

23RD  
ANNUAL

# FESTIVAL

## OF LEGAL LEARNING

*Sponsored by UNC School of Law*

February 8-9, 2013

William and Ida Friday Center

Chapel Hill, North Carolina



UNC  
SCHOOL OF LAW

[www.law.unc.edu/cle](http://www.law.unc.edu/cle)

# About the Program

UNC SCHOOL OF LAW'S FESTIVAL OF LEGAL LEARNING is a convenient, affordable and enjoyable way to satisfy your CLE requirements. Designed to build basics, sharpen skills, provide perspectives and highlight new developments in the field of law, Festival offers more than 100 sessions and 12 CLE credits with diverse depth of programming and a time-intensive format of just a day-and-a-half. This diverse program also lets you customize your learning and choose the courses most related to your needs. The quality of the courses you select is assured. Your instructors are recognized experts in their fields and include professors from Carolina Law, the UNC School of Social Work and the UNC School of Medicine, as well as distinguished guest faculty. Festival will once again be held at The William and Ida Friday Center for Continuing Education, a beautiful facility designed especially for continuing education programs. The Friday Center has ample parking and meeting space, as well as areas for informal conversation and quiet study for conference participants.

## FESTIVAL OF LEGAL LEARNING

### Friday, February 8

7:15 a.m.	Registration Desk Opens
7:30 a.m. - 8:00 a.m.	Continental Breakfast
8:00 a.m. - 9:00 a.m.	Session One
9:10 a.m. - 10:10 a.m.	Session Two
10:20 a.m. - 11:20 a.m.	Session Three
11:30 a.m. - 12:30 p.m.	Session Four
12:30 p.m. - 1:30 p.m.	Lunch

*A lunch buffet provided by The Friday Center is available for \$20. Please sign up for the buffet on your registration form. Buffet lunch reservations must be made with the Office of CLE by January 25, 2013.*

1:30 p.m. - 2:30 p.m.	Session Five
2:40 p.m. - 3:40 p.m.	Session Six
3:50 p.m. - 4:50 p.m.	Session Seven
5:00 p.m. - 6:00 p.m.	Session Eight

### Saturday, February 9

7:30 a.m.	Registration Desk Opens
7:30 a.m. - 8:00 a.m.	Continental Breakfast
8:00 a.m. - 9:00 a.m.	Session One
9:10 a.m. - 10:10 a.m.	Session Two
10:20 a.m. - 11:20 a.m.	Session Three
11:30 a.m. - 12:30 p.m.	Session Four

*"The diversity of offerings makes Festival the best CLE in the state, if not the nation."*

*- Festival 2012 attendee*

# Special Presentation: The Fundamentals of Domestic Violence for Lawyers Institute

THIS ONE-DAY CLE, developed by the ABA Commission on Domestic Violence and Sexual Assault and presented by UNC School of Law in collaboration with Legal Aid of North Carolina, provides a foundation of knowledge and skills for attorneys representing victims of domestic violence in a broad range of legal matters.

The goal of the institute is to assist attorneys in representing victims effectively and safely, building case management skills, and developing community partnerships and support resources for clients.

The institute is limited to 40 participants, and relies on an interactive model of training that accommodates a variety of learning styles in adults. Recognizing that not everyone learns best from a lecture format, the Fundamentals of Domestic Violence for Lawyers curriculum contains a variety of learning activities, including mini-lectures, small- and large-group activities, individual activities and group discussion. It is a dynamic and fast-paced CLE. The program is approved for 6.5 hours of CLE (includes 1 PR).

All participants will receive the reduced public interest attorney rate for attending the Festival in exchange for a pledge to provide pro bono representation to one Legal Aid of North Carolina client in a domestic violence-related case within the next 12 months. So take the pledge! **Register online at [events.law.unc.edu/dvinstitute](http://events.law.unc.edu/dvinstitute) or check the special presentation box at the top of the registration form. Have questions? Email [unclawcle@unc.edu](mailto:unclawcle@unc.edu).**

## Agenda, February 8

**8:30 - 9:00 a.m. Registration**

**9:00 - 9:15 a.m. Overview of Program**

*Beth S. Posner, Adjunct Professor of Law, UNC School of Law*

**9:10 - 11:10 a.m. The Fundamentals of Domestic Violence**

*Suzanne M. Chester, Clinical Assistant Professor of Law and Beth S. Posner, Adjunct Professor of Law, UNC School of Law*

This session provides a framework for understanding domestic violence cases and explores why they require additional skill and training for lawyers. The presenters will delve into the cultural context in order to gain a better understanding of domestic violence and help participants appreciate the many barriers clients face that affect representation. The workshop will also focus on tactics employed by perpetrators and coping mechanisms often utilized by victims.

