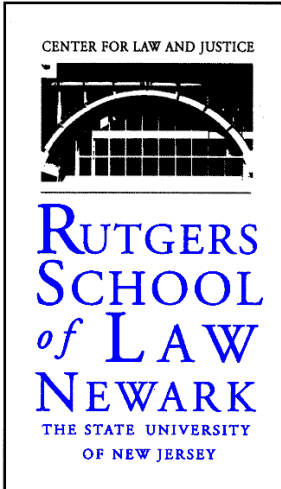


# RUTGERS LAW SCHOOL NEWS

November 2006



## ***Keith Sharfman Wins American Bankruptcy Law Journal Fellowship***

Keith Sharfman, Associate Professor of Law, has been awarded an American Bankruptcy Law Journal Fellowship by the National Conference of Bankruptcy Judges. ABLJ Fellows are chosen on the basis of their teaching and research in the bankruptcy field by a selection committee headed by the editor-in-chief of the *American Bankruptcy Law Journal*. This year's committee, chaired by U.S. Bankruptcy Judge Marilyn Shea-Stonum, selected only two Fellows from a highly competitive national pool of candidates.



"Keith Sharfman's publications reveal a fresh perspective on the application of economics to legal problems," said Dean Stuart L. Deutsch. "His scholarship is representative of the important contributions by our talented junior faculty to both traditional and emerging areas of law."

Professor Sharfman earned a B.A. in economics and international relations from Johns Hopkins University and a J.D. from the University of Chicago. He teaches Antitrust, Bankruptcy, Commercial Law, Corporate Finance, and Law and Economics. The Nov. 6 *New Jersey Lawyer* and Nov. 10 *Star-Ledger* noted his fellowship.

## ***New Research-based Reports from IELP on Two NJ Dept. of Education Pilot Programs***

The Rutgers-Newark Institute on Education Law and Policy, whose founding director is Professor Paul Tractenberg, has released two new reports evaluating pilot programs conducted by the New Jersey Department of Education. The reports, one on the Interdistrict Public School Choice Program and the other on the field test of the District Performance Review required by the Quality Single Accountability Continuum Act ("QSAC"), include an evaluation of the pilot experience and the Institute's research-based analysis of policy issues relating to each program. Both reports can be accessed at <http://ielp.rutgers.edu>.

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## **CLINICAL PROGRAM & ERIC R. NEISSER PUBLIC INTEREST PROGRAM**

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In ongoing litigation and advocacy before the Nuclear Regulatory Commission (NRC), the **Environmental Law Clinic** continues to challenge, on behalf of a coalition of six citizens' groups, the relicensing of the Oyster Creek nuclear power plant. Most recently, in a letter to NRC, Staff Attorney Richard Webster questioned the methodology and results of tests that led NRC to conclude that the facility presents no immediate safety issues. Webster has been quoted on this issue by the Associated Press, *Asbury Park Press*, and *Press of Atlantic City*.

Each semester, the clinic sponsors a series of interdisciplinary workshops with scientists and Ph.D. students from Rutgers University. A Sept. 15 workshop focused on the connection between land use and water quality. Cook College scientists explained the principles of basic

hydrology to law and science students, and clinic lawyers explained applicable laws and regulations to graduate science students. As a result of such collaborative efforts, Acting Clinic Director Carter Strickland, Jr. has joined an interdisciplinary team of lawyers, scientists, economists, and planners from Rutgers to prepare a report for the New Jersey Meadowlands Commission on the feasibility of creating a utility for handling stormwater management issues.

The workshop also included an interactive program, “Advocacy of the Rational: Radiac Research Corporation,” presented by Richard Webster. The program simulates a successful three-year advocacy effort to close a hazardous waste transfer station in Brooklyn, NY.

