



FACULTY NOTES



Assistant Dean for the J.D. Program and Chief Financial Officer Are Appointed

In November, Dean Alex Aleinikoff appointed Mitchell Bailin as assistant dean for the J.D. program. Bailin succeeds Carol O’Neil, who was promoted to associate dean for academic administration in July 2004. “Mitchell Bailin brings experience in academic administration and strong legal skills to Georgetown Law,” Aleinikoff said. “We are very pleased to welcome him.”

As assistant dean for the J.D. program, Bailin is responsible for curriculum development and scheduling, student academic counseling, and supervision of the adjunct faculty program and various academic publications.

Bailin joined Georgetown from Palmer & Dodge in Boston, where he represented



Mitchell Bailin, assistant dean for the J.D. program

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universities, secondary schools, local governments, and corporations in litigation and dispute resolution. Before that, he was an assistant dean of Harvard Summer School and a law clerk for Chief Justice Margaret Marshall of the Massachusetts Supreme Judicial Court. Bailin holds a J.D. from Yale Law School as well as degrees from Harvard and Oxford.

Also, at the start of the fall semester, Dean Aleinikoff appointed David M. Greenberg as chief financial officer and associate vice president of business and financial affairs for the Law Center. Greenberg replaces Christopher Augustini, who left the Law Center earlier in the year to become senior vice president and treasurer for Georgetown University. “David brings to the job exceptionally strong financial and strategic planning skills as



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David M. Greenberg, chief financial officer and associate vice president of business and financial affairs

well as a great talent in working within complex organizations,” Aleinikoff said.

Greenberg served previously as deputy commissioner of the New York City Department of Citywide Administrative Services, heading the Division of Fiscal Management and Operations. Before that, he held a variety of positions with the New York City Office of Management and Budget and worked in the private sector. He holds degrees from the University of Rochester and Syracuse University.

“MITCHELL BAILIN BRINGS EXPERIENCE IN ACADEMIC ADMINISTRATION AND STRONG LEGAL SKILLS TO GEORGETOWN LAW,” DEAN ALEX ALEINIKOFF SAID.

“WE ARE VERY PLEASED TO WELCOME HIM.”

Faculty Awards and Recognitions

As recent visitors to the Georgetown Law Web site may be aware, in the “News and Events” link from the homepage we have begun reporting far more of the many faculty achievements that occur throughout the year as well as news of prominent student accomplishments and of the almost daily reliance upon Law Center faculty experts by national media.

The following small sampling of faculty achievements is offered to suggest the range of contributions by the Law Center to the community during the summer and fall 2004.

Everett Bellamy, assistant dean for J.D. programs, received the National Bar Association Presidential Award in 2004 for his “honest and caring” mentorship and his “exceptional commitment to legal education.” He was also commended for his service as cofounder and director of the Charles Hamilton Houston Preparatory Law Institute, a non-profit summer pre-law program that prepares students of color for law school.

In November, the Law Library won a Washington, D.C. Mayor’s Award for Excellence in Historic Preservation for creating and maintaining the Historic Preservation Law Project Web site.

Honored for their contributions were Professor **Peter Byrne**, Adjunct Professor Tersh Boasberg, and Associate Law Librarian Janice Snyder Anderson.

In recognition of his commitment to protecting free speech and other First Amendment rights, the Thomas Jefferson Center for the Protection of Free Expression awarded Professor **David Cole** the William J. Brennan, Jr. Award in a ceremony at the U.S. Supreme Court in December. Earlier in the year, Cole received the Outstanding Achievement Award from the Political Asylum Immigration Representation Project, and his book *Enemy Aliens* received the American Book Award from the Before Columbus Foundation.

Professor **Michael Diamond** received a \$20,000 grant from The Enterprise Foundation for the Entrepreneurship Training and Assistance Program, a project that includes a 10-week small business workshop, technical assistance, and other resources for District of Columbia residents.

In August, the American Bar Association awarded Professor **Robert F. Drinan**, S.J., its highest honor, the ABA Medal. Awarded since 1929, the medal recognizes exceptionally distinguished service to the cause of American jurisprudence. ABA President Dennis Archer said, “In an amazing career that has spanned

more than half a century, Father Drinan has never faltered in his extraordinary humanitarian efforts and support for justice under the law.” Later in the year, Vice President Dick Cheney commended Father Drinan for his participation in an international mission to observe the December election in Ukraine, which Cheney praised for helping to “ensure that the Ukrainian people were free to choose their own leader without intimidation or fear.”

