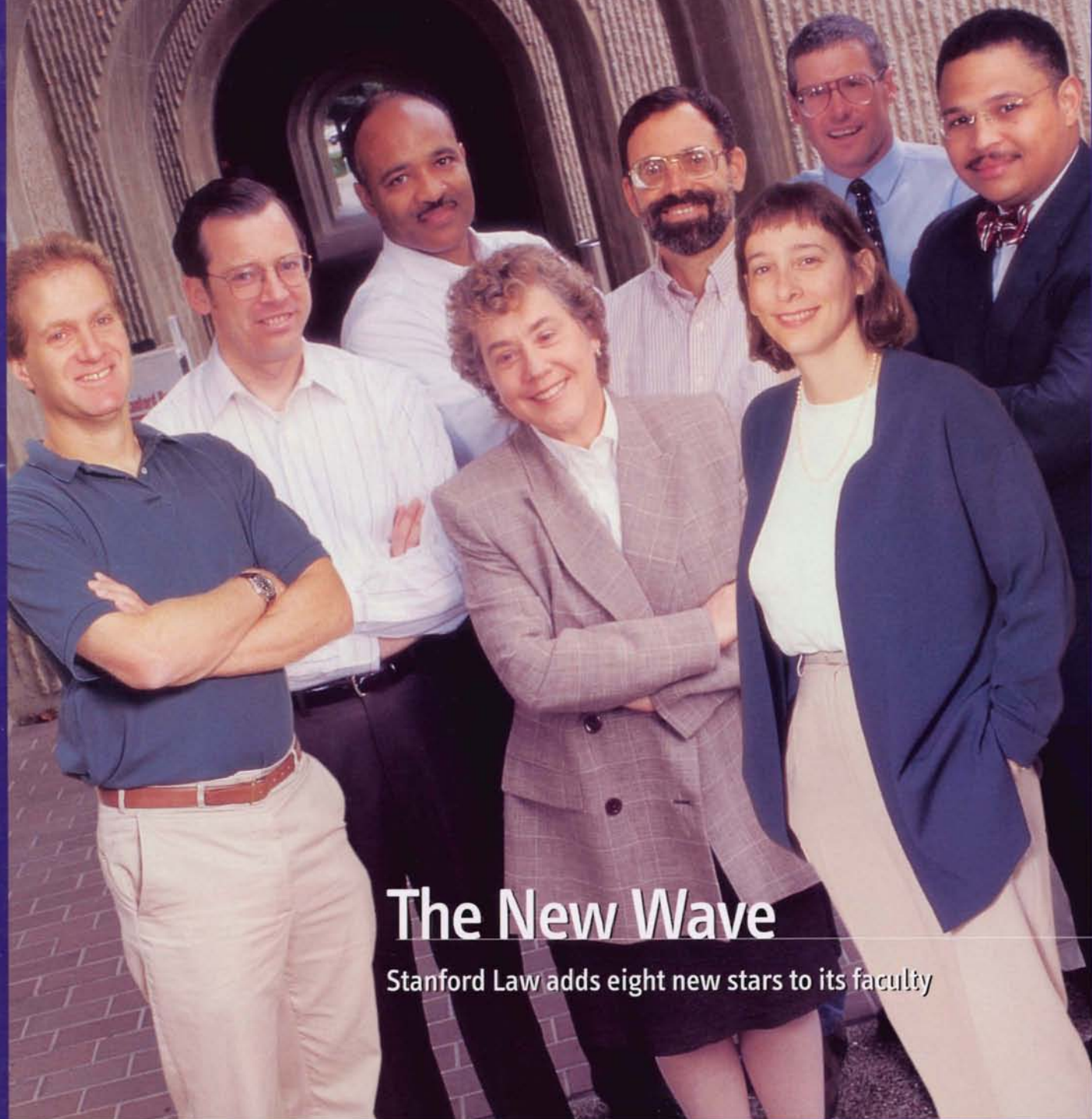


# Stanford

LAWYER



## The New Wave

Stanford Law adds eight new stars to its faculty

# EXTRA!



## CAMPAIGN FOR STANFORD LAW SCHOOL SURPASSES \$75-MILLION MILESTONE

As Alumni Weekend 1998 drew to a close, generous gifts from reunion classes and other alumni brought the Campaign total to more than \$75 million. (Total at press time: \$80 million)

See the News Briefs section of this issue and the spring *Campaign Brief* for more about the 1998 successes of the Campaign for Stanford Law School.

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## COVER

New Law School faculty members  
(back row) Mike Klausner,  
Dick Craswell, Rick Banks, Bernie  
Black, Jeff Strnad, and Marcus Cole;  
(front row) Deborah Hensler and Pam Karlan  
*Photograph by Lori Eanes*

# lost and Found

Do you have an address, telephone number, or e-mail address for any of the following Stanford Law alumni (Classes of 1920 to 1960)? If so, please contact the Law School's Alumni Relations Office at Crown Quadrangle, 559 Nathan Abbott Way, Stanford, CA 94305-8610; telephone 650/723-2730; fax 650/725-9786; e-mail [law.alumni.relations@forsythe.stanford.edu](mailto:law.alumni.relations@forsythe.stanford.edu).

With your help, these grads will once again receive STANFORD LAWYER magazine, as well as invitations to Law School events, including Celebration '99 Alumni Weekend, Ralston and Phleger lectures, and Law Society lectures and receptions.

**1920:** Charles S. Cohn; **1927:** Alden G. Graham; **1928:** Hon. Stanley A. Weigel; **1929:** Earl Manley London, Paul Stockwell Mathews, John Edward Truman, Hon. Ni Zhengyu; **1930:** James E. Prisin-Zano; **1932:** Reed Bullen; **1933:** Burdette Belknap; **1934:** Edward L. Bacon, Jr., Gilbert L. Carr; **1935:** Juan Enrique Geigel, Koon Hai Ng; **1936:** John V. Hennessy, Sallie R. Springmeyer, Arthur Wright; **1937:** Don O. Cummings, Richard A. Frank, Mabel Cecilia Gross, Patrick L. Macdonald, Bill George Montgomery, Ralph George Myers; **1938:** Burr William Sutter, Eunice E. Whitney; **1939:** Alfred Kaonohi Bell, Harris Dusenberg, William Wade Oneill; **1940:** Rodolfo F. Aponte, William S. Hogan, Andrew R. Morrison; **1941:** Volney H. Cousins, Joseph A. Kean, Hon. William Shannon Parrish, Robert S. Richards; **1942:** Carl Butler Carr; **1943:** David R. Denny, Robert W. Hadel, A. L. Martinez-Schettini; **1945:** Elizabeth Murray; **1946:** Mrs. Frank Martinez; **1947:** E. Crane Honeysett, Robert W. Sinai; **1948:** Ernest Edward Day, Richard Lynn Eckhart, Frank Todd Griffith, John Gerald Monahan, John F. Runner, Jeff Watts, Neville V. Williams; **1949:** Robert John Cunningham, John Geoffrey Keating, S. Rex Lewis, John Michael McElrath, Norman J. Mulholland, Justin T. Reid, Samuel P. Smoot, William C. Stover, G. E. Von Kalinowski; **1950:** Warren Howley Algeo, Edwin Bruce Armstrong, Leopold Diel, Robert M. Reynolds, Scott G. Tilden, William Gordon Wallace, Bob Lee Whitfield; **1951:** Nancy Cannon, Scott K. Carter, Henry C. Clausen, Jr., Ralph Gaston Dalton, Johnny Ray Dean, Algert S. Dereskevich, Mrs. James A. Devoe, Robert Leary Gorman, Robert Ernest Hartland, Alan T. Lorenze, Neil J. Sinclair, Alan Crocker Van Fleet, John Watters III; **1952:** Gardner Fred Bulfinch, George Edward Steele; **1953:** Amos Lamar Archibald, Harold F. Chrisman, Oliver Wesley Hulla, Jack Kirschke, F. James Olson, John H. Woodruff; **1954:** Harry Eugene Aine, Ernest Albert Faitos, Sidney Field, Homer Stuart Goehler, Hiro Hirano, Paul Wilson Leach, William N. McGuire; **1955:** Kevin Charles Coyle, Donald G. Dougherty, Mrs. Michael Eusey Eckstein, Peter Vandyke Gulick, Richard M. Janopaul, Hon. John Paul Zylka; **1956:** William R. Denton, A. Pardoe McGregor, Fermin Joseph Ramos, Frank D. Robertson; **1957:** James L. Campbell, Ralph W. Carlan, Frederic G. Cunard, Jr., Vasant S. Deshpande, Richard Elwyn Hawk, Raymond Groo Herbert, John Foulkes Jones, William K. Mendenhall, Lawrence F. Mosher, George Walter Sperry; **1958:** William Hayes Abbott, Richard Clyde Bobo, Arthur Friedman, Jeremy Forrest Jager, Otto Joseph Klaushofer, Rodney O. McWhinney, Rodney Allen Swartz, Joseph P. Vandenberg; **1959:** Peter Ney Bennett, Julius T. Campbell, Dattatray B. Kulkarni, Daniel H. Mack, Edward Anthony Mahoney, Richard Byron Morron, Paul Louis Wasserman; **1960:** John Drummond Begg, Donald Flynn, John Jones Greene II, Robert John Neale, Dale Benton Sherrill

**Stanford**  
LAWYER

#54 (Vol. 33, No. 1)  
Fall 1998/Winter 1999

**DEAN**

Paul Brest  
Richard E. Lang Professor of Law  
and Dean

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57 estimable alumni

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# news Briefs

F A L L 1 9 9 8 / W I N T E R 1 9 9 9

A quick update on your Law School, its impact, and ways you can enjoy its resources and activities

## Dean to step down in autumn 1999

*As the Campaign for Stanford Law School winds up, Brest will resume teaching and research*



MARCO P. ZECCHIN

Paul Brest, Stanford Law School's Richard E. Lang Professor of Law and Dean, has announced that he will leave the School's top leadership position effective August 31, 1999, and return to teaching and research.