The **Child Advocacy Clinic** has partnered with the NJ Child Placement Advisory Council (CPAC) in developing *Aging Out: Don't Miss Out*, a manual to help young people in foster care transition successfully to independence. Written by clinic students, the 28-page publication explains the social service and court processes and informs the youth about what they are entitled to from the NJ Department of Youth and Family Services (DYFS).

“While there is some information for the providers of the resources that exist for these young people,” noted Clinical Professor Randi Mandelbaum, Director of the clinic, “none of it is written for the youth themselves.” Most foster youth are unaware of available services and resources such as housing, health insurance, clothing, and vouchers for post-secondary education, and that DYFS is mandated to provide the services until they are 21. The manual was edited by Mandelbaum and CPAC chair Lila Bernstein and revised after focus groups with young people.



Clinic students are participating in information sessions throughout the state to distribute the manual to youth in the foster care system and to answer their questions.

The **Eric R. Neisser Public Interest Program** has been awarded a new fellowship by the NJ Bar Foundation to support a director for its student-initiated Street Law Pro Bono Project, through which law students teach law-related education classes in public middle and high schools in Newark and the surrounding area. The Neisser Program is co-directed by Jessica Kitson, director of the Domestic Violence Advocacy Project, and Clinical Professor Laura Cohen.

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## FACULTY NOTES

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**Professor Frank Askin** wrote “*Twin Rivers: Why the Appellate Division Got It Right*” for the October issue of *New Jersey Lawyer* magazine and an op-ed entitled “Zazzali: watchdog for the ‘little guy’” for the Sept. 25 issue of the *Record*. On Oct. 19 he was part of a panel held at Douglass College on Election Day Registration and on Oct. 24 he spoke at the Nutley Historical Society Museum on “Individual Liberties and the Patriot Act: How Can We Balance Homeland Security and Individual Rights.” The Nov. 2 *Nutley Journal* covered the presentation, which was sponsored by the League of Women Voters of the Nutley area.

“Cultural Citizenship and Gender” was the title of the Nov. 3 panel on which **Associate Professor Karima Bennoune** participated at Hofstra Law School’s conference on Dimensions of Women’s Equal Citizenship.

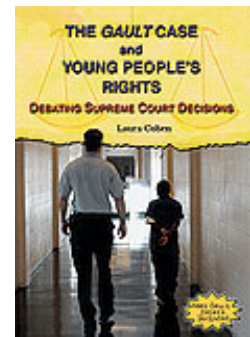
**Associate Professor Vera Bergelson** was a panelist at Cardozo Law School's Nov. 5-6 international symposium on George Fletcher's new book "*The Grammar of Criminal Law.*" She presented her paper "Rights, Wrongs, and Comparative Justifications," which will be published in the *Cardozo Law Review*.

On Nov. 13 **Professor Emeritus Alfred Blumrosen** presented a paper at the French-American Foundation Roundtable Conference on Equality of Opportunity in Education and Employment: French and American Perspectives. His paper was entitled "The Collection of Race/Sex/Ethnic Origin Statistics in France to Identify and Combat Employment Discrimination: Lessons From the U.S. Experience." Blumrosen's book "*Slave Nation: How Slavery United the Colonies and Sparked the American Revolution*" (Sourcebooks, 2005), written with his late wife, Ruth Blumrosen, has been published in paperback.

"The Case Against Income Averaging" by **Associate Professor Neil H. Buchanan** was published in the spring *Virginia Tax Review* (25 *Va. Tax Rev.* 1151, 2006). Buchanan was a panelist at the Nov. 14 symposium "Taxing the Working Poor: Current Policy and Future Changes," held at the University of Connecticut School of Law.

**Professor Emeritus Norman L. Cantor** was instrumental in successfully defending the constitutionality of the New York Health Care Decisions Act (HCDA). On Sept. 21, the New York Appellate Division, first department, unanimously upheld the New York Surrogate Court's decision in *Matter of Chantel Nicole R.*, upholding an HCDA provision that under carefully limited circumstances allows guardians to make end-of-life decisions on behalf of certain mentally retarded persons. Cantor briefed and argued at both the Surrogate Court and Appellate Division levels in conjunction with alum Laurie Stride (Class of 2000) representing the Association for the Help of Retarded Children and Gibson, Dunn & Crutcher. On Oct. 12 Cantor delivered the annual Mark A. Nordenberg Lecture in Law and Psychiatry at the University of Pittsburgh School of Law. His topic was "The Relation Between Autonomy-Based Rights and Profoundly Mentally Disabled Persons." The same day he presented "The False Dichotomy Between Quality of Life and Sanctity of Life" at a colloquium for faculty and students of the law school's Center for Bioethics and Health Law. On Oct 17 he gave a talk on "Legal Aspects of Treatment Refusal" before 180 medical students at the University of Medicine & Dentistry of New Jersey. The presentation was part of a new endeavor, called Ethics and the Law, for beginning medical students.

"*The Gault Case and Young People's Rights*" by **Clinical Professor Laura Cohen** was published by Enslow Publishers, a scholastic press. Aimed at middle and high school students, it's part of a series on landmark U.S. Supreme Court cases. In *re Gault*, the Supreme Court held that young people charged with delinquency are entitled to certain due process protections, including representation by counsel. Cohen did a book signing in October at the National Juvenile Defender Leadership Summit in Washington, DC, where she also facilitated two working groups and spoke at a plenary session. She has also recently taught at a NITA child advocacy program at Hofstra, taught at the Legal Aid Society's Trial Advocacy Program at NYU, and gave a presentation on legislative advocacy to a group of Legal Aid lawyers.



Harvard University Press will publish **Associate Professor Donna Dennis's** book on obscenity law and the indecent publishing business in 19<sup>th</sup> century New York. The book, set for publication in 2008, is based on her 2005 Ph.D. thesis at Princeton. Dennis has been invited to serve on the program committee for the 2007 Law and Society Annual Meeting, which will be held July 26-29 at Humboldt University in Berlin. She'll be in charge of the legal history panels.

**Clinical Professor Jack Feinstein** was on a panel entitled "Local Solutions for Overcrowding" at the New Jersey State League of Municipalities annual convention. His presentation addressed overcrowding in residences and how municipalities can or should deal with the resulting problems that often follow.

"Animal Rights and Our 'Moral Schizophrenia'" was the topic of **Professor Gary Francione's** Nov. 12 talk at the Jersey Animal Coalition in South Orange.

On Oct. 21 **Associate Professor Anna Gelpern** presented "Wal-Mart Bank in Mexico: A Bright Side to the Dark Side?" at the University of Connecticut School of Law symposium entitled Wal-Mart Matters. The article will be published in the *University of Connecticut Law Review*.

**Professors Carlos Gonzalez, Tanya Hernandez, Twila Perry, David Troutt, and Clinical Professor Robert Holmes** served as panel moderators for the "National Summit on Cuba: New Jersey, 2006," held on Oct. 28 at the law school. The event, which attracted more than 100 people, was co-hosted by the World Policy Institute at the New School. **Associate Clinical Professor Charles Auffant** organized the event for the law school, along with **Clinical Professors John Kettle** and Holmes, who is Director of the Community Law Clinic. *Rutgers Race and the Law Review* will publish the proceedings.

On Oct. 26 **Professor Tanya Hernandez** presented a work-in-progress entitled "Racial Disparity and Remedy in Latin America" at UCLA Law School. She presented her manuscript "Latino Inter-Ethnic Employment Discrimination and the 'Diversity' Defense" at a George Washington Law School faculty colloquium and at Fordham Law School.

**Legal Research and Writing Instructor Barbara Hoffman** gave a workshop on "Employment and Economic Issues" at the Third Biennial Cancer Survivorship Research Conference sponsored by the National Cancer Institute. The workshop was held in Bethesda, MD on Oct. 5.