John Echeverria, executive director of the Georgetown Environmental Law & Policy Institute, received a \$50,000 grant from The Charles Stewart Mott Foundation to support research and education in defense of the public authority to use the eminent domain power to promote publicly beneficial land uses.

In December, the American Association of Jewish Lawyers and Jurists presented its 2004 Pursuit of Justice Award to longtime Adjunct Professor **Kenneth R. Feinberg**, Special Master of the September 11 Victim Compensation Fund. The award was presented at the U.S. Supreme Court by Associate Justice Stephen G. Breyer.

Professor **John Jackson** served on the eight-member Consultative Board for the World Trade Organization, which issued a

report, “The Future of the WTO,” in January 2005, at the time of the 10th anniversary of the WTO’s existence. The report focused on successes of the WTO during its first 10 years and on challenges it faces in fulfilling its mission. Principal among such challenges: a proliferation, in recent years, of bilateral agreements that, according to the report, undermine multilateral trade ideals that the WTO was created to foster.

The publication of Professor **Richard Lazarus**’s book *The Making of Environmental Law* (excerpted in the spring 2004 *Georgetown Law*) was marked by a December panel discussion about the direction of environmental law and policy. Panelists included Carol Browner, principal of the Albright Group and former U.S. EPA administrator; E. Donald Elliott, chair of the Environmental Law Department at Willkie Farr & Gallagher and former general counsel to the EPA; David Hayes, chair of the Environment, Land & Resources Department at Latham & Watkins and former deputy secretary of the Interior; and Roger Schlickheisen, president of Defenders of Wildlife.

Professor **Carrie Menkel-Meadow** received an \$82,500 grant from The William and Flora Hewlett Foundation for the institutionalization of the Law Center’s Program in Conflict Resolution and Legal Problem Solving.



Everett Bellamy, at center, accepts the National Bar Association Presidential Award



Professor Michael Diamond

Katyal and Vázquez Instrumental in Military Tribunal Case

In November, Professors Neal Katyal and Carlos Vázquez played key roles in a federal district court decision holding that the military tribunal system set up to try detainees in Guantánamo Bay, Cuba, is illegal.

Judge James Robertson of the U.S. District Court for the District of Columbia ruled that subjecting detainees to the tribunals violates a fundamental provision of the Geneva Conventions. This was the first time since World War II that a U.S. military commission was shut down. Robertson said the Bush administration could try Salim Ahmed Hamdan, a former driver for Osama bin Laden, only in a court-martial, where different rules of evidence apply. “The president is not a tribunal,” Robertson wrote. “The law of war includes the Third Geneva Convention, which requires trial by

court-martial as long as Hamdan’s P.O.W. status is in doubt.”

Katyal was the principal lawyer in the civil case for Hamdan, who faces terrorism charges. Katyal had asked the court to declare the military commission process invalid, and he was in the Guantánamo Bay courtroom for pretrial proceedings when word of Robertson’s decision came down. Katyal told reporters that while the ruling applied only to the Hamdan case, “the spirit of the ruling extends more broadly, perhaps to everything that is going on here in Guantánamo Bay.”



Camp X-Ray at Guantánamo Bay Naval Base, Cuba

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Vázquez was the lead author of an amicus curiae brief filed by 16 law professors which Robertson cited prominently in his opinion. The ruling made headlines around the world. Katyal continues to represent Hamdan in the case on appeal. Talking to a reporter in April, he criticized the military tribunal system as “a system of ad hoc procedures crafted at will,” and said that, under Article V of the 1949 Geneva Accord, Hamdan has to be treated as if he is entitled to Geneva protections, including the right not to be put on trial by those who captured him.