"I have been truly privileged to serve as Dean of Stanford Law School," said Brest. "In more than ten years as Dean, there has not

been a day when I haven't looked forward to going into the office or on the road. I have benefited from every interaction with our faculty, students, alumni, and friends, and many of these relationships have resulted in significant improvements at the School.

"But change is an important part of self-renewal. As the Campaign for Stanford Law School closes in autumn 1999, it will be time for a change in the School's administration, and for me as well. In the meanwhile, I plan to redouble my efforts to encourage each and every one of the School's alumni to contribute to this critical fund-raising endeavor, and in this way invest in the future of this extraordinary law school," said the Dean.

*Continued on page 4*

## Sullivan to step up



LINDA CICERO

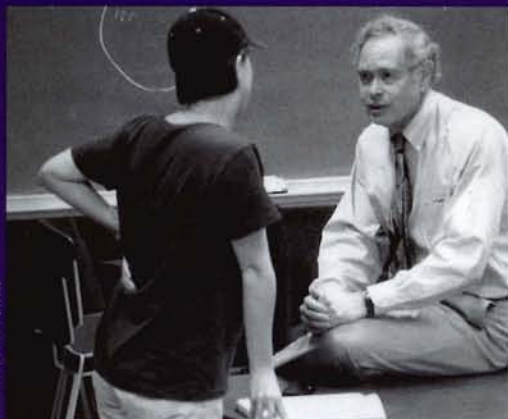
**A**T PRESS TIME: Kathleen M. Sullivan—a nationally eminent scholar, teacher, and practitioner of constitutional law—will be Stanford Law School's next dean, President Gerhard Casper announced Monday, February 22.

Sullivan was selected by Casper, himself a constitutional scholar, from recommendations presented by a committee of nine faculty members, a student, and an alumnus after a five-month search. She will take office September 1, succeeding Paul Brest, who plans to return full-time to the faculty.

"I have known and highly regarded Kathleen since my days at the University of Chicago Law School," Casper said. "Six years ago, I played a role in her recruitment to Stanford from Harvard, and at that time was reminded of her superb leadership qualities. Just as Paul Brest pushed the Law School in new directions, Kathleen will bring fresh perspective to legal education, at Stanford and nationally. She is everything one could ask for in a dean: an outstanding teacher and scholar, an active lawyer, and a public intellectual."

Outgoing Dean Brest added: "Professor Sullivan will bring to the deanship the array of skills that make her such a great lawyer, scholar, and teacher. She is a brilliant choice to assure Stanford Law School's preeminence in the 21st century."

More about Dean-designate Sullivan in the next issue of STANFORD LAWYER.



## DEAN'S ANNOUNCEMENT (continued)

**Brest's legacy: A revitalized law school**

A member of the Stanford Law faculty since 1969, Paul Brest became Dean in 1987. His tenure has witnessed a revitalization of the Law School and the launch of the remarkably successful Campaign for Stanford Law School. With less than one year remaining, the Campaign has raised more than \$80 million toward the \$93 million in needs identified by the Dean's Advisory Council in 1994—far surpassing the original Campaign goal of \$50 million and making it the most successful fundraising effort in the School's history.

Dean Brest has led Stanford in creating one of the most innovative legal programs in America, augmenting a world-renowned faculty with some of the nation's most sought-after law professors.

"We have a strong tradition of excellence in scholarship and teaching," he emphasized. "The new faculty continue that tradition while bringing their own expertise to the School. Stanford combines a broad liberal education in the law with mentorship in the skills of rigorous analysis and creative problem-solving, skills that transcend any particular subject matter and are in great demand today across all professions."

The School also has built exceptional programs in business and high-technology law, environmental law, public interest law, and dispute resolution.

**"A good university citizen"**

Dean Brest's announcement elicited warm praise from University and Law School colleagues and alumni.

"Dean Brest has recruited an outstanding faculty and engaged in what has been, to my knowledge, the most ambitious reassessment of the state of legal education at a single institution," said Stanford President Gerhard Casper.

"He involved the faculty, students, and alumni, with a resulting development of new approaches—in particular, an emphasis on legal education not just for those who want to practice law but also for those who will go into public service and business. Paul has been an impressive fund-raiser for the Law School and a very important contributor to the University as a whole. He is a valued adviser, very dedicated to Stanford, and a good university citizen," noted Casper.

Brest received equally high marks from Law School leaders and volunteers. James C. Gaither '64, a partner at Cooley Goddard in San Francisco and chair of the Campaign for Stanford Law School, attributes the Campaign's inception and achievements to the Dean.

"Our success is directly related to the vision, leadership, and perseverance of Paul Brest," Gaither said. "I have had the privilege of working with him for more than a decade, and he has worked tirelessly to ensure that Stanford will remain at the forefront of American legal education for succeeding generations of students and scholars. The energy and brilliance of the School's faculty, its commitment to research and teaching, its dedication to excellence and the highest ethical standards for our profession, and the involvement of and support from its alumni make Stanford unique among American law schools. Paul's leadership has contributed to the strengthening of the Law School in every one of these dimensions."

Former U.S. Secretary of State and Campaign co-chair Warren Christopher '49 echoed Gaither's sentiments: "Paul Brest has brought to the Law School powerful analytical ability, a gift for teaching, and a rare talent for reaching out to alumni and friends to enhance support for the Law School. As Dean, he had the foresight and wisdom to instigate a needs analysis for the School, and to launch a major fund-raising

## Gould leaves impress on NLRB

*Streamlined procedures and appellate successes mark his four-year stint as chairman*

effort. The success of that effort, which has already borne fruit in terms of rebuilding the School's faculty and ensuring aid for students, will be Paul Brest's great legacy to the School. We are fortunate that his academic leadership and wise counsel will continue to be available to Stanford as he returns to the professoriate."

### What next for the Dean and the School?

With resources secured as the Campaign draws to a close, Dean Brest believes that Stanford Law School can begin to consider the next level of institutional need required to prepare students for professional life upon graduation.

"The success of the Campaign to date makes it realistic to undertake a broad exploration of the skills, knowledge, and values that lawyers will need in law, business, and the public sector in the coming century. Our analysis is leading the School toward an initiative that could significantly improve the education of our own students and have implications well beyond Stanford. Serving as Dean has ignited a passion for building a curriculum that expands our students' fundamental skills for the ever-widening variety of careers they will pursue and that society and the economy now demand."

Although the Dean's expertise is in constitutional law, he hopes to direct a program designed to prepare graduates for careers in business and public policy, as well as law. His teaching will focus on problem-solving, decisionmaking, negotiation, and organizational behavior.

"Stanford is poised, as no other law school in America is, to take full advantage of these possibilities. I look forward to working with the new Dean, as well as the faculty, students, alumni, and friends of Stanford, in helping to bring these possibilities to fruition," said Dean Brest.



Labor law expert William B. Gould IV returned to the School in August with a fresh store of experience from four-plus years as chairman of the National Labor Relations Board.

Gould took office in March 1994 after a nine-month confirmation battle. Considered by many to be the most qualified NLRB chairman in history, he had been an attorney for a labor union, for a law firm representing management, and at the NLRB; an impar-

tial arbitrator, mediator, and fact finder in the private and public sectors; a professor of labor law for 26 years; the author of such authoritative works as *Primer on American Labor Law* (MIT, 1993, 3rd ed.) and *Agenda for Reform* (MIT, 1993); and a firsthand observer of labor law and conditions in other nations.

The legacy of Gould's NLRB tenure includes a greater emphasis on promoting settlements, rather than litigation, and streamlined procedures that greatly reduced the case backlog. Board decisions appealed during his tenure were upheld more than 80 percent of the time.

Outspoken in defense of his beliefs, Gould drew the wrath of some congressmen by publicly opposing the California proposition to curb the use of union dues for political purposes. Said Gould, "I am reminded of British Prime Minister Harold Wilson's comment when faced with a great deal of criticism and challenge from within and without: 'I know what's going on. I'm going on.'"

Gould, Stanford's Charles A. Beardsley Professor of Law, was named to *Ebony* magazine's "Most Influential Black Americans" list in 1996, 1997, and 1998. Last spring he received an honorary doctorate (his fifth) from Rutgers University. In conferring the degree, Rutgers President Francis Lawrence said: "Perhaps more than any other living American . . . [you have] contributed to the analysis, the practice, and the transformation of labor law and labor relations."

Ⓞ Chairman Gould's speeches and NLRB decisions can be viewed on the NLRB's website at <http://www.nlr.gov>

# Finding out what works

Professors shed light on critical issues

Two Stanford Law professors are currently providing policymakers and educators with valuable information and insights on pivotal issues.



DEBORAH RHODE

## Rhode: Tapped for House impeachment panel

Democrats on the House Judiciary Committee selected Stanford Law Professor Deborah L. Rhode as senior counsel on their legal team in handling impeachment proceedings against President Clinton.

Rhode, well known for her expertise on the legal ethics of sexual discrimination, worked with Rep. John Conyers (D-Mich.) and others on the committee to review the

report from independent counsel Kenneth Starr.

According to Conyers, the Democrats' legal team was amply prepared for the debates. "These are among the finest attorneys in the country, and they offer the members of this committee an unparalleled breadth of skills, experience, and expertise." The committee cited Rhode's writings, most notably *Legal Ethics* and *Justice and Gender*, in their selection announcement.