**Associate Professor Suzanne Kim** moderated a panel on "Process and Consequences of Same-Sex Unions" at the Nov. 10 *Rutgers Law Review* symposium entitled "Same Sex Couples and 'The Exclusive Commitment': Untangling the Issues and Consequences." She facilitated discussion among academics and practitioners regarding the impact of *Lewis v. Harris* from a variety of perspectives – including economics, adoption, and conflict of laws.

Among the panelists at the Nov. 17 "Race, Culture, Class and Crisis in Child Welfare" symposium at St. John's School of Law was **Professor Twila Perry**.

Environmental Law Clinic **Staff Attorney Kathleen Shrekgast** testified on Oct. 23 before a State Assembly Regulatory Oversight Committee hearing on environmental justice issues. She highlighted shortcomings of current environmental legislation and offered suggestions on ways to improve environmental statutes and regulations.

In October, **Associate Clinical Professor Carter Strickland, Jr.**, presented “Justinian’s Legacy: Should the Public Trust Doctrine Be Used More Often to Protect Freshwater and Other Natural Resources?” at the 25th Annual Submerged Lands Conference in Red Bank. On Dec. 4 he’ll moderate a panel discussion on “Getting to Yes: Perspectives on the Siting Challenge” as part of a symposium on Managing Solid Waste Sustainably, sponsored by the Environmental Law Institute, the New York City Bar Association, the New York State Bar Association, and the mid-Atlantic states section of the Air and Waste Management Association.

**Professor George Thomas**, speaking at a conference entitled *Miranda at 40 Years*, presented “The Law of Confessions in 2046” at the Michael E. Moritz College of Law, Ohio State University, on Oct. 8. On Oct. 20 he presented a paper entitled “Confessions of Innocent Suspects” at the University of Colorado School of Law conference, *Cautions and Confessions: Miranda v. Arizona After 40 Years*.

**Professor David Troutt** presented “Telling the Law’s Silent Stories: ‘The Hole’ and Its Parallel in Contemporary Special Housing Units in U.S. Prisons” at John Jay College (CUNY) Center on Race, Crime & Justice’s Oct. 26 symposium entitled *Scottsboro Then and Now: The Perpetual Struggle for Justice in the United States*. Editor of and contributor to the new book “*After the Storm: Black Intellectuals Explore the Meaning of Hurricane Katrina*,” Troutt was part of a panel on Katrina held at the Open Society Institute in September; presented talks in New Orleans, Houston, Atlanta, and Los Angeles; and gave readings from his book at Hue-Man Books and McNally Books in New York. In January he will moderate and serve as a panelist for “Hurricane Katrina and Legal Intervention” at the AALS Annual Meeting.

On Oct. 16, Environmental Law Clinic **Staff Attorney Richard Webster** presented “Federal Environmental Enforcement: Is Less More?” at the Fourth Colloquium of the IUCN Academy of International Law at Pace Law School.

**Professor Mark S. Weiner** will be a participant in a Nov. 29 panel discussion at the Historical Society of Princeton on President Lincoln’s suspension of the writ of habeas corpus during the Civil War. The panel is part of the “We the People/Citizenship in America” program at the New Jersey Council on the Humanities. On Oct. 26 he participated via the law school’s web-casting technology in a mixed graduate/undergraduate seminar in cultural anthropology at Duke University. The Duke students had been assigned his award-winning book, “*Americans Without Law: The Racial Boundaries of Citizenship*.”

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## STAFF & STUDENT NEWS

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**Associate Dean Fran Bouchoux** was quoted in the Oct. 16 *New Jersey Lawyer* article “Women in Law Schools: Touting of gender parity belies reality as female ratios have been fizzling for years.”

**1L Lois Wamaitha** was featured in a segment entitled “The Green Card: Ticket to a Life in America” on the Oct. 18 NPR program “All Things Considered.” Wamaitha had been a teacher in Kenya before coming to the U.S. in 1997.