James Oldham Publishes Book on 18th Century English Common Law

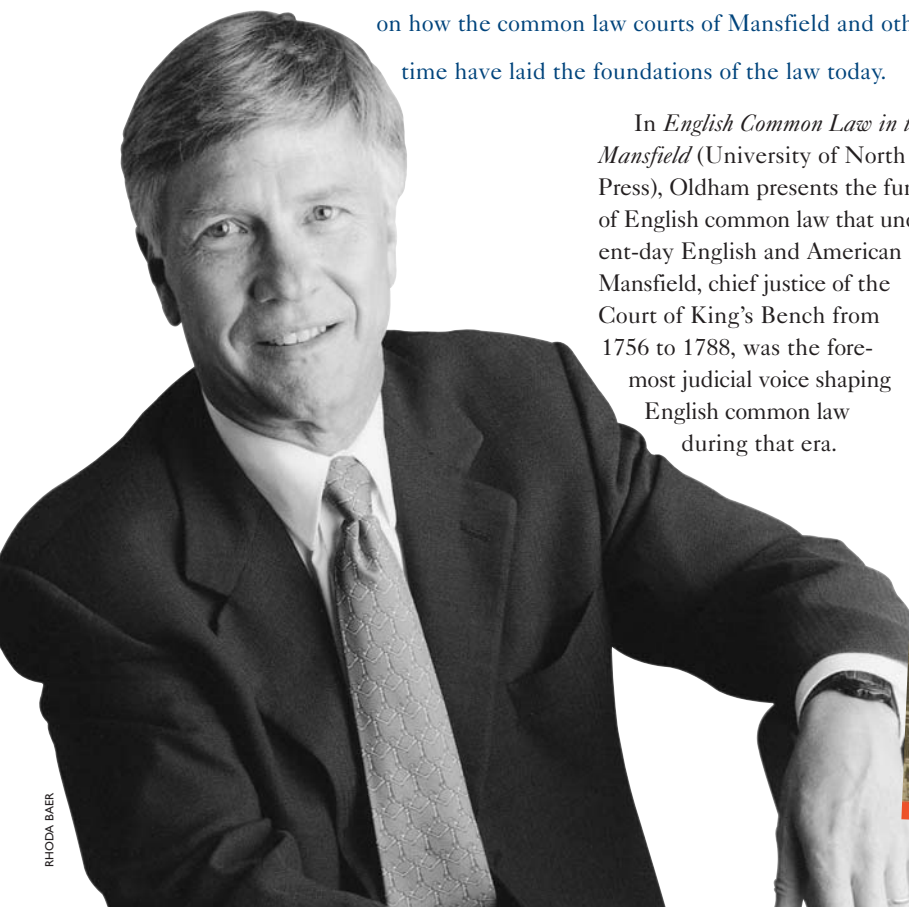
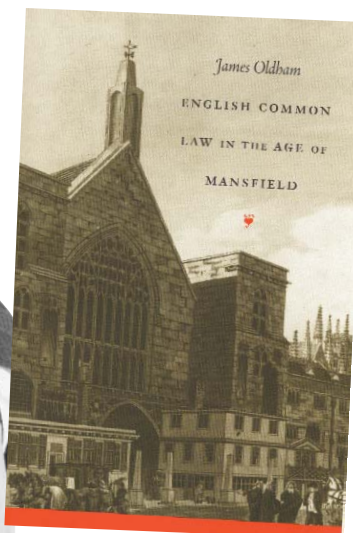
James Oldham, St. Thomas More Professor of Law and Legal History, has published a new book on the 18th century judicial giant Lord Mansfield, providing new perspective on how the common law courts of Mansfield and others from his time have laid the foundations of the law today.

In *English Common Law in the Age of Mansfield* (University of North Carolina Press), Oldham presents the fundamentals of English common law that underpin present-day English and American law. Lord Mansfield, chief justice of the Court of King’s Bench from 1756 to 1788, was the foremost judicial voice shaping English common law during that era.

Oldham’s book abridges and revises his acclaimed two-volume work, *The Mansfield Manuscripts and the Growth of English Law in the Eighteenth Century*. Oldham said, “Knowing the foundations of English common law during Lord Mansfield’s time provides insight into understanding American law today and its continued evolution.”

Commenting on the book, David Konig, law and history professor at Washington University, said that Oldham presents an important recognition of Lord

Mansfield’s contribution to our legal tradition. “A proper understanding and appreciation of the role of this immensely important chief justice are essential for any scholar of English and American legal history,” Konig said. “James Oldham has provided both, with erudition and skill.”