Rhode, the Ernest W. MacFarland Professor of Law and Director of the Keck Center on Legal Ethics and the Legal Profession, was also in the news in 1998 both in her capacity as president of the Association of American Law Schools and as a commentator for the *National Law Journal*. For the AALS, she established and won funding for a Commission on Pro Bono and Public Service Opportunities, which will review pro bono programs at the nation's law schools and identify models that work. The \$70,000 gift comes from philanthropist George Soros through his Open Society Institute's Program on Law and Society.

Her regular column for the *National Law Journal*, entitled "Equal Rights," brought Rhode a second EMMA (Exceptional Merit Media Award) in 1998. Established in 1987, the annual Emmas are cosponsored by the National Women's Political Caucus and Radcliffe College to recognize journalists who provide outstanding coverage of issues of particular importance to women. Rhode was tops in the EMMA Newspaper Editorial/News Analyses division.

Ⓜ AALS: <http://www.aals.org>

National Law Journal: <http://www.ljx.com/nlj/>

## Greely: Alzheimer's gene testing

Most people shouldn't bother to have their genes examined for susceptibility to Alzheimer's disease, advises a multidisciplinary team including Professor Henry T. (Hank) Greely. The group, which met under the auspices of Stanford's Program in Genomics, Ethics and Society (PGES), published its conclusions in the July 1998 issue of *Nature Medicine*.

An earlier report sponsored by PGES and also involving Greely concerned genetic testing for mutations associated with the development of breast cancer. A final report on this study appeared in the June 18 *Journal of Women's Health*.

"Until we have more effective means of warding off these diseases," says Prof. Greely, "wholesale genetic testing could cause more harm than good." Greely weighed in on another issue in the letters column of prestigious *Nature* magazine. Defending the right "if not the wisdom" of Swiss voters to decide whether to curb biotechnological research within their borders, he wrote: "Science is necessarily part of the political system; it is and must be bound by the laws of the countries in which it works."

Ⓜ Laura McConnell, Barbara A. Koenig, Henry T. Greely, and Thomas A. Raffin, "Genetic Testing and Alzheimer's Disease: Has the Time Come?" 4 *Nature Medicine* 757-59 (July 1998). *Nature Medicine* website: <http://medicine.nature.com/>

Barbara A. Koenig, Henry T. Greely, Laura McConnell, Heather Silverberg, and Thomas A. Raffin, "PGES Recommendations on Genetic Testing for Breast Cancer Susceptibility," 7 *Journal of Women's Health* 531-45 (June 1998).

Swiss democracy: 393 *Nature* 205 (May 21, 1998). *Nature* website: <http://www.nature.com>



HENRY T. GREELY

VISUAL ART SERVICES



## "A joy to teach"

3Ls become the graduating Class of 1998

Under a brilliant blue sky, more than a thousand people gathered to see Stanford Law School graduate 215 students at its 104th annual commencement ceremony on June 14. Class President Eric J. Lassen presented Barbara Allen Babcock, the School's Judge John Crown Professor of Law, with the 1998 John Bingham Hurlbut Award for Excellence in Teaching, which Babcock won for an unprecedented third time.

Dean Paul Brest, in his annual Commencement address, charged the graduating class with "an obligation to be reflective and principled about your roles as counselors and advocates, balancing zealous advocacy with a broader sense of professional responsibility." Brest



Of the 215 graduates, 195 earned the professional JD degree, 11 received the JSM, and 9 were awarded other degrees at the master's and doctoral levels.



Families and friends of the graduates celebrated in Cooley Courtyard following the ceremony.



A smiling Stacey Monica Leyton, the Nathan Abbott Scholar and winner of a bevy of other awards and honors, receives a standing ovation from her classmates.

encouraged the graduates to be involved in public service, "for the welfare of our society depends on people with your skills and power playing a special role."

Stacey M. Leyton was named the Nathan Abbott Scholar for earning the highest cumulative grade point average of the JD graduates. She had received the First-Year Honor in 1995-96 and the Second-Year Honor in 1996-97 for the highest cumulative grade point average. In addition to several other awards, Leyton won the Frank Baker Belcher Evidence Award and was co-winner of the Lexis/Nexis Public Interest Writing Award for distinguished written work about public interest law.

Kathryn Price received the Urban A. Sontheimer Third-Year Honor for earning the second-highest cumulative grade point average of the graduating class. In addition, she was one of the recipients of the Lawrason Driscoll Moot Court Award, given to officers of the Moot Court Board.

## Order of the Coif

Nineteen members of the Class of 1998 were elected to the Order of the Coif, the national law honor society whose membership consists of students graduating in the top 10 percent of the class. The newly elected members are Matthew S. Alexander, D. Bommi Bommannan, Noah D. Bookbinder, Fred G. Kareem, Jr., Jason L. Kent, Eric J. Lassen, Stacey M. Leyton, Elizabeth K. MacDonald, Jeremy D. Matz, Vedat H. Milor, Mary F. Nicol, Kristina Emanuels Phipps, Kathryn Price, Erin A. Sawyer, Janine L. Scancarelli, Matthew M. Shors, R. Polk Wagner, Matthew M. Werdegar, and Eric H. Zabinski.



Professor Barbara Allen Babcock addressed the graduating class with her trademark wit and charm. She was "pleased beyond words to receive the Hurlbut Award" from the Class of 1998, which she said had been "a joy to teach." She observed that "happiness is achieved in pursuit of other goals, not as an end in itself," and counseled the graduates to "be idealistic about your life's work."

PHOTOGRAPHS BY JOHN SHERETZ

## An argument everybody wins

1998 Kirkwood Moot Court Competition provides dramatic climax to intensive program

PHOTOGRAPHS BY RUSS CURTIS



Front: Judges O'Scannlain, Fletcher, and Tatel. Back: 3Ls Stevenson and Skyles and 2Ls Kelly and Grosz

Is the military's "Don't Ask, Don't Tell" policy constitutional? This was the question argued May 1 by the finalists in the annual Marion Rice Kirkwood Moot Court Competition.

Three appellate judges served as "justices" for the occasion: Hons. Betty Binns Fletcher and Diarmuid O'Scannlain of the Ninth Circuit and David Tatel of the D.C. Circuit Court of Appeals.

Both student teams did the School proud. Rua Kelly and Erich Grosz of the Class of 1999 won the prize for best brief, while about-to-be 1998 grads Eulonda Skyles and Karen Stevenson were named the best team overall. Skyles, a Cornell grad from Little Rock, Arkansas, was also cited as best oralist.

"It was a great moment," says Stevenson, a Rhodes Scholar from Corona, California, who singlehandedly parents twin boys.

The annual Kirkwood Competition is the culmination of a clinical education program begun as a first-year requirement and pursued in subsequent years by interested students. Attorneys who volunteer to serve as judges play a vital role throughout. The School thanks past volunteers and encourages other experienced litigators to participate in these interesting and important educational exercises.

📞 Moot Court Competition: 650/723-4502 or -9148; [rfenner@leland.stanford.edu](mailto:rfenner@leland.stanford.edu) or [lpearson@leland.stanford.edu](mailto:lpearson@leland.stanford.edu)

1L moot court program: 650/725-8526 or [alexaro@stanford.edu](mailto:alexaro@stanford.edu)



"A great moment"

## 2001: A Stanford Law odyssey

The Class of 2001 approaches the study of law from a variety of perspectives

Did you know that . . .

a symphony first violinist, a United Nations staffer, two Marshall Scholars, two college teachers, an NCAA Division II basketball player, a professional dance choreographer, two Peace Corps volunteers, a police officer, an *American Lawyer* staff reporter, a medical student, a USAF squadron leader . . .

are all members of the Class of 2001?

That . . .

the average age is 25, the GPA median is 3.8, ethnic minorities represent 35 percent, advanced-degree holders 39 percent, women 43 percent . . .

in the Class of 2001?

## Educating tomorrow's leaders

*The Dean welcomes feedback on the School's expanded approach from the Board of Visitors*

Alumni and friends of the School provided valuable insights to the Dean and faculty on the expanded approach to legal education now emerging at Stanford Law School, during the annual Board of Visitors meeting last spring.

As described in Dean Brest's "From the Dean" message in the last issue of *STANFORD LAWYER* (Summer 1998), the approach integrates into the Law School curriculum key topics and skills traditionally associated with schools of business and public policy. The goal: to better prepare students for positions of leadership throughout society.

The Visitors heard a report from Dean Brest on the state of the School and the work, now in progress, of the Task Force on the Mission of Stanford Law School. Small-group discussion sessions like that pictured below followed.

A third session focused on alumni involvement and volunteer opportunities. A vital element in the School's continued progress, these opportunities range from serving as a moot court judge or trial practice lecturer to helping organize law society events and participating in class reunion fund drives.

As the meeting closed, retiring chair James M. Koshland '78 gave over leadership of the Board to Charles E. Koob '69 and warmly thanked the Visitors for volunteering their time and thoughts at the annual meeting and in related activities.

📎 **Guide to volunteer and participation opportunities with Stanford Law School: 650/723-2730**



Dean Brest (center) confers with (clockwise from left front) Gail Jaquish (AB '77), PattiSue Plumer '89, Prof. Barbara Babcock, Karen Cook '80, Jim Koshland '78, Ted Cranston '64, and Mike Eagan '74.