**11:10 - 11:15 a.m. Break**

**11:20 - 12:20 p.m. Screening for Domestic Violence**

*Sara J. Simberg and Matthew F. Stauff, Legal Aid of North Carolina*

Some clients easily identify as having been abused. Most do not. This session builds upon the previous one by providing tools to assist lawyers in identifying domestic violence cases, eliciting information on the specific power and control tactics the client experiences in order to adequately assess legal remedies. The session also explores client privacy and confidentiality concerns and how they may affect representation.

**12:20 - 1:20 p.m. Lunch**

**1:20 - 2:20 p.m. Holistic Legal Response**

*Valene K. Franco, Managing Attorney, Legal Aid of North Carolina and Marie Hopper, Hopper Cummings*

Attorneys representing clients experiencing domestic violence will need to consider the legal and non-legal implications of legal actions taken on behalf of the client. In order to provide a holistic legal response, this session will also look at the non-legal needs of clients and how to facilitate services beyond the scope of your representation to help clients obtain control over their lives.

**2:20 - 2:35 p.m. Break**

**2:35 - 3:35 p.m. Safety and Autonomy (Part I of II)**

*TeAndra H. Miller and Amy Vukovich, Legal Aid of North Carolina*

This session stresses the critical importance of safety as a fundamental and ongoing concern for your client and yourself throughout the course of your representation and how safety concerns drive any legal interventions. This session will also address the importance of working collaboratively with community and systems-based advocates to help facilitate client safety.

**3:35 - 3:45 p.m. Break**

**3:45 - 4:45 p.m. Safety and Autonomy (Part II of II) **PR****

*TeAndra H. Miller and Amy Vukovich, Legal Aid of North Carolina*

This session stresses the critical importance of the maintenance of professional and ethical boundaries in representing clients experiencing domestic violence.

**4:45 - 5:00 p.m. Wrap Up and Q&A**

*Suzanne M. Chester, Clinical Assistant Professor of Law*

Discussion Faculty: Ida T. Baker, Managing Attorney, Legal Aid of North Carolina; Valene K. Franco, Managing Attorney, Legal Aid of North Carolina; Beth Froehling, Executive Director, N.C. Coalition Against Domestic Violence; Jennifer M. Green, Judge, N.C. District and Family Court, Wake County; Atiya M. Mosley, Legal Aid of North Carolina; Beverly Scarlett, District Court Judge, N.C. Judicial District 15B.

# Friday Session One

## 8:00 a.m. - 9:00 a.m.

### Capital Punishment Law: Recent Developments

*Richard A. Rosen, Professor of Law Emeritus, UNC School of Law*

This session will provide an overview of the latest developments regarding capital punishment law.

### Insider's View of the Supreme Court Confirmation Process

*Michael J. Gerhardt, Samuel Ashe Distinguished Professor in Constitutional Law and Director of the Center for Law and Government, UNC School of Law*

This session will explore the nuances of the U.S. Supreme Court confirmation process. The speaker has significant experience in this arena. He advised several senators on the nomination of John Roberts as Chief Justice, testified before the Senate Judiciary Committee on the nomination of Samuel Alito Jr., and served as Special Counsel to Chair Patrick Leahy (D-Vt.) as well as the Senate Judiciary Committee for the nominations of Sonia Sotomayor and Elena Kagan to the Supreme Court.

### Lawyers, Writing and Professionalism

**PR**

*D.G. Martin, LL.B., Host, UNC TV's North Carolina Bookwatch*

This presentation will focus on the work of lawyer-authors, including Jon Buchan and Walter Bennett. Learn how their law practice influenced their writing, what writing has done for them as lawyers and how writing can make you a better lawyer.

