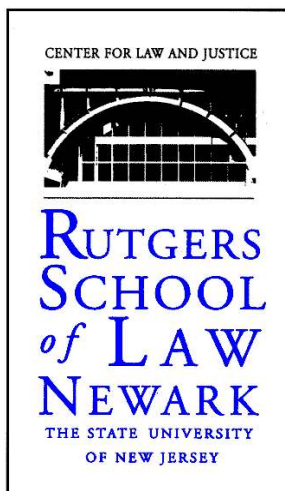


RUTGERS LAW SCHOOL NEWS

Fall 2004



New Book by Professor Mark Weiner Wins Critical Acclaim

The important story told in “Black Trials: Citizenship From the Beginnings of Slavery to the End of Caste” (Alfred A. Knopf) by Mark S. Weiner, Associate Professor of Law, has been acknowledged by *New Republic*, *Publisher’s Weekly*, *Kirkus* and *Booklist* reviews. The 448-page book examines the history of American concepts of civic belonging through the story of 14 significant legal cases involving black Americans from colonial times to the present.

Professor Weiner will read from his book on Thursday, Feb. 24, as part of a special event to launch the “Friends of the Law Library Program.” For more on the event, contact Carol Roehrenbeck, Associate Dean for Library and Information Services, at 973-353-3152.

Jama Decision Is Major Victory for Constitutional Litigation Clinic

In a landmark decision, a federal judge ruled on Nov. 10 that abuses committed in the U.S. against political asylum seekers detained by the U.S. and private contractors can be prosecuted as human rights violations under customary international law using the Alien Tort Claims Act.

The ruling in *Jama v. United States Immigration and Naturalization Service, et al.* establishes new precedent in international human rights law and clarifies three significant issues left unresolved by the U.S. Supreme Court’s *Sosa v. Alvarez* decision, said Clinical Professor Penny Venetis, Associate Director of the Constitutional Litigation Clinic. The *Jama* plaintiffs – nine political asylum seekers subjected to severe physical and psychological abuse in an Elizabeth, NJ jail while their asylum claims were processed by the INS – have been represented since 1996 by clinic faculty and students. “The *Jama* decision,” Venetis explained, “reiterates that conditions of confinement can rise to the level of human rights violations and establishes that physical torture is not needed to violate customary international law.” The decision also confirms that private corporations doing business in the U.S. can be sued for human rights violations.

The Associated Press, *Star-Ledger*, *National Law Journal* and *New Jersey Law Journal* reported on the case.

John J. Farmer, Jr., 9/11 Commission Senior Counsel, Delivers Miller Lecture

“The Rule of Law in an Age of Terror” was the topic addressed by the Honorable John J. Farmer, Jr. in his Nov. 10 Paul S. Miller Distinguished Lecture. Farmer, who served as New Jersey Attorney General from 1999 to 2002 and helped lead the state’s response to the 9/11 attacks, was Senior Counsel and Team Leader of the National Commission on Terrorist Attacks Upon the United States (the 9/11 Commission). He also



NJ Chief Justice Deborah Poritz (foreground) was among the many federal, state and local judges who attended the Miller Lecture delivered by John J. Farmer, Jr. (c) and supported by Paul S. Miller '62 (l). Also shown are Dean Stuart S. Deutsch, Beth Gates and Alan Poritz (r).

assisted in drafting and editing significant portions of “The 9/11 Commission Report.”

The annual lecture is made possible by an endowment created by Paul S. Miller ’62 and his wife, Carol. Miller is special counsel at Kaye Scholer LLP and retired executive vice president and general counsel of Pfizer Inc.

Segars, Van Deusen and Judge Eichen Honored at Alumni Dinner

The Alumni Association honored Yvonne Smith Segars ’84, New Jersey Public Defender; Lois M. Van Deusen ’77, managing partner and a member of the executive committee at McCarter & English, LLP; and the Honorable Naomi G. Eichen ’74, retired Appellate Division judge, at its Annual Alumni Recognition Dinner on Oct. 28. Segars and Van Deusen received Distinguished Alumna Awards and Judge Eichen received the Fannie Bear Besser Award for Public Service. More than 300 people attended the dinner.