The **Student Hurricane Network**, comprised of law students from Rutgers and other law schools around the country, received the Martindale-Hubbell Exemplary Public Service Award at the 2006 Equal Justice Works conference. Students traveled to the Gulf Coast during last year's winter and spring breaks to provide legal help to victims of Hurricanes Katrina and Rita. *NJBiz* reported on the award in its Oct. 18 issue.

Several Rutgers-Newark law students are **recent scholarship recipients** including:

- Alnisa Bell '09 – Jack Kent Cooke Scholarship. A profile of Bell appeared in the Aug. 17 *Star-Ledger*.
- Danielle Carmona '07, Syrion Jack '07, and Robbie Vargo '08– Lowenstein Sandler Scholarship
- Kegan Brown '07– John J. Barry Memorial Scholarship given by the Association of the Federal Bar of the State of New Jersey
- Belinda Jacobus '07 and Israel Wahrman '08 – New Jersey Association of Professional Mediators Scholarship
- Elizabeth Amidjogbe '08, Conway Ekpo '07, Adrienne Hollis '07, and Alexis Jemal '07 – Garden State Bar Association Scholarship
- Joy B. Tolliver '07, Justin Schmidt '08, Carnell Johnson '07, Eva Torres '07, Loren Youmans '07, Louis Paonessa '07, and John O'Neill '10 – Hudson County Bar Foundation Scholarship
- Jannina Barros '07 and Yolanda Rios '07 – Passaic County Bar Foundation Scholarship



The Rutgers Law Runners Club's First Annual Brick City 5K Walk/Run raised almost \$300 for the Public Interest Law Foundation. The overall winner was Kevin Skelly '09. The leading female runner was Moira Dillaway '08. Thanks to Assistant Dean Andy Rothman's participation in the Rothman Challenge, the race produced another \$250 donation by the Student Bar Association.

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## RUTGERS-NEWARK LAW IN THE NEWS

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The Sept. 15 *Star-Ledger* noted the recent publication of books by David Troutt (“*After the Storm: Black Intellectuals Explore the Meaning of Hurricane Katrina*”) and Mark Weiner (“*Americans Without Law: The Racial Boundaries of Citizenship*”). The Sept. 18 *New Jersey Lawyer* also reported on Troutt's book.

The Oct. 9 *NJ Lawyer* reported that the *Princeton Review* has ranked the law school the 10<sup>th</sup> among 170 national law schools for faculty diversity and the third most welcoming of older students.

**Professors Frank Askin, Jim Pope, Lou Raveson, and Associate Professor Diana Sclar** were interviewed by media about the New Jersey Supreme Court's Oct. 25 *Lewis v. Harris* decision. Their comments appeared in *Lawyers USA*, the Associated Press, *Star-Ledger*, *Record*, *Herald News*, on CBS-TV and radio, 1010 WINS, and 101.5 AM. Askin also commented for Associated Press and *Record* articles on the accomplishments of now retired Chief Justice Deborah Poritz, for a Nov. 6 *Record* story on attempts by municipalities to restrict where convicted sex offenders can live, and a Sept. 20 *Record* article on false personal information posted on a website.

The Sept. 23 *New York Times* published **Professor Emeritus Alfred Blumrosen's** letter to the editor regarding the article "Top Republicans Reach an Accord on Detainee Bill."

**Clinical Professor Laura Cohen** was interviewed by NBC-TV Channel 4 on Nov. 15 regarding the plea agreement in the Seton Hall arson case.

The Sept. 22 *National Law Journal* featured comments by **Associate Professor Anna Gelpert** on the implications of the coup in Thailand for cross-border business transactions.

**Legal Research and Writing Instructor Barbara Hoffman** was quoted in an article on the legal rights of cancer survivors published in the fall 2006 issue of *Cure* magazine.