Court Briefing Ranges from Sentencing Guidelines to Alien Deportation

Federal sentencing guidelines, alien deportation, gender discrimination, and the juvenile death penalty were among the issues pending before the U.S. Supreme Court that a Law Center faculty panel examined in the annual press briefing held before the Court's October session. Panelists were Dean Alex Aleinikoff and Professors Viet Dinh, Michael Gottesman, Julie O'Sullivan, and Peter Rubin. The panel was moderated by Associate Dean Vicki Jackson and hosted by the Supreme Court Institute.

Professor Gottesman explored cases of interstate commerce regulation, in particular *Ashcroft v. Raich*, in which the Controlled Substances Act was challenged. Gottesman said the case represented another skirmish in the Supreme Court's "ongoing battle" with the Ninth Circuit Court, which in December 2003 ruled in favor of a California plaintiff's right to use marijuana medicinally. At issue in *Raich*, Gottesman said, was whether allowing the medicinal use of marijuana would increase interstate drug trafficking, blur distinctions

between medicinal and illicit drug use, or reduce the market for lawful drugs.

At issue in *Roper v. Simmons*, a case involving capital punishment of juveniles, was whether the juvenile death penalty "violates evolving standards of decency that mark the progress of a maturing society," said Professor Rubin. Increasingly, he observed, the Court has looked to foreign or international law for evidence of what

those standards might be, a trend that raises the question of whether such influence makes the case for American sovereignty and exceptionalism appear less secure. Rubin suggested that the increasing references to foreign laws have reflected the success of international human rights norms and of globalization itself, but he also suggested that in many categories, the United States is not leading in the area of human rights.

Professor Dinh detailed three cases involving civil rights. The first concerned whether California's prison system should make initial cell assignments based predominantly on race, rather than on factors such as prior gang membership, propensity to violence, or drug use. In the second case, a former



PHOTOS BY BILL PETROS

Professor Julie O'Sullivan

girls basketball coach alleged that he was fired after making a gender discrimination complaint on behalf of his team. Dinh said this case rested on statutory interpretation—whether Title IX protection should extend to someone who was adversely affected by gender discrimination, but not its direct target. The third case Dinh discussed raised the issue of whether the merit pay scale for police officers in Jackson, Mississippi, had an actionable

disparate impact on older officers where there was not intentional discrimination under Title VII.

Dean Aleinikoff focused on cases involving the detention and deportation of aliens. He cited the case of two Cuban men who emigrated in the 1980 Mariel boatlift and were given parole status at the U.S. border. Later, the men were convicted of crimes and, since they couldn't be deported, held in detention. Their case sketched out a problematic middle zone, Aleinikoff said, in which the men had more citizenship rights than refugees but fewer than immigrants holding green cards.

Professor O'Sullivan discussed two expedited cases arising from the *Blakely v. Washington* decision handed down at the end of the previous term, which cast doubts on federal sentencing rules. O'Sullivan characterized *Blakely* as a sweeping decision affecting not only federal sentencing guidelines but also plea bargaining, trial practice, retroactivity, double jeopardy, preservation of claims, standards of review, and parole.



Professors Peter Rubin and Viet Dinh with Dean Alex Aleinikoff

Clinics Work With Cambodia

The Law Center's clinical programs continue reaching across borders both domestically and abroad.

In July 2004, Professor Rick Roe worked in Phnom Penh, Cambodia, to assist the newly established Street Law program begun by Pannasastra University Law Professor Bruce Lasky. Eschewing traditional lecture format, Roe enlisted students, faculty, and staff in discussions of how law affects their lives in areas such as housing, family relations, advocacy, and literacy. Traveling to the village of Osdao, where Lasky runs a school, Roe and his colleagues conducted a class on dispute resolution. They engaged residents of all ages in a story involving a dispute between two young brothers over a beautiful feather they both discovered simultaneously. Roe, who has also done Street Law work in England, Slovakia, Turkey, and the Czech and Dominican Republics, says that understanding local contexts is paramount. "The law has to come out of their fundamental values and connect with their culture," he observed after the trip.

These sorts of overseas exchanges continue in both directions. In September, a delegation of Cambodian lawyers and teachers visited Georgetown to study its clinical programs up close. The visit was part of a tour sponsored by the ABA Asia Law Initiative, which is assisting Cambodia's bar association in enhancing the professional legal education program offered at the country's lawyer training center.



RICHARD ROE