Professor Emeritus Philip Shuchman, Expert on Empirical Studies and the Law, Dies at 77

Philip Shuchman, Justice Joseph Weintraub Professor of Law Emeritus and a nationally recognized expert on the use of empirical research in legal studies, died on Nov. 28. A graduate of the University of Pennsylvania Law School, Shuchman joined the Rutgers-Newark faculty in 1981 after 14 years at the University of Connecticut Law School. Before that, he was a lecturer in philosophy at Temple University and was in private practice in Philadelphia.

The author of numerous scholarly publications, including two prominent casebooks, Shuchman focused throughout his academic career on the role of empirical research in the development and application of the law of civil procedure and jurisprudence. The Philip Shuchman Fund for Empirical Research helps to support empirical research projects of the Rutgers law faculty.

CLINIC NEWS

On Election Day more than 300 Essex County residents who had been turned away at the polls came to the law school for a hearing before one of six judges brought in by the **Constitutional Litigation Clinic’s** Voter Assistance Project. The project has been supervised for the past 25 years by Professor Frank Askin, clinic director. Helped to argue their case by law students and their professors, the vast majority of those citizens won the right to vote that day. The activity was covered by numerous print and broadcast media, including the *New York Times*, the Associated Press, the *New Jersey Law Journal*, *Dallas Morning News*, the *Star-Ledger*, *Record*, the *Herald*, *Home News Tribune*, *New York Post*, NBC-TV, ABC-TV and National Public Radio.

On Oct. 19, the clinic filed a lawsuit on behalf of a state assemblyman and two advocacy groups to stop the use of electronic voting machines in New Jersey on Election Day. Clinical Professor Penny Venetis represented the plaintiffs. The electronic voting challenge, which was unsuccessful, charged that the technology doesn’t provide a process to verify that votes are recorded correctly and that results can be easily manipulated. The lawsuit was covered by the *New York Times*, Washington Post.com, the Associated Press, the *Philadelphia Inquirer*, the *Star-Ledger*, the *Record*, Nature.com, CNN, NBC-TV, 1010 WINS and NJN.

In a Nov. 16 decision with significant implications for the future work of the **Environmental Law Clinic**, the Appellate Division found that the Department of Environmental Protection is required to make specific findings of fact when taking certain kinds of administrative action. The

case, briefed by two clinic students, emphasizes the obligation of administrative agencies to adhere to their statutory obligation.

In a lawsuit filed in federal court on behalf of the New Jersey Coalition Against Aircraft Noise, the clinic charged that the Federal Aviation Administration has improperly withheld information from the public concerning the redesign of air routes in the tri-state area. The Associated Press (Nov. 19) and the *News Journal of Delaware* (Nov. 26) quoted Assistant Clinical Professor Carter Strickland, Jr. on the lawsuit, which also charges that the FAA has shared the requested information with the airlines.

FACULTY NOTES

Two op-eds by **Professor Frank Askin** were published by the *Star-Ledger* – “System Still Fails Voters” (Nov. 7) and “FBI Returns to Its Old Tricks” (Aug. 27). His report “Let ’Em In and Get ’Em In: How to Give More People the Right – and the Reason – to Vote” was released by New Jersey Policy Perspective at a panel discussion at Thomas Edison State College. The *Record* (Oct. 8) referred to the report in an article on voter registration.

Professor Bernard Bell, who also serves as Associate Dean for Faculty, has been appointed a member of the governing council of the American Bar Association’s Section of Administrative Law and Regulatory Practice. On Oct. 28 Bell delivered “A Primer on Federal, New York State & City Administrative Law” at the Association of the Bar of the City of New York, and on Oct. 22 he was a panelist for “Recent Developments in Administrative Law” at the 2004 Administrative Law Conference, ABA Section of Administrative Law and Regulatory Practice.

George Washington University Law School’s International Law Colloquium Series featured “Resurrecting a Human Approach to Armed Conflict: Iraq 2003” by **Assistant Professor Karima Bennoune** on Sept. 7.

Professor Norman Cantor represented New York State ARC (Association for Retarded Children) in litigation concerning the constitutionality of New York’s Health Care Decisions Act. He prepared a brief and argued in the Matter of *Chantel R*, where ARC was seeking to uphold the HCDA and its provision allowing for proxy end-of-life decisions in very limited circumstances. That litigation ended successfully on Dec. 15, 2004, when Judge Eve Preminger issued an opinion rejecting all the constitutional challenges to the Act. Cantor recently served as a consultant to the New York State Task Force on Life and the Law. In connection with the task force’s report on the public health aspects of dietary supplements, he prepared an analysis of “dormant commerce clause” implications of the task force’s proposed legislation and regulations. On Sept. 30, he presented “The Relation Between Autonomy-Based Rights and Profoundly Mentally Disabled Persons” at a meeting at the Robert Wood Johnson Medical School of the Disability Ethics Network.

Associate Dean Ronald Chen has been appointed vice chair of the Supreme Court Advisory Committee on Professional Ethics. His “State Incarceration of Federal Prisoners After September 11: Whose Jail Is It Anyway?” was published in the summer 2004 issue of the *Brooklyn Law Review*, and “Court Opens the Door to Judicial Intervention in State Budgeting” in the *New Jersey Law Journal’s* Sept. 6 magazine supplement on “The State Supreme Court Year in Review, 2003-04.”

Roper v. Simmons, privacy implications in airport searches, a custody dispute involving a fertility clinic and the racially based suppression of the African-American vote were among the topics examined this fall by **Professor Sherry Colb** in her FindLaw.com columns.

Brooklyn Law School's Nov. 11 International Economic Law Forum featured a presentation on "Corporate Governance in West Africa" by **Professor Claire Dickerson**.

Professor Tanya Hernandez has a Faculty Fellowship for the 2004-05 academic year at the Rutgers University Institute for Research on Women in its Seminar on Diversity: Expanding Theory and Practice. On Oct. 2 she participated in a panel discussion on "Redefining Diversity to Achieve Equality After *Gratz* and *Grutter*." The event was part of the bi-annual conference of Just the Beginning Foundation, a group established to commemorate the contributions of African-Americans to the federal judiciary. In August she presented "Inter-group power relations in the courtroom: the adjudication of inter-ethnic discrimination claims" at the University of Western Cape in South Africa.

Professor Carol Roehrenbeck, Associate Dean for Library and Information Services, spoke on "Bridging the Digital Divide" at Widener Law School. In November the library hosted the annual conference of the Documents Association of New Jersey. Roehrenbeck as well as librarians Sue Lyons, Renee Cullman and Brian Blaho spoke at the conference, whose theme was "Brush with the Law: Exploring Legal Reference." This fall the Law Library became the only library in the state where users can access all of the opinions from the Council on Affordable Housing (COAH). They are available in electronic format as part of the library's NJ Digital Legal Library project (<http://njlegallib.rutgers.edu/coah/>).

Assistant Dean Andrew Rothman is the co-author with a team from McCarter & English, LLP of the new 520-page "Handbook of Civil Practice in the Courts of New Jersey 2004-2005."

Associate Professor Diana Sclar presented *Cheney v. U.S. District Court for the District of Columbia* as a panelist at the Sept. 28 RU-ACLU Docket Dinner.

In October **Professor Paul Tractenberg** spoke at the College of New Jersey's seminar on *Brown v. Board of Education* and educational inequalities.

Associate Professor Mark Weiner gave several presentations in Germany during the summer. He spoke to the German American Lawyers' Association (DAJV) on *Brown v. Board of Education*; about American legal education to a group of German students at the DAJV conference in Bad Neunahr; and at the Max Weber Center in Erfurt on the relation between psycho-social and racial integration in American modernization at mid-century

STAFF & STUDENT NEWS

Edna Baugh, assistant director for clinical administration, has been elected president of the Essex-Newark Legal Services board and president-elect of the Garden State Bar Association.

Janet Donohue, manager of public relations, has been reelected co-president of the Northern New Jersey Professional Chapter of the Association for Women in Communications.

Assistant Dean Kenneth Padilla was reelected Democratic District Leader for the 76th Assembly District in the Bronx, receiving 68% of the vote.

Senior alumni relations officer **Evie Task** reports that the Alumni Association has been given the William P. Garrison RC '10 Award for the greatest increase in annual membership among Rutgers alumni associations, and the Ernest E. McMahon Award for Program Excellence for the law school's first New Jersey Bar swearing-in ceremony, held in Dec. '03.

William Simmons '07 is the recipient of a Jack Kent Cooke Graduate Scholarship, awarded to help young people of exceptional promise reach their full potential through education. **Andy Le '05** has received one of two Anheuser-Busch NAPABA Law Foundation Presidential Scholarships given by the National Asian Pacific American Bar Association to the law students who demonstrate particularly outstanding leadership potential to serve the Asian Pacific American community. **Rebekah Heilman '06** received the Equity Foundation's Bill & Ann Shepherd Legal Scholarship for 2004-05. Three Shepherd Scholars were selected nationally for their proven commitment to fighting bigotry and discrimination. Both **Sujatha Vathyam '06** and **Thomas Wilhelm '07** have been awarded Merck Patent Law Fellowships for their demonstrated promise in law and science

Jason Flores-Williams '07 wrote and provided the voiceover for a significant part of the film "Watch This!", which focuses on the nature of dissent and government's response. Distributed over the Internet, the film was shot largely during the Republican National Convention.

RUTGERS-NEWARK LAW IN THE NEWS

A photo and story about **3L Melissa Gertz's** quilt commemorating *Brown v. Board of Education* were included in the summer 2004 issue of *preLaw*.

The Nov. 1 *Hispanic Outlook in Higher Education* featured extensive comments on recent U.S. Supreme Court decisions by **Associate Dean Ronald Chen**, **Professor Frank Askin** and **Clinical Professor Laura Cohen**. The same issue devoted two pages to the New Jersey State Bar Association's presentation of the Mel Narol Excellence in Diversity Award to the Minority Students Program. **Kenneth Padilla**, Assistant Dean for the MSP and Externships, was interviewed for the article.

Professor Frank Askin and **Associate Dean Ronald Chen** were quoted in Associated Press, *New Jersey Lawyer* and *Star-Ledger* articles about the ACLU's Dec. 2 filing of a lawsuit under the Open Public Records Act to force the state to reveal what individuals or groups are on its list of potential terrorist threats. Askin was interviewed on Aug. 17 by NBC-TV on New Jersey politics, and was quoted in the Nov. 29 *New Jersey Lawyer* on a change in the federal tax code effecting winning plaintiffs in discrimination cases, by the Associated Press (Nov. 10) on the resignation of John Ashcroft, by the *Asbury Park Press* (Nov. 11) on a proposed statewide voter registration system, Sept. 20 *New Jersey Law Journal* and *New Jersey Lawyer* on the new state Civil Rights Act, in Associated Press reports (Oct. 7) about the New Jersey Supreme Court's decision in the same-sex marriage case, and in the Sept. 13 *Jersey Journal* on Gov. McGreevey's judicial appointments

“What’s OK among students may not work on the job” in the September *National Jurist* included comments by **Elizabeth Beebe**, director of career services.

The Associated Press and *Trenton Times* reported on Dec. 3 testimony by **Professor Bernard Bell** on the federal law that prohibits sports betting.

States News Service (Oct. 11) quoted **Professor Emeritus Al Blumrosen** on the U.S. Justice Department’s settlement of a class action suit by a group of white men who claimed that they were passed over for federal immigration judgeships.

A *New Jersey Monthly* (Nov. ’04) article on the Highlands preservation legislation and fast-track legislation included comments by **Associate Clinical Professors Tom Borden** and **Susan Kraham**. Borden spoke to the *New York Times* (Aug. 29) and the online environmental magazine *Grist* (Aug. 11) about fast-track, to the *New Jersey Law Journal* (Aug. 2) on the Supreme Court’s ruling in a wetlands rules case, and to the *Star-Ledger* (Nov. 12) on proposed state regulations on the release of sensitive public documents. The *Cranbury Press* (Nov. 12) interviewed Kraham about a land exchange proposed by Monroe Township that involves the Green Acres program.