**Visiting Assistant Clinical Professor Julia Huff** commented for an Oct. 24 *Record* report about a lawsuit filed by the Environmental Law Clinic on behalf of residents seeking tougher enforcement of an Elmwood Park plant's air pollution permit.

Testimony by **Professor John Leubsdorf** during a Connecticut Judicial Review Council hearing on alleged ethical violations by former Chief Justice William J. Sullivan was reported by the *Connecticut Law Tribune*, the *Hartford Courant*, and *Journal Inquirer*.

A Nov. 6 *New Jersey Lawyer* report on the construction of affordable housing in the state since the *Mount Laurel* decisions included comments by **Professor John Payne**.

**Associate Clinical Professor Carter Strickland, Jr.** was interviewed by the *Asbury Park Press* for Oct. 11 and Nov. 7 stories and the *New York Times* for a Nov. 12 story on new rules from the Department of Environmental Protection regarding public access to beaches.

A Nov. 2 Associated Press story about a police officer sued by a suicidal man whose life he saved featured a comment by **Professor George Thomas**.

**Professor Paul Tractenberg** had several media citations regarding New Jersey's school financing system and new funding proposals, including in the Nov. 19 *Philadelphia Inquirer*, the Nov. 2 *Star-Ledger*, and the Oct. 30 *New York Times*. The Oct. 16 *New Jersey Law Journal* featured Tractenberg's letter to the editor, entitled "Thorough and Efficient Education for All: Move Forward, Not Backward," regarding *Journal* editorials about school funding.

**Professor David Troutt** was the subject of numerous radio interviews and podcasts in connection with his new book, "*After the Storm: Black Intellectuals Explore the Meaning of Hurricane Katrina*." Radio includes: "On Point" with Ted Ashbrooke (NPR Boston, national show); "News & Notes with Ed Gordon" (national NPR); BBC NPR (from Dublin, Ireland);

“The Michael Eric Dyson Show” (national); *Washington Post* Radio (national); Fox News (Spencer Hughes Show, international); local NPR in Austin, Minnesota, Houston, Los Angeles (“Uprising”), KPFA (San Francisco); and a podcast on the Opportunity Agenda, New York.

**Clinical Professor Penny Venetis** was interviewed on the potential for electronic vote tampering by the *Star-Ledger* (Oct. 22, Nov. 7 and 14), the *Home News Tribune* (Oct. 16), and the Oct. 26 *Montclair Times*. She commented for an Oct. 30 *New Jersey Law Journal* article on a judge’s banning political activity from the Burlington County courthouse and its environs and a Nov. 5 *Record* article on the Military Commissions Act.

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## EVENTS

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On Friday, Dec. 8 at 5:30 pm, actor Alec Baldwin will moderate a symposium presented by the Environmental Law Clinic and entitled “**Oyster Creek Nuclear Power Plant: The Truth Revealed.**” For more information, visit [http://law.newark.rutgers.edu/clinics\\_environment.html](http://law.newark.rutgers.edu/clinics_environment.html) or contact the clinic at 973-353-5695.

The law school will host the **New Jersey Bar Swearing-In Ceremony** for the Class of 2006 on Sunday, Dec. 10, at 2 pm. New Jersey Public Advocate and former Associate Dean Ronald Chen ’83 will administer the attorney’s oath. Since originating the ceremony in 2003, the law school has found that bringing together the 50<sup>th</sup> Reunion Class with the school’s newest graduates for the “passing of the torch” between the two groups makes the administration of the attorney’s oath a particularly special occasion. For more information, contact Janet Donohue at [jdonohue@andromeda.rutgers.edu](mailto:jdonohue@andromeda.rutgers.edu).

Professor Mark S. Weiner will deliver the **2007 David J. Stoffer Lecture** at 6 pm on Thursday, Jan. 25. His topic will be “Imagining the Rule of Law in 19<sup>th</sup> Century Britain.” The lecture will be followed by a reception for the law school’s legal history scholars.