board in her hometown.

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### RUTGERS-NEWARK LAW IN THE NEWS

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The June 17 *Star-Ledger* noted the dedication of the terrace and garden behind the law school in memory of A.J. Smaldone ’77.

An April 24 *Star-Ledger* article about a lawsuit by some homeowners in the Twin Rivers planned community included a comment by **Professor Frank Askin**, director of the Constitutional Litigation Clinic, which is representing the litigants. Askin was quoted in the June 23 *Record* about the governing association for the Radburn district of Fair Lawn and on June 24 by NJ 101.5 FM about the *Kelo v. New London* decision.

**Emeritus Professor Al Blumrosen** was quoted in a *Chicago Tribune* (April 24) story about the Chicago district office of the U.S. Equal Employment Opportunity Commission.

A *New Jersey Law Journal* article (May 30) about summer associate programs included comments by **Associate Dean Fran Bouchoux**.

The *Courier News* (May 4) talked to **Professor Norman Cantor** about a new state law that requires medical facilities to share with one another information about prospective employees, and the *Trenton Times* (June 20) about a potential state effort to educate the public about the importance of living wills.

**Associate Dean Ron Chen** was quoted by the *Star-Ledger* (April 14) about the appellate court finding that a 911 caller's crude language was not harassment. Chen and the Constitutional Litigation Clinic represented the caller on behalf of the ACLU-NJ. Chen was quoted by the *Record* (May 22) about the growing use of wiretaps in New Jersey, by the *Ledger* (May 23) in an article about Judge Samuel A. Alito, and May 25 about a second-grader who was not allowed to sing a religious song in a public school talent show. Religion News Service (May 25) also carried his comments on the talent show. On May 3 he was interviewed by 101.5 FM on efforts by some municipalities to restrict where convicted pedophiles can live.

**Dean Stuart L. Deutsch** commented for the April 17 *Courier News* about a Tewksbury homeowner's dispute with the township over her property tax bill.

The latest *FindLaw* columns by **Professor Sherry Colb** include "Hospital-Induced Infections: A Serious Crime Against Our Nation's Patients," "Can Capital Defendants Be Visibly Restrained During Sentencing? The Supreme Court Says No," "When You Refuse to Consent to a Police Search, Can Your Spouse Override That Refusal?" and "New York D.A. Robert Morgenthau Urges Repeal of the Statute of Limitations for Rape: Why He Is Right." An April 16 *Record* article about classroom use of wireless computers reported on a visit to one of Colb's classes.

*Bloomberg News* talked to **Professor Chuck Davenport** for an April 15 report on taxpayers who underreport cash income.

A June 10 *Star-Ledger* article on the growing number of court cases involving pets included a comment by **Professor Gary Francione**. The article was picked up by Newhouse News Service and ran in the *Seattle Times* (June 12) and the *Times-Picayune* (June 18).

A Bloomberg News story on the New Jersey appeals court decision in a same-sex marriage suit quoted **Associate Professor Suzanne Goldberg**. The *New York Blade* (May 20) asked Goldberg about the New Jersey judge's finding that a same-sex couple can sue for loss of consortium.

The *New Jersey Herald* (April 18, June 6 and 12) included comments by **Associate Clinical Professor Susan Kraham** on a community group's opposition to a proposed outlet mall in Frankford. The Environmental Litigation Clinic is representing the group.

**Clinical Professor Randi Mandelbaum**, Director of the Child Advocacy Clinic, was interviewed for an April 9 *Star-Ledger* story on a federal court ruling permitting children in foster care to sue for a variety of rights given in the Child Placement Bill of Rights.



**Professor Greg Mark** was quoted by the *Star-Ledger* (April 10) on the impact of Sarbanes-Oxley on annual reports, on upcoming trials involving the Merck drug Vioxx (June 3), and on Citigroup's settlement of a class-action lawsuit brought by Enron investors (June 11). The Vioxx article was picked up by Newhouse News Service and American Health Line.

Newark public radio WBGO interviewed **Professor John Payne** for its June 17 *WBGO Journal* report on a challenge to Bloomfield's use of eminent domain, and on June 24 for his comments on the Supreme Court's *Kelo v. New London* decision. A June 26 *Star-Ledger* article on the impact of the Mount Laurel decision included his comments.

A *Daily Record* (May 28) report on the solicitation of campaign donations by the Dover municipal attorney included a comment by **Assistant Dean Andrew Rothman**.

The *Star-Ledger's* June 3 "Industry Insider: Business of Law" column featured a Q&A with **Assistant Professor Sabrina Safrin** about her article that was awarded the Francis Deak Prize by the American Society of International Law. Safrin's article, "Hyperownership in a Time of Biotechnological Promise: The International Conflict to Control the Building Blocks of Life," published in the October 2004 *American Journal of International Law*, was cited in the spring 2005 *Wilson Quarterly*. The April 25 *New Jersey Lawyer* and May 2 *New Jersey Law Journal* also reported on Safrin's Deak Prize.

**Associate Professor Keith Sharfman** commented about the new Bankruptcy Abuse Prevention and Consumer Protection Act for the April 25 *New Jersey Law Journal*.

The Environmental Law Clinic's representation of three environmental groups in a lawsuit challenging the Millville Planning Board's approval of a plan to build a motorsports park at the city's airport was covered in several *Daily Journal* and the *Bridgeton News* articles. **Assistant Clinical Professor Carter Strickland** was interviewed for the articles. In a May 6 editorial, the *Press of Atlantic City* supported the clinic's representation of the community group opposing the development plan.

**Professor George Thomas** was interviewed by the *Star-Ledger* (June 9) about a sexual assault case.

A May 9 *New Jersey Law Journal* article on the Alien Tort Claims Act included a comment by **Clinical Professor Penny Venetis**.

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## EVENTS

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The **Second Annual Golf Outing and Dinner** will take place on Sept. 26 at Baltusrol Golf Club, site of the 2005 PGA Championship. Proceeds benefit the Justice Morris Pashman Scholarship Endowment, which honors the memory of former New Jersey Supreme Court Justice Morris Pashman '35. The Justice Morris Pashman Award will be presented to Joel Hollander, Chairman and CEO of Infinity Broadcasting. For registration details and/or sponsorship opportunities, email [golf@kinoy.rutgers.edu](mailto:golf@kinoy.rutgers.edu).