A *New Jersey Law Journal* report (Sept. 6) on starting salaries in New Jersey-based law firms and an Aug. 27 *Star-Ledger* article on the legal job market included comments by **Associate Dean Fran Bouchoux**.

CBS radio and NJN ran segments with **Assistant Professor Neil Buchanan’s** comments on the second presidential debate.

NBC-TV (Sept. 10) interviewed **Associate Dean Ronald Chen** and **Professor Gregory Mark** spoke to the *Star-Ledger* about the Port Authority’s decision to join a federal lawsuit alleging that Saudi Arabia provided financial support to al Qaeda prior to the 9/11 attacks.

An Oct. 18 *New Jersey Law Journal* story on juvenile drug courts included comments by **Clinical Law Professor Laura Cohen**.

The *New Jersey Law Journal* (Nov. 29) quoted **Dean Stuart L. Deutsch** about the court directive telling New Jersey judges it would be “inappropriate” to complete the *U.S. News & World Report* survey ranking law schools.

Clinical Professor Jack Feinstein talked to the *Record* (Nov. 2) about the use of mediation to solve disputes between neighbors.

A *Newsday* article (Nov. 7) on the increasing prevalence of same-sex harassment lawsuits included a comment by **Associate Professor Suzanne Goldberg**, a visiting professor at Columbia Law School during the fall.

PC World interviewed **Barbara Hoffman**, legal research and writing instructor and founder of the National Coalition of Cancer Survivorship, for a Dec. 3 article on information about individuals that can be found online.

Professor John Leubsdorf was quoted in the *Star-Ledger* (Oct. 19) about the annual report from the Office of Attorney Ethics, and in the *New Jersey Law Journal* (Oct. 4) and the *New York Times* (Oct. 10) on political corruption cases brought by U.S. Attorney Christopher Christie.

The *Star-Ledger* (Sept. 19) talked to **Professor John Payne** about a redevelopment issue in Piscataway, the *Courier-News* (Sept, 6) about a constitutional challenge to the Highlands Preservation Act, and the *Jersey Journal* (Aug. 18) about an eminent domain issue.

A *Star-Ledger* report (Oct. 20) on the sharing of a clerkship by Angela Arabia-Meyer and Tara McCluskey, both 2004 graduates, quoted **Stephanie Richman**, associate director of career services, on alternative work schedules in the profession.

Star-Ledger columnist Fran Wood interviewed **Assistant Dean Andrew Rothman** for her Oct. 10 op-ed column, entitled “First, we kiss all the lawyers,” about tort reform.

Assistant Clinical Professor Carter Strickland was quoted several times by the *Daily Journal*, *Atlantic City Press* and *Bridgeton Evening News* regarding the Environmental Litigation Clinic’s win on summary judgment motion rejecting a developer’s plan in Millville and subsequent actions by the Millville Planning Board.

Comments by **Professor George Thomas** were part of Aug. 12 and Sept. 3 *New York Times* articles on the Kobe Bryant case.

The *Star-Ledger* and *Record* (Aug. 12) interviewed **Professor Paul Tractenberg** on the New Jersey Supreme Court decision that a school may not withdraw from a school district if doing so would result in racial imbalance.

The *Star-Ledger* (Oct. 24) quoted **Clinical Professor Penny Venetis** on ordinances targeting students who illegally enroll in schools outside their own district.

EVENTS

The annual **PILF (Public Interest Law Foundation) auction** will be held on March 3.

On March 25, **Mari Matsuda**, Professor of Law at Georgetown University, will deliver a presentation entitled “The Last Public Place: Saving public education and the fight for democracy in America.” The law school is co-sponsoring her visit with the Rutgers-Newark Women’s Studies Program.

The 37th anniversary **Minority Student Program banquet** is scheduled for April 7.