## A round of applause

*Stanford Associates salutes Law volunteers*

Eight Law School volunteer leaders received Stanford Associates Awards this past spring recognizing their service and generosity over the years: Donald Crocker '58, Deane Johnson '42\*, Robert Keller '58, John Levin '73, Stephen Neal '73, Victor Palmieri '54, Miles Rubin '52, and Marsha Simms '77. One of the three recipients of the Gold Spike, the Associates' highest honor, is also affiliated with the Law School: Nancy Barry Munger (AB '45), who has joined her husband, attorney and businessman Charles Munger, in making key donations to the School.

Several other Law School friends received Outstanding Achievement awards. David Eaton '61 and W. A. Franke '61 were honored for their creativity, energy, and success in spearheading the 35th Reunion campaign for their class, and Carmen Policy and Michael Yanney were recognized for exemplary performance as co-chairs of the School's Parents Program. Other Law School friends among the Associates' honorees were foundation executive Thomas Ford\* and alumnus R. Chandler Myers '58.

Stanford Associates is the honor society of alumni and friends that encourages and recognizes excellence in volunteer fund-raising service for Stanford University.

📎 **Stanford Associates: 650/725-4340**

\*Deane Johnson passed away on March 1, 1999, and Thomas Ford on November 30, 1998. More on the lives of these generous and loyal members of the Stanford community in the next Campaign Brief.



## Wanted: Public interest mentors

*Law grads share a wealth of experience*

Stanford Law School's Office of Public Interest Programs has launched a new initiative designed to provide students with the opportunity to meet and learn from graduates of the Law School who have pursued public service careers.

Alumni who become involved in the David W. Mills Public Service Visiting Mentor Program spend two days at the Law School, giving a presentation about their work to interested students and providing individual counseling on the professional training and experience essential to public interest careers, the availability of work projects, and opportunities for career development.

Generally, public service mentors have practiced for five to ten years and in a variety of settings. Interested alumni who would enjoy advising students and promoting public interest/public service practice should contact the Office of Public Interest Programs.

☎ Office of Public Interest Programs: 650/725-4192.  
E-mail: [tnelson@leland.stanford.edu](mailto:tnelson@leland.stanford.edu) or [lisalini@leland.stanford.edu](mailto:lisalini@leland.stanford.edu)

## At the nexus of law, business, and policy

*Programs partner with affiliate members*

Stanford Law School's Executive Education Programs focus on the intersection of law, business, decisionmaking, and policy. The 1999 Exec Ed calendar promises to be a stimulating one, launched with the Fifth Anniversary Directors' College, March 21–23. Other highlights of the year's agenda include:

- The Copyright Office Comes to Silicon Valley, March 26
- General Counsel Institute, May 16–18
- Reinventing Commerce at Net Speed, June 20–22
- Fiduciary College, October

### Affiliate partners

Entering its second year, the Executive Education Affiliates Program brings together academics, policy-makers, corporate executives, investment bankers, and venture capitalists to develop and support courses that meet the needs of today's legal and business communities.

Law firms and corporations participating in the Affiliates Program receive a wide range of benefits, including three paid scholarships for Executive Education programs within a calendar year, invitations to special events at the Law School, public acknowledgment of affiliate membership on all printed materials distributed to Executive Education participants, and Internet links between the Exec Ed website and the firm's or company's home page. Executive Education Programs also designs exclusive offerings for its affiliates.

☎ Executive Education Programs and Affiliates Program:  
650/725-5491; [cajensen@leland.stanford.edu](mailto:cajensen@leland.stanford.edu);  
<http://lawschool.stanford.edu/execed>

## Participation

*The watchword for Campaign year five*



The Campaign for Stanford Law School capped four tremendously successful years by reaching the \$75-million milestone during Alumni Weekend 1998 (more in the next *Campaign Brief*). That goal was attained with the help of donors such as The Pritzker Foundation, which pledged \$3 million to finance the first joint professorship for the Law School and the Graduate School of Business. This and a number of other key achievements and major gifts have set the pace for giving in the closing year of the five-year campaign.

- The Class of 1998 set a remarkable record with its class gift, participating at an all-time class high of 81 percent through the Young Alumni Matching Program. (See the December 1998 *Campaign Brief* for more on this impressive gift effort.)
- The alumni participation rate for the Campaign has reached 37.5 percent, just 2.5 percent shy of the 40 percent goal.
- David Mills, consulting professor in tax at the Law School and partner in Harbourton Enterprises, has made a five-year pledge of \$1.8 million to establish the Public Interest Law Fund to support the East Palo Alto Community Law Project. (An article on this gift appeared in the December 1998 *Campaign Brief*.)
- The Transnational Business Law program has received a five-year, \$500,000 pledge from The Coca-Cola Company to support curriculum expansion through a series of new courses, seminars, and workshops, as well as outreach conferences involving academics and practicing attorneys. (More in the next *Campaign Brief*.)
- Many classes celebrating reunions in 1998 broke giving records, chief among them the Class of 1958, which became one of only two classes in the Law School's history to raise more than \$1 million for its reunion, and the Class of 1973, which raised the largest amount ever for a reunion class, with its gift of more than \$2 million. Final totals for all classes will be reported in the 1998-99 *Annual Report of Giving*.

## Addenda

The following contributors were regrettably omitted from the School's 1997-98 *Annual Report of Giving*:

- Crothers Fellow: Gregory T. Cox '87
- Sterling Circle: Thomas C. DeFilipps '81
- Faculty Donor: Michael Klausner, Professor of Law and Bernard D. Bergreen Faculty Scholar
- Faculty Donor: Michael S. Wald, Jackson Eli Reynolds Professor of Law
- Kirkwood Fellow: Dennis M. Zaslavsky '87



Stanford Law School Office of Development: Katie Parrish, 650/723-3085; e-mail: [katiep@leland.stanford.edu](mailto:katiep@leland.stanford.edu)

## Two valuable hits for Stanford site

*Stanford Securities Class Action Clearinghouse nets grant and settlement funds*

A three-year grant totaling \$225,000 from the Nasdaq Stock Market® now supports Stanford's award-winning securities fraud website as it tracks



LORI EAMES

Paul Lomio (pictured, above left) and Erika Wayne comanage the Stanford Securities Class Action Clearinghouse.

the progress of federal and state class action securities fraud litigation nationwide.

The database for the website has grown rapidly since its inception in 1997, with thousands of pleadings now registered on-line. As of November 1998, the site has monitored litigation against at least 475 publicly traded companies, all of which have become involved in a suit since passage of the Private Securities Litigation Reform Act three years ago. The site contains full-text searchable electronic copies of more than 250 complaints and thousands of additional briefs and memoranda related to these lawsuits—available at no charge to the public.

### Website shares in class action settlement

In 1998, U.S. District Court Judge Vaughn Walker assigned a portion of the damages from a San Francisco securities fraud suit (Wells Fargo Securities Litigation) to the Clearinghouse. Walker designated most of the class action settlement fund to the class members, but awarded about \$4,000 to the Clearinghouse because, he noted, it also “serves the interests” of the class.

📍 Stanford Securities Class Action Clearinghouse: <http://securities.stanford.edu/>

## VIDEO

### Whither mass torts?

*A panel of litigators and professors discusses trends in class action suits*

One expected consequence of the congressional death of the tobacco bill is a surge in anti-tobacco lawsuits. What shape are these and other mass tort cases likely to take?

A Law School-sponsored panel on this area of law—“Off the Beaten Path: Innovation in Recurring Mass Tort Litigation”—is now available on

videotape from the Stanford Channel.

Aired in July 1998, the panel is moderated by Stephen C. Neal '73, a noted litigator with Palo Alto's Cooley Godward. Joining him on the panel are trial lawyers David Bernick of Chicago's Kirkland & Ellis; Elizabeth Cabraser of San Francisco's Lieff, Cabraser, Heimann & Bernstein; and

Professor Robert L. Rabin, an expert in mass tort litigation and holder of Stanford Law School's A. Calder Mackay chair.

📍 Stanford Channel: For information and VHS tapes (at \$24.60 each, including shipping and handling), telephone 650/723-5100 or visit <http://tsc.stanford.edu/tsc/>



STEPHEN NEAL



ROBERT RABIN



STANFORD CHANNEL

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# THE NEW WAVE

**Eight new faculty members continue Stanford Law School's tradition of excellence**

**W**ell over three decades ago, Dean Carl Spaeth recruited Marc Franklin, Gerry Gunther, Charlie Meyers, Joe Sneed, and Howard Williams to Stanford Law School. Just as those additions built on the faculty's existing strengths to set the School's direction for the 1970s and '80s, we have now set our course for the start of the next century with another wave of impressive faculty appointments.

Not since those days in the early '60s has Stanford Law recruited as remarkable a group of faculty as it has in the past two years. In the fall of 1997, we added Marcus Cole, Mike Klausner, and Jeff Strnad to our faculty. And in the fall of 1998, we welcomed five more new members: Rick Banks, Bernie Black '82, Dick Craswell, Deborah Hensler, and Pam Karlan. With these appointments, Stanford's curriculum in law and business and its program in negotiation and dispute resolution are unsurpassed. The School has also strengthened its interdisciplinary

studies involving the humanities and natural and social sciences.

As of this past fall, no law school in the country has a better faculty in terms of sheer intellectual quality. Stanford is rightly regarded as having the strongest women faculty in the country, and the School is constructively diverse in terms of race, ethnicity, and disciplinary approaches.

Beyond the particular expertise that the eight new appointees bring to the School, as a group they continue the Stanford Law tradition of excellence in scholarship and teach-

ing—qualities essential to a first-rate legal education. In truth, the single greatest value the School offers its students is a broad liberal education in the law, with mentorship in the skills of rigorous analysis and creative problem-solving—skills that transcend any particular subject matter.

As Dean, I have come to understand the amazing range of problems to which our alumni apply these skills in their daily work, and I have been awed by how well they do it. Our new colleagues manifest the School's commitment to assuring that successive generations of Stanford Law graduates will be at least as well prepared for the complex world that awaits them.

— Paul Brest  
Richard E. Lang Professor of Law and Dean





## R. Richard Banks

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### R. Richard Banks

Assistant Professor of Law

Though he may be new to the Stanford Law faculty, Rick Banks is anything but new to the Farm and the Silicon Valley. An alumnus with both bachelor's and master's degrees from Stanford, Banks became a realtor in nearby Palo Alto soon after graduation. Four years later, he elected to resume his studies, this time at Harvard, where he earned his JD in 1994. Banks then signed on with the firm of O'Melveny & Myers, specializing in real estate law. He later became a Reginald Lewis Fellow at Harvard, and went on to clerk for Judge Barrington D. Parker, Jr., U.S. District Court, Southern District of New York. Banks joined the Stanford Law faculty in 1998.

The author of "The Color of Desire: Fulfilling Adoptive Parents' Racial Preferences through Discriminatory State Action," (107 *Yale Law Journal* 875, 1998), Professor Banks is conducting research in a number of areas, including real estate finance, family law, and race and the law. At Stanford, he teaches Property and the Constitutional Law Seminar on Equal Protection.

Banks's primary inspiration as a law student was his attraction to what he calls "the unique characteristics of law," both as a discipline and a profession. "Law is rare among academic pursuits in the way it pertains to practical questions of governance or policy," says Banks. "At the same time, the level of intellectual depth characteristic of legal analysis makes it rare among approaches to political or social issues." As a professor, he encourages students to follow their passions and interests: "Most people can only excel at tasks or projects they truly care about. And if, by chance, they do excel at tasks they care for minimally or not at all, then their 'success' won't mean much to them."

## Bernard S. Black

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### Bernard S. Black

Professor of Law

This past fall, law grad Bernie Black '82 returned to Stanford Law School as Professor Black, joining fellow Stanford Law alumni John Barton '68, Bill Baxter '56\*, Joe Grundfest '78, Ken Scott '56, Buzz Thompson '76, and Bob Weisberg '79 on the faculty.

Black's arrival back on campus followed a clerkship with Judge Patricia M. Wald, U.S. Court of Appeals, District of Columbia Circuit; four years at Skadden Arps; 18 months as counsel to then Commissioner Joe Grundfest at the Securities and Exchange Commission; and a decade on Columbia's law faculty. Black has spent a good deal of time in Eastern Europe and the Far East, advising the governments of Vietnam, Mongolia, Ukraine, and Armenia on corporate



\* Professor Baxter passed away on November 27, 1998. Look for more on the life of this nationally known antitrust expert in the Summer 1999 STANFORD LAWYER.



## G. Marcus Cole

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### G. Marcus Cole

Assistant Professor of Law

and securities law reform. In addition, he devised new company law for Russia based on the ideas outlined in his article (with Reinier Kraakman), "A Self-Enforcing Model of Company Law," (109 *Harvard Law Review* 1911, 1996).

Professor Black teaches several classes at Stanford, including Business Associations, Corporate Finance, Foundations of the Regulatory State, Corporate Acquisitions, and Securities Regulation. He cautions first-year students not to work too hard: "Law school is about learning analytical ways of thinking much more than specific legal rules. Studying to the point where your brain is frazzled doesn't help." As for second- and third-year students, he advises, "Take some courses you want to take, not only the ones you think you'll need when you graduate. You don't really need most of the courses you think you need." But he also urges students planning to become transactional lawyers to learn finance and accounting—"the theory and language of business, respectively."

Marcus Cole, a specialist in contracts and bankruptcy, is known for bringing creativity and enthusiasm about business law and small business issues to his research and to the Stanford Law classroom. Cole earned his undergraduate degree in 1989 from Cornell and his JD in 1993 from Northwestern, where he was editor-in-chief of the *Northwestern Journal of International Law and Business* and a member of the school's national Frederick Douglass Moot Court Team. Following graduation, Cole clerked for Judge Morris Sheppard Arnold of the U.S. Court of Appeals, Eighth Circuit, before joining the Chicago law firm of Mayer, Brown & Platt in 1994. He became a member of the Stanford Law faculty in 1997.

To Cole, his most significant achievement in law practice was a string of victories in a pro bono case he tackled as an attorney in Chicago. The Village of Park Forest, Illinois, had passed a home inspection ordinance that entitled the town to inspect the homes of residents living in single-family rental units. Several residents refused entry to the inspectors, insisting that they obtain warrants. In response, the inspectors typed up their own "administrative warrants," then attempted to have the

residents jailed for contempt when they continued to refuse entry. Cole filed a suit in federal court challenging the ordinance and the inspections as unreasonable searches in violation of the Fourth Amendment. As a result of his successful arguments, the suit was recently decided in the tenants' favor on most issues, and, according to Cole, the Village of Park Forest has now repealed the underlying ordinance.

Professor Cole teaches Contracts I and Bankruptcy, as well as a seminar in entrepreneurship and commercial regulation, entitled Gender and Race Issues in Commercial Law.

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### Richard Craswell

Professor of Law

As a visiting professor at Stanford Law in 1993, Dick Craswell received rave reviews from the students in his class—an experience he would not have anticipated as he finished up his law studies at the University of Chicago in 1977. "I did not particularly enjoy law school, and did not consider I would come back and teach," recalls Professor Craswell. "It was not until years later that I became interested in academics." Six years, to be precise—years spent as an attorney and attorney-advisor at the Federal Trade Commission.

## Deborah R. Hensler

Of his FTC tenure, Craswell observes that the commission “did some things that were good for the country and—this may be more important—avoided doing some things that would have been harmful.” In 1983, he returned to the halls of academe, first accepting an appointment at the University of Southern California, then moving on to the University of Chicago, and ultimately joining the Stanford Law faculty in 1998.

The author of “Property Rules and Liability Rules in Unconscionability and Related Doctrines,” (60 *University of Chicago Law Review* 1, 1993), Professor Craswell is among the leading scholars in contracts, which he approaches from both economic and jurisprudential perspectives. In addition to contracts, he has also taught commercial law and antitrust law.



At Stanford, Craswell teaches Contract Law and Secured Transactions. His recommendation to law students? “When you find a subject you’re interested in, take the time to pursue it in more depth beyond the classroom.”

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### Deborah R. Hensler

Judge John W. Ford Professor of Dispute Resolution

Deborah Hensler is an expert on public policy issues involving the resolution of civil disputes in and outside the judicial system, and has done pathbreaking empirical studies of mass tort litigation and court-mandated alternative dispute resolution (ADR). She has contributed to increasing understanding of the need for empirical research in civil procedure reform and for empirical analyses by law scholars. This fall Hensler joined the Stanford Law faculty as the first Judge John W. Ford Professor of Dispute Resolution.

Professor Hensler’s interest in law stems from her work in social science and public policy. A 1973 PhD in political science from MIT, she has spent much of her career at RAND, most recently as director of the Institute for Civil Justice. For the past five years she has also taught law and social science as a



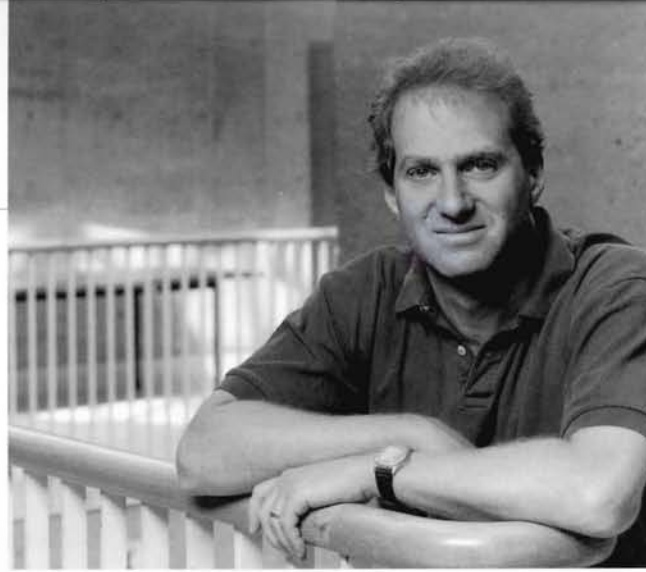
faculty member at the University of Southern California and served on the Ninth Circuit task forces on gender bias in the courts and on race, ethnicity, and religious fairness.

The author of a soon-to-be-released book on class actions, Hensler co-taught a seminar last fall on statistics and empirical research in the law. She is also collaborating on an interdisciplinary seminar on conflict resolution offered by the Stanford Center on Conflict and Negotiation. In the future, she plans to teach courses on alternative dispute resolution, complex litigation, public policy analysis, and the use of social scientific evidence in the law.

Hensler encourages law students to acquire an understanding of scientific research to complement their training in more traditional legal analysis. “In myriad areas of the law, from intellectual property to health law to mass toxic torts, a basic understanding of scientific method and quantitative analytic techniques is rapidly becoming essential,” she says.

## Richard Craswell

## Michael Klausner



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### Pamela S. Karlan

Professor of Law

In 1997, when Pam Karlan visited Stanford Law School from the University of Virginia, she became enormously popular as a teacher of both civil procedure and voting rights. A 1984 Yale Law School graduate, Karlan clerked for U.S. District Court (New York) Judge Abraham Sofaer (now a lecturer at Stanford Law School) and for U.S. Supreme Court Justice Harry Blackmun. She worked as an attorney for the NAACP Legal Defense and Educational Fund—specializing in voting and employment discrimination litigation—before joining the Virginia Law School faculty in 1988, where she was Roy L. and Rosamund Woodruff Morgan Research Professor of Law. She became a member of Stanford's law faculty in 1998.



Named one of the 45 “young lawyers outside the private sector whose vision and commitment are changing lives” by *American*

*Lawyer* last year, Professor Karlan has won two voting rights cases in the U.S. Supreme Court and has seen several theories advanced in her work lead to a clarification of the Voting Rights Act of 1965. Many state and local legislative bodies and courts now have minority elected officials who might not be there had the lawsuits she worked on not been filed.

Karlan is the author of *The Law of Democracy: Legal Structure of the Political Process* (New York: Foundation Press, 1998). She taught Civil Procedure I and Civil Rights Litigation last fall, and is teaching Voting Rights and Reapportionment in the spring. Her advice for law students? “Talk to each other. Listen to each other. Ask yourself what kind of lawyer you want to be. Do not be afraid of taking intellectual chances. And when selecting classes—take the professor, not the subject.”

## Pamela S. Karlan

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### Michael Klausner

Professor of Law and Bernard Bergreen Faculty Scholar

Mike Klausner is a highly regarded young scholar in corporate law and banking. For three consecutive years—1995 to 1997—his published papers were ranked among the ten best corporate and securities law articles of the year by the *Corporate Practice Commentator*.

A 1976 graduate of the University of Pennsylvania, he received a joint MA (economics) and JD from Yale in 1981. For the next year, he clerked for Judge David Bazelon on the U.S. Court of Appeals, District of Columbia Circuit, and then, in 1983, for Justice William Brennan on the U.S. Supreme Court. Klausner has practiced law with the firm of Paul, Weiss, Rifkind, Wharton & Garrison. Acquainted with Chinese law

and business, Klausner also spent a year with the firm of Gibson, Dunn & Crutcher in their Hong Kong office, and another year as a visiting scholar and lecturer at Peking University.

From 1989 to 1990, Klausner served as a White House Fellow, which included work as deputy associate director of the Office of Policy Development and as a member of the Bush administration's Financial Institutions Reform Working Group. In 1991, he left government to become a member of the faculty

at New York University, which awarded him tenure in 1995. He joined Stanford's faculty in 1997. Professor Klausner's main teaching areas are business associations, the economics of corporate law, and the regulation of financial institutions.

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**James Frank (Jeff) Strnad II**  
Professor of Law and Helen L. Crocker  
Faculty Scholar

Jeff Strnad is one of the nation's leading scholars in the rapidly growing field of law and finance. A 1975 graduate of Harvard College, he continued his studies at Yale, where he earned a JD in 1979 and a PhD in economics in 1982. Known for integrating several areas of finance into tax policy analysis, he came to Stanford in 1997 with 17 years of teaching experience. He had been a professor at the University of Southern California since 1981,

and was named Milliken Professor of Taxation in 1989. From 1984 to 1997, he also taught at the California Institute of Technology, where he held a professorship in law and economics.

Professor Strnad says his exposure to interdisciplinary approaches to law at Yale has informed his scholarly and teaching work in finance and tax law. At Stanford, his course offerings this year include Finance and Tax (Finance PhD course, Graduate School of Business) and Statistics and Empirical Research I and II. He believes his most significant publication to date is the article "Taxing New Financial Products: A Conceptual Framework," (46A *Stanford Law Review* 569, 1994).

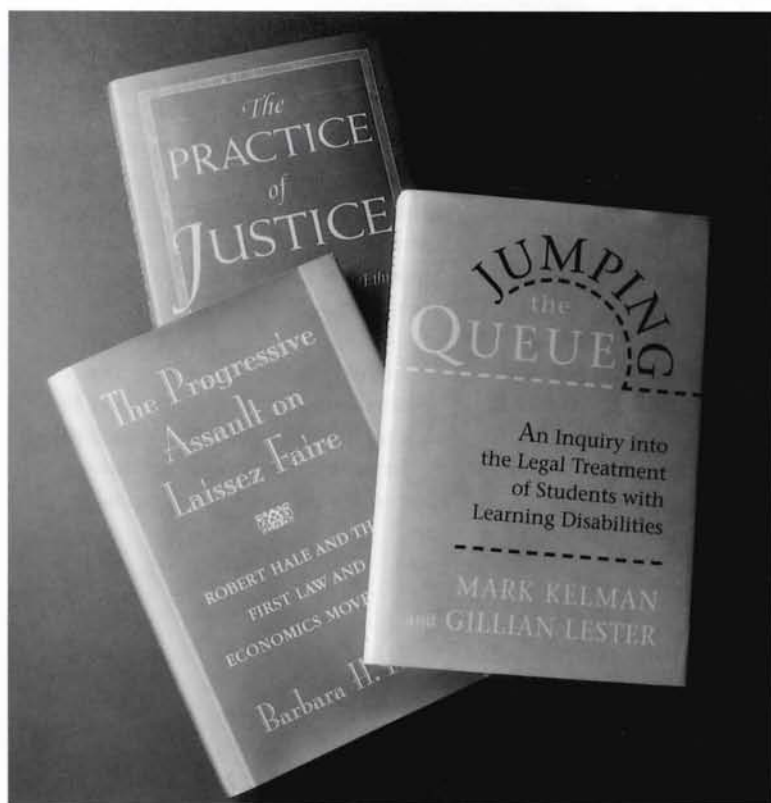
Strnad's word to law students: "Gain an edge on the job market by picking up skills and tools—such as statistical analysis applied to law—that others do not typically possess."



**James Frank Strnad II**

# Professors Delve Deep

FRIED, KELMAN, AND SIMON ARE FEATURED IN HARVARD PRESS 1998 LINEUP



Stanford law professors made a splash last year with the publication of their books by the Harvard University Press.

The authors, all tenured members of the Stanford faculty, are Barbara H. Fried, Mark G. Kelman (William Nelson Cromwell Professor of Law), and William H. Simon (Kenneth and Harle Montgomery Professor of Public Interest Law). Their books, full-length treatises rather than casebooks, speak to issues of moment in the policymaking communities.

# in Three New Books

## Laissez unfair?

Today's policy debate over the extent to which the state should or does control the economy had a lively predecessor in the Progressive Era of the late nineteenth and early twentieth centuries. Responding to the growing influence of laissez-faire ideology in the political and judicial spheres, turn-of-the-century academics in both law and economics mounted parallel critiques of free-market approaches.

Perhaps the most original of these thinkers was Robert Lee Hale, the focus of Barbara Fried's new book, *The Progressive Assault on Laissez Faire: Robert Hale and the First Law and Economics Movement* (Harvard, 1998).

Hale's work, among the best of the Legal Realist movement, took aim at any simple notions of the free market, arguing that the law ineluctably played a central role in structuring economic life and distributing its rewards. Politically to the left of most of today's law and economics scholars, the work of Hale and his colleagues in this "first great law and economics" movement stands as a lively rejoinder across the decades to current versions of libertarianism.

### *From The Progressive Assault on Laissez Faire:*

"Hale's primary agenda was a critical one. He tried to show that the conventional distinctions and categories of thought ('fair value,' 'private' versus 'public' spheres of action, 'freedom' versus 'coercion') that dominated legal and political discourse in the late nineteenth and early twentieth centuries had no functional content. That is to say, they were incapable of shedding any light on, let alone resolving, the difficult policy choices that confronted courts and legislatures when they were forced to decide between competing claims in society." [Introduction, page 9]



BARBARA FRIED

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"By far the best work on the Legal Realist movement's attack on laissez faire, and one of the best demolitions, in law or political theory, of that contested concept. Not only an important contribution to the history of legal thought, this book stands on its own as a critique of the basic distinction between 'government' and 'market.'"

—Cass R. Sunstein  
Karl N. Llewellyn Professor of Jurisprudence  
University of Chicago Law School

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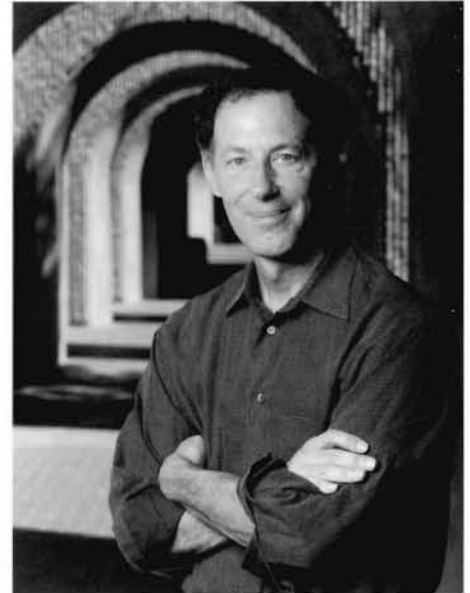
## “Learning disability” critique

Stanford’s Mark Kelman raises serious questions about the special treatment—some negative and some amounting to extra breaks—given to the 5 percent of schoolchildren categorized as “learning disabled.” The cost of this special entitlement is \$9 billion a year—more than four times the size of Head Start.

Kelman and UCLA professor Gillian Lester (JSM '93) explore the issue in *Jumping the Queue: An Inquiry into the Legal Treatment of Students with Learning Disabilities* (Harvard, 1997). The authors find little empirical evidence to support the proposition that those diagnosed as learning disabled—based predominately on the gap between IQ (itself a suspect measure) and performance—benefit more from special interventions than those with other learning problems. They also question the notion that the antidiscrimination principle, properly understood, mandates putting the interests of poor learners dubbed “disabled” ahead of the interests of socioeconomically disadvantaged students or other academic underperformers not so labeled.

### From *Jumping the Queue*:

“On the one hand, existing policy toward students with learning disabilities draws heavily on a long-standing theme in conservative conceptions of the appropriate boundaries of the welfare state—that we are duty bound to treat the ‘deserving’ poor considerably more favorably than the ‘undeserving’ poor. Children with learning disabilities are, in this view, entitled to egalitarian interventions that other poor performers are not: their grades are (at least mildly) inflated, their claims for incremental social resources (largely) met, their immunity to the discipline system (partly) granted because they are subsumed in a morally favored category of those who fare poorly in the absence of self-conscious egalitarian interventions, the category of people with disabilities.” [Chapter Eight: Ideology and Entitlement, p. 195]



MARK KELMAN

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*“Jumping the Queue* is an excellent contribution, bringing together both quantitative and qualitative empiricism, a thick description of both doctrinal law and law in practice, and both theoretical and applied normative analysis. The authors are comfortable in tackling the deepest theoretical and the most pressing quotidian normative issues and at the same time are comfortable bringing radically different types of data to bear on their analysis. There are very few books that are as eclectically comprehensive as this one.”

—Ian Ayres  
William K. Townsend Professor  
Yale Law School

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## The lawyer's dilemma

Should a lawyer guard a client's secrets even when disclosure would exculpate someone wrongly accused of a crime? To what extent should a lawyer exploit loopholes that would give clients unintended advantages?

William Simon, a legal theorist with extensive experience in practice, charges that the profession's standard approach to such questions is too categorical and rigid. Instead, he proposes a more flexible, "contextual" approach responsive to the underlying merits of the case and the interests of justice.

Recognizing that his approach would encourage greater exercise of personal discretion on the part of lawyers, Simon devotes his last chapter to ways in which the legal system and profession might cultivate and regulate the application of justice-based ethical norms in legal practice.

All this—enriched by examples from actual cases—appears in his book, *The Practice of Justice: A Theory of Lawyers' Ethics* (Harvard, 1998).

### From *The Practice of Justice*:

"Nullification is a term most readily associated with the power of the jury to disregard the judge's instructions and acquit even in the face of conclusive proof of what the judge has defined as an offense. . . .

"Nullification also describes two other important and less controversial practices—the judge's power to declare unconstitutional legislation invalid and the prosecutor's power to decline to enforce legislation when enforcement would not serve the public interest. Prosecutorial nullification is widely considered legitimate in circumstances where the application of a statute produces an especially harsh or anomalous result or where an entire statute, usually an old one, seems out of tune with contemporary sentiment—for example, the laws against fornication.

"These nullification practices are never defended as forms of lawlessness, but rather as decentralizations of law application. The power to nullify is not a license to impose one's own views, but a duty to interpret what the law requires." [Chapter 4: Should Lawyers Obey the Law?, page 84]



WILLIAM SIMON

"William Simon is the George Orwell of the legal profession, a fearless, bluntly honest, and clear-sighted observer whose sharp critique of lawyers' practices arises from his deep attachment to their ideals. Simon's book is clearly one of the most important statements of the aims, purposes, and practical ethics of law practice ever to have appeared in this legal culture. . . .

"Unlike so much writing on professional ethics, Simon's is neither naively idealistic nor cynical and demoralized: it is impressive because his views are grounded in considerable experience, personal and vicarious, of how lawyers actually behave—every point is illustrated by thickly described examples of real practice situations—and are also linked to basic conceptions of jurisprudence and social theory."

—Robert W. Gordon  
Fred A. Johnston Professor  
Yale Law School

# professors in Print

On voting rights, cultural property, corporate governance, Miranda, and more.  
A concise bibliography of faculty writings published between April and July 1998

## MONOGRAPHS

**Bernard S. Black**, Reinier Kraakman, and Anna S. Tarassova, *Guide to the Russian Law on Joint Stock Companies*. Boston: Kluwer Law International, 1998.

**Barbara H. Fried**, *The Progressive Assault on Laissez Faire: Robert Hale and the First Law and Economics Movement*. Cambridge, Mass.: Harvard University Press, 1998.

**Pamela S. Karlan**, Samuel Issacharoff, and Richard H. Pildes, *The Law of Democracy: Legal Structure of the Political Process*. Westbury, N.Y.: Foundation Press, 1998.

**Miguel A. Méndez**, 1998 *Supplement to California Evidence: Highlighting the Major Differences between the California Evidence Code and the Federal Rules of Evidence*. St. Paul, Minn.: West Publishing Co., 1998.

**Miguel A. Méndez**, 1998 *Supplement to Evidence: The California Code and the Federal Rules: A Problem Approach*. St. Paul, Minn.: West Publishing Co., 1998.

**John Henry Merryman** and Albert E. Elsen, *Law, Ethics and the Visual Arts*, 3rd ed. Boston: Kluwer Law International, 1998.

**William H. Simon**, *The Practice of Justice: A Theory of Lawyers' Ethics*. Cambridge, Mass.: Harvard University Press, 1998.

## BOOK CHAPTERS

**Bernard S. Black** and Sanjai Bhagat, "Board Composition and Firm Performance: The Uneasy Case for Majority-Independent Boards," in *Corporate Governance Institute: Blueprint for Good Governance in the 1990s*, Gary G. Lynch, Scott P. Spector, and Katherine McG. Sullivan, co-chairs. New York: Practising Law Institute, 1998. (Also published as Working Paper #137 by the Columbia Law School Center for Law and Economic Studies)

**Henry T. Greely**, "The Human Genome Diversity Project: Ethical, Legal and Social Issues," in *Genetics: Issues of Social Choice*, Ted Peters, ed. Cleveland, Ohio: Pilgrim Press, 1998.

**Thomas C. Grey**, "Langdell's Orthodoxy," in *The Philosophy of Legal Reasoning: A Collection of Essays by Philosophers and Legal Scholars*, Scott Brewer, ed. New York: Garland Publishing, 1998.

**Janet E. Halley**, "Gay Rights and Identity Imitation: Issues in the Ethics of Representation," in *The Politics of Law*, 3rd ed., David Dairys, ed. Philadelphia: Temple University Press, 1998.

**Janet E. Halley**, "The Politics of the Closet: Towards Equal Protection for Gay, Lesbian, and Bisexual Identity," in *Homosexuality and the Constitution*, Arthur S. Leonard, ed. New York: Garland Publishing, 1998.

**Margaret Jane Radin**, "The Pragmatist and the Feminist," in *The Philosophy of Legal Reasoning: A Collection of Essays by Philosophers and Legal Scholars*, Scott Brewer, ed. New York: Garland Publishing, 1998.

**William H. Simon**, "Contract Versus Politics in Corporations Doctrine," in *The Politics of Law*, 3rd ed. David Dairys, ed. Philadelphia: Temple University Press, 1998.

## REPORTS

**Joseph A. Grundfest**, Michael A. Perino, Paul Lomio, Erika V. Wayne, and Rilla Reynolds, *Securities Class Action Litigation in Q1 1998: A Report to NASDAQ from the Stanford Law School Securities Class Action Clearinghouse*, June 2, 1998. [Available at <http://securities.stanford.edu/report/nasdaq/98q1.html>]

## OCCASIONAL PAPERS

**Deborah L. Rhode** et al., "Opportunities and Challenges for Lawyers and Legal Educators in a World Without Borders." [Panel

held on Saturday, August 2, 1997, in San Francisco, Calif.]. Sponsored by the American Bar Association, Section on Legal Education and Admissions to the Bar, and co-sponsored with the International Law Section and the Young Lawyers Division. Occasional Paper #9.

## ARTICLES

**Barbara Allen Babcock**, "Feminist Lawyers," 50 *Stanford Law Review* 1689 (1998).

**Joseph Bankman** and **Barbara H. Fried**, "Winners and Losers in the Shift to a Consumption Tax," 86 *Georgetown Law Journal* 539 (1998).

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Continued on page 60

# law Gatherings

Stanford Law School alumni, students, and friends came together in the summer and fall of 1998 to welcome incoming students, chat with professors, and listen to enlivening speakers at events held around the country.

## LOS ANGELES

In May, Barton Thompson, Jr., JD/MBA '76, Robert E. Paradise Professor of Natural Resources Law (right), joined John Bryson, AB '65, chairman and CEO of Southern California Edison (below) at a gathering cosponsored by the Law Society of Los Angeles and the Stanford Business School Alumni Association of Los Angeles.



PHOTOGRAPHS BY MARK FELLMAN

westCoast



Bryson's comments, entitled "Catching the Deregulatory Wave: Electricity and Water in the 21st Century" captured the interest of law and business alums alike.



**LOS ANGELES** (continued)

In July, the Stanford Los Angeles community welcomed summer associates at a reception held at Paul, Hastings, Janofsky & Walker. Guests Robert Mason II ('00) (above left) and Daniel Garcia ('00) (above center) spend a moment with host George Stephens, Jr. '62.

Vladimir Jevremovic ('00) and event planner Stephanie Sasaki '96 enjoy the company of fellow guests.



PHOTOGRAPHS BY MARK FELLMAN



**SILICON VALLEY**

The Law Society of Silicon Valley greeted incoming students and summer associates in July at Cooley Godward in Palo Alto. David Roise ('01) (center) and Marc Peters ('00) (right) check in with then Associate Dean for Student Affairs Sallie Kim '89.

Host Stephen Neal '73 (center) listens in as soon-to-be Silicon Valley Law Society Chair Peter Staple '81 (left) shares a word with then Chair Robin Feldman '89.



PHOTOGRAPHS BY MARCO ZECCHIN



PHOTOGRAPHS BY VISUAL ART SERVICES

## STANFORD

Students, faculty, and alumni gathered at the campus Faculty Club last April to mark the first year of the Stanford Technology Law Review, an online publication. Hon. Alden Danner '65 (left) and Hon. Ralph Brogdon, Jr., AB '51 (center), entertain Renee DuBord ('99), a Technology Law Review leader.



A highlight of the evening was a presentation of the STLR site, courtesy of Jeffrey Wu ('00).

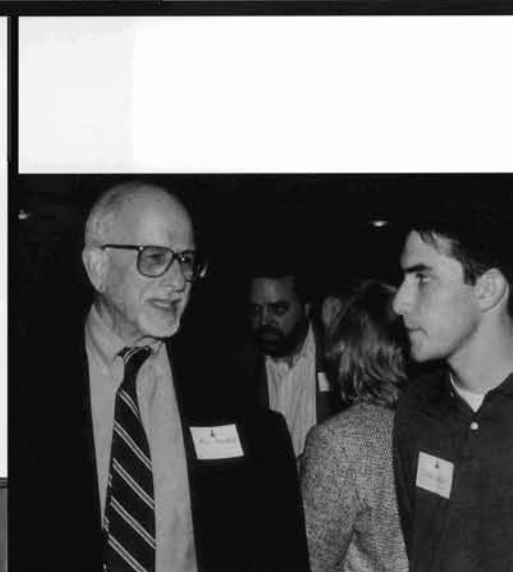


PHOTOGRAPHS BY VISUAL ART SERVICES

In May, the Stanford Law environmental community was treated to an open house and reception in celebration of the Environmental and Natural Resources Law & Policy Program and the Environmental Law Society. The evening provided an opportunity for Barton Thompson, Jr., JD/MBA '76, Robert E. Paradise Professor of Natural Resources Law (above left) and Dean Paul Brest to inaugurate the area of the School's Crown Quadrangle newly renovated and dedicated to environmental programs.



Among those taking part in the reception were (left to right) Daryl Pearson '49, environmental and natural resources expert Terry Anderson, Jason Holtman '98, and Professor Thompson. Anderson returned to campus this year as the Law School's Martin and Illie Anderson Visiting Professor and Hoover Institution's Martin and Illie Anderson Senior Fellow.



Marc Franklin, Frederick I. Richman Professor of Law (above left), chats with new student Micah Berman at a reception for the Class of 2001 held at the Law School in September.



STACY GEIKEN

**STANFORD** (continued)

The Law School celebrated the East Palo Alto Community Law Project at a September reception at the home of Dean Paul and Iris Brest. Pictured here are EPACLP staff members (left to right) William Koski, Jeanne Merino '86, Director Renée Glover '91, Michelle Kaplan, and Kevin Stein.

PHOTOGRAPHS BY RUSS CURTIS



**SAN FRANCISCO**

Alumni and Stanford Law students working in the greater San Francisco area came together in July to welcome incoming students, such as Simona Kiritsov (above), to the fold.



the **Midwest**

**CHICAGO**

In May, Stanford Law School and University alumni from across the Midwest gathered in the heart of Chicago to toast the successes of the Campaign for Stanford Law School and the promising future of the School and the University.

The evening program began with a panel discussion entitled, "Sneak Preview: 2020 and Beyond," featuring (left to right) then Netscape Senior Vice President Roberta Katz, AB '69, former U.S. Secretary of State Warren Christopher '49, Stanley Morrison Professor of Law Kathleen Sullivan, then 49ers President Carmen Policy, and Stanford University President Gerhard Casper.



PHOTOGRAPHS BY RANDY TURNELL



PHOTOGRAPHS BY JOE PINEIRO

### NEW YORK

Last May, the Law Society of New York joined the New York chapter of the Stanford Business School Alumni Association to sponsor an evening at Donaldson Lufkin & Jenrette with Myron Scholes, Frank E. Buck Professor of Finance, Emeritus, at the Graduate School of Business and a former member of the Stanford Law School faculty. Scholes (pictured) won a 1997 Nobel Memorial Prize in Economic Sciences for his role in developing the widely-used Black-Scholes options pricing model.

## eastCoast

In July, Stanford alumni in New York rolled out the red carpet for summer associates and incoming students at a Law Society reception at Bodian & Eames. Incoming students Amber Garza ('01) (center) and Moshe Levy ('01) (right) take in the exhilarating New York skyline with host Robert I. Bodian '80.



Guest Paul Kingsley '82 (right) is joined by Eugene Clark ('01) (left) and Matthew Adams ('99).



(Left to right) Marsha Simms '77, Barbara Diggs '96, and Amira Jackmon ('01) compare notes at the New York event.

### BOSTON

In April, the Stanford Boston community greeted admitted students from the area at a special reception at Epstein Becker & Green. Host Thomas Elkind '76 (right) engages then prospective student Robert Hur ('01) in conversation.



FRANK MONIEWICZ





DAVID HATHCOX

**WASHINGTON, D.C.**

The Stanford Law Society of Washington, D.C. held a reception for admitted students from the D.C. area at Hogan & Hartson in April. Host Peter Rohrbach '79 (right) encourages Jerome McCluskey ('01) to join the entering Stanford Law class.



D.C. alumni met in July at Wilmer, Cutler & Pickering at a reception for Law School summer associates and incoming students. The featured speaker for the evening was Associate Attorney General Raymond Fisher '66 (above right), presenting "From the City of Angels to the Nation's Capital."



PHOTOGRAPHS BY LINDA BARTLETT

On hand for the festivities were Mustufa Salehbhai ('99) (left) and Julie Zhang ('99).

**PROFESSORS IN PRINT** (continued from page 25)

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# coming **Events**

Mark your calendar and watch the mail for details on these and other events of interest to alumni and friends of Stanford Law School.

## 1 9 9 9

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- |               |   |
|---------------|---|
| May 16        | <b>Law School Graduation Ceremony</b><br><i>At Stanford</i>   |
| May 16–18     | <b>General Counsel Institute</b><br><i>At Stanford</i>  |
| June 13       | <b>University Commencement</b><br><i>At Stanford</i>  |
| June 20–22    | <b>Reinventing Commerce at Net Speed</b><br><i>At Stanford</i>  |
| Summer        | <b>Receptions for Summer Associates and Incoming Students</b><br><i>In Chicago, Los Angeles, New York City, San Francisco, Silicon Valley, and Washington, D.C.</i> |
| October       | <b>Fiduciary College</b><br><i>At Stanford</i>  |
| October 14–17 | <b>Celebration '99 Alumni Weekend (see back cover)</b><br><i>At Stanford</i>  |

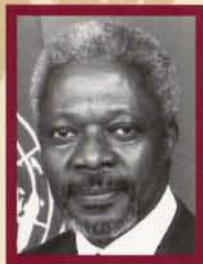
☎ For information and reservations, contact the School's Alumni Relations Office.  
Telephone: 650/723-2730. E-mail: [law.alumni.relations@forsythe.stanford.edu](mailto:law.alumni.relations@forsythe.stanford.edu)

STANFORD LAW SCHOOL  
**CELEBRATION '99**  
ALUMNI WEEKEND

Thursday to Sunday  
October 14 to 17

A truly historic gathering of alumni, friends, students, and faculty celebrating Stanford Law School's outstanding achievements and future promise in its mission of preparing skilled and ethical problem-solvers and leaders in law, business, and the public sector.

Featuring



**His Excellency  
Kofi Annan**  
*Secretary General  
of the United Nations*



**Hon. Stephen G.  
Breyer, AB '59**  
*Associate Justice of the  
U.S. Supreme Court*



**Hon. Ronald M.  
George, JD '64**  
*Chief Justice of the  
Supreme Court of  
California*



**Hon. Anthony M.  
Kennedy, AB '58**  
*Associate Justice of the  
U.S. Supreme Court*



**Hon. Sandra Day  
O'Connor, AB '50,  
LLB '52**  
*Associate Justice of the  
U.S. Supreme Court*

For further information, please call the Alumni Relations Office at (650) 723-2730, or e-mail [law.alumni.relations@forsythe.stanford.edu](mailto:law.alumni.relations@forsythe.stanford.edu).

HIGHLIGHTS OF THIS EXTRAORDINARY WEEKEND WILL INCLUDE:

◆ **Illuminating discussions with distinguished panelists**

**Convocation on Law: The U.S. Supreme Court in Global Perspective**

A panel discussion featuring Associate Justices Stephen G. Breyer, Anthony M. Kennedy, and Sandra Day O'Connor, and moderated by Kathleen M. Sullivan, Stanley Morrison Professor of Law and Dean-designate, Stanford Law School.

**Convocation on Public Service**

Featuring Kofi Annan, Secretary General of the United Nations, who will be honored with the Law School's Jackson H. Ralston Prize in International Law.

**Judiciary Atrium Dedication and Lunch Panel**

Honoring the numerous Stanford Law School alumni who have served on the bench. The lunch panel will feature California Chief Justice Ronald M. George and Judge Pamela Ann Rymer, LLB '64, U.S. Court of Appeals, Ninth Circuit.

◆ **Enlightening intellectual exchanges**

**Classes Without Quizzes** taught by eminent Stanford Law School and University faculty

◆ **Elegant dining and entertainment**

**Celebration Under the Stars**

A starlit dinner on the University's Main Quad. A time to reminisce with old friends and reflect on Stanford Law School's exciting plans for the future.

**Reunion Dinner/Dance at Stanford Law School**

Dine with fellow classmates in your own class pavilion, then join other reunion celebrants to dance the night away.

**Special reunion activities** will be held for the Classes of 1994, 1989, 1984, 1979, 1974, 1969, 1964, 1959, 1954, and 1949, and the Half-Century Club.