### Online Speech and the First Amendment: Internet Defamation and other Digital Torts

*David S. Ardia, Assistant Professor of Law, UNC School of Law; Charles E. Coble, Brooks, Pierce, McLendon, Humphrey & Leonard; and Mark J. Prak, Brooks, Pierce, McLendon, Humphrey & Leonard*

This session will explore the impact the Internet has had on First Amendment law, specifically defamation actions. We will review the most recent case law on this evolving topic and share best practices for limiting liability and responding to claims involving speech on the Internet.

### Public Companies and Private Foundations: Tax Pitfalls for Insider Gifts

*Adam P.M. Tarleton, Brooks, Pierce, McLendon, Humphrey & Leonard*

Founders, executives and other insiders of publicly traded companies frequently donate to private foundations in conjunction with a public offering of company stock. If structured properly, these gifts can generate enormous tax savings while providing the seed of a lasting philanthropic legacy. The interaction of federal securities laws and the Internal Revenue Code create numerous pitfalls for the donor's counsel to navigate. This session will address several of those pitfalls and provide strategies for reaping the largest tax benefit from an insider's gift of public company stock to a private foundation.

### Shape of the Coast 2013: Practical Effects of Sea Level Rise Planning Projections

*Spencer M. Rogers, Coastal Construction and Erosion Specialist, N.C. Sea Grant Program*

While most of the controversy has focused on a 1-meter rise in sea level by 2100, few projects are planned for that far in the future. The presentation will compare the long-range projection with a more realistic 30-year planning window. The presenter will discuss the state of the science, including other recommendations in the states report that deal with the known uncertainty for 2100. Surprisingly, coastal North Carolina is well ahead of most coastal states in adapting for sea level rise primarily due to advance planning for other more predictable hazards. Existing adaptation actions will be explored along with some of the practical and financial consequences.

### Still Dreaming: Deferred Action for Childhood Arrivals (Part 1 of 2)

*Deborah M. Weissman, Reef C. Ivey II Distinguished Professor of Law, UNC School of Law*

This presentation will cover the recently inaugurated program for undocumented immigrants who came to the United States as children and who may be eligible for deferred status and work authorization and other privileges including a driver's license.

"Still Dreaming: Deferred Action for Childhood Arrivals" is a two-hour course; participants should also register for Session 2-7.

### The Future of Affirmative Action in Higher Education: *Fisher v. Univ. of Texas at Austin*

*John Charles Boger, Dean and Wade Edwards Distinguished Professor of Law, UNC School of Law; Mark E. Dorosin, Senior Managing Attorney and Elizabeth M. Haddix, Staff Attorney, Center for Civil Rights, UNC School of Law*

Some limited consideration of race has been permitted in making admissions decisions in higher education since Justice Lewis Powell's 1978 opinion in *Bakke*. In 2003, a majority of the Supreme Court reaffirmed and broadened the *Bakke* principle in *Grutter v. Bollinger*. The Roberts Court decided last spring to revisit *Bakke* and *Grutter*. The future of affirmative action is at risk. This presentation explores the contending constitutional arguments, outlines the amicus curiae position taken by UNC, reports on the oral argument of the case heard on October 10, 2012, and previews the likely outcome.

# Friday Session Two

9:10 a.m. - 10:10 a.m.

## A Primer: Merger or Share Exchange

*Anthony Gaeta Jr., Gaeta & Eveson*

The discussion will compare and contrast the legal requirements and legal and practical differences between effecting a corporate combination by either a form of merger (straight statutory, forward or reverse triangular) and a statutory share exchange.

## Introduction to Intellectual Property Law

*John Martin Conley, William Rand Kenan Jr. Professor of Law, UNC School of Law*

This session will provide a brief introduction to patent, copyright and trademark law. The objective is to give non-specialists an overview of the coverage and scope of protection of each body of IP law and to provide some general guidelines for recognizing when they may be relevant to their clients' problems.

## Poverty and Economic Justice in North Carolina

*Gene R. Nichol, Boyd Tinsley Distinguished Professor of Law and Director of the Center on Poverty, Work & Opportunity, UNC School of Law*

The presenter will explore poverty and economic distress in North Carolina and the challenges they present – in law, in education, in health care, in housing, in opportunity, in dignity – if we are to take our foundational constitutional claims seriously.

## Recent Developments in Internet Law

*David W. Sar, Brooks, Pierce, McLendon, Humphrey & Leonard; and Marcus W. Trathen, Brooks, Pierce, McLendon, Humphrey & Leonard*

The law struggles to keep pace with developments in internet technology and online business models. This session will review the most significant recent developments in internet law, including online video, privacy, data security, trademarks, copyrights and cyberliability. The session is relevant to both litigators and transactional lawyers.

## Recent Developments in North Carolina Family Law

*K. Edward Greene, Wyrick Robbins Yates & Ponton*

This session – led by a former member of the N.C. Court of Appeals – will review family law developments over the last year in the N.C. Supreme Court and Court of Appeals. Attend this session if you would like to know about the latest developments relating to child custody, child support, alimony, equitable distribution, divorce and annulment.

## Shape of the Coast 2013: Estuarine Shoreline Management Issues in North Carolina

*Braxton Davis, Director, N.C. Division of Coastal Management*

This presentation will discuss the myriad issues and challenges the state is facing regarding shoreline management and the steps the N.C. Division of Coastal Management has taken to map our ocean and estuarine resources which will provide more data and inform management strategies. The session will highlight the division's efforts on the estuarine shoreline mapping project and oceanfront shoreline survey and lead discussion on potential future implications for coastal developers, property owners, legal counsel, as well as for management of public trust resources.

## Still Dreaming: Deferred Action for Childhood Arrivals (Part 2 of 2)

*Deborah M. Weissman, Reef C. Ivey II Distinguished Professor of Law, UNC School of Law*

*"Still Dreaming: Deferred Action for Childhood Arrivals" is a two-hour course that began in Session One and ends in Session Two. Participants should also register for Session 1-7. Please see the course description in Session One.*

## The Stakes are High: Recognizing and Responding to Conflicts of Interest **PR**

*Bernard A. Burk, Assistant Professor of Law, UNC School of Law*

Every lawyer confronts conflicts of interest from time to time and in private law firms both large and small, they are a frequent problem. The stakes are high: mishandling conflicts can result in forfeiture of fees, disqualification, civil liability and professional discipline.

# Friday Session Three

## 10:20 a.m. - 11:20 a.m.

### **An Artist Meets the Crimson Tide: Did the First Amendment or Trademark Law Win?**

*Deborah R. Gerhardt, Assistant Professor of Law, UNC School of Law*

This session will provide an in-depth discussion of *University of Alabama v. New Life Art*, pitting the University's claims of trademark protection for its football uniforms against an artist's efforts to portray football players in action.

### **Contempt: The Law in North Carolina** PR

*K. Edward Greene, Wyrick Robbins Yates & Ponton*

This session is a review of state statutes and case law as it relates to civil and criminal contempt; how to prosecute a contempt action; how to defend a contempt action; permissible sanctions for contempt; the differences between civil and criminal contempt; when and where to appeal and more.

### **Federal Criminal Health Care Fraud: Responding to Investigations, Defending Against Indictments, and Handling Related Civil Claims**

*Kearns Davis, Brooks, Pierce, McLendon, Humphrey & Leonard*

The U.S. Department of Justice devotes increasing resources to health care fraud enforcement. U.S. Attorneys in our state have been particularly aggressive in investigating, prosecuting and suing medical providers, including small practices and individuals. This program will help you respond when your client is in their crosshairs.

### **Lawyers on Nonprofit Boards** PR

*Marty Martin, Martin Law Firm*

Nonprofit boards are in the news because of high profile failures with nonprofit boards of directors and management. Lawyers frequently are asked to serve on nonprofit boards of directors, but with limited substantive background in the law related to nonprofit organizations. Using a case study, the class will discuss legal and ethical issues that confront the lawyer serving on a nonprofit board of directors.

### **Recent Developments in Class Action Law: From Waivers to Expert Analysis and Beyond**

*Anthony T. Lathrop, Moore & Van Allen*

The last few years have brought major developments in the landscape of federal class action practice, including in the areas of class arbitration waivers, barriers to securing class certification and the proper analysis of expert evidence; within the last year, many of these issues have worked their way to (or back to) the steps of the U.S. Supreme Court for resolution. The presenter will provide updates on new developments and tips for practitioners seeking to navigate the class action landscape.

### **Shape of the Coast 2013: Coastal Legislation and Case Law Update**

*William A. Raney Jr., Wessell & Raney; and Todd S. Roessler, Kilpatrick Stockton*

The presenters will discuss recent federal and state cases, statutes, regulations and litigation that influence activities on our state's coastal lands or in its coastal and ocean waters.

### **The Outsourcing Contract: Best Practices**

*Larry Sampson, Sourcing Attorney-Advisor, Aspen Sourcing Advisors*

Former senior counsel of Hewlett-Packard will provide specific guidance on how to structure a contract for outsourced services. The presenter will cover contract terms describing, data privacy and confidentiality, early termination rights, price benchmarking, and effective service level agreements (including calculation of financial credits for when the service provider fails to meet service levels).

### **The Rise of Business Courts in the United States**

*John S. Buford, Brooks, Pierce, McLendon, Humphrey & Leonard; and John F. Coyle, Assistant Professor of Law, UNC School of Law*

This session will examine the rise of specialized business courts over the past two decades. In addition to a discussion of the N.C. Business Court, the session will explore the rationales underlying the creation of these courts and identify several possible means of evaluating their performance.

# Friday Session Four

11:30 a.m. - 12:30 p.m.

## Building the New Yankee Stadium: Tax-Exempt Bonds and Other Subsidies for the Richest Team in Baseball

Patricia L. Bryan, Martha Brandis Professor of Law, UNC School of Law

When Yankee Stadium opened in April 2009, aggregate costs had skyrocketed to \$2.3 billion, with more than half contributed by taxpayers. The massive federal subsidy resulting from tax-exempt financing bonds presents a particularly troubling issue, especially in light of convincing evidence that wealthy private owners, and not the broader community, reap the financial benefits of using these bonds for sports stadiums. The enormous—and often hidden—drain on the federal treasury leads to the important questions: are taxpayers striking out on public investments in sports stadiums, and if so, how can these federal subsidies to sports teams be limited in the future?

## Drafting Website Terms and Statements

C. Amanda Martin, Stevens Martin Vaughn & Tadych

Whether elaborate or simple, every website needs terms of use and privacy policies. Learn how to help your clients prepare appropriate policies that protect them and their visitors from misunderstandings or worse, litigation.

## Just Enough to Be Dangerous: What Every Non-Employment Lawyer Needs to Know About Employment Law

Nicole A Crawford, Brooks, Pierce, McLendon, Humphrey & Leonard

This session will help practitioners learn to spot hot or dangerous employment issues that arise in everyday business operations of their clients.

## Living the Inauthentic Life: When Ignorance Isn't Bliss SA

Dr. Elliot M. Silverstein, Co-Director of Psychological Services, Child Psychiatry Outpatient Clinic, Central Regional Hospital, Raleigh Campus; and Dr. Martha F. Simpson, Clinical Psychologist, HRC Behavioral Health & Psychiatry

To compartmentalize is to separate into isolated compartments or categories. Putting feelings or information into “compartments” so that we can concentrate on something else is a necessary part of daily functioning and the practice of law. When this is overused to avoid dealing with many professional or personal situations, one faces the danger of becoming ineffective in practice and inauthentic in one’s personal life. Two experienced psychologists will explore how this necessary part of functioning may become problematic. Using some examples from their practice, they will discuss ways to overcome this problem.

## POTPOURRI@OAH: Possums, Pow Wows, Penalties & Powers

Fred G. Morrison Jr., Senior Administrative Law Judge, N.C. Office of Administrative Hearings

Come hear about recent developments in administrative law from an ALJ who has been at the Office of Administrative Hearings since its beginning in 1986. The presenter will also discuss significant ALJ and appellate decisions rendered during the past year. No playing possum – class participation is encouraged!

## Shape of the Coast 2013: Annual Update from the Chair of the Coastal Resources Commission and a Look Ahead

Robert R. Emory Jr., Chair, N.C. Coastal Resources Commission

This session will be a discussion of the commission’s recent and ongoing work on oceanfront setbacks, stabilization measures such as sandbags and estuarine shoreline stabilization. The presenter will also address topics that the commission is beginning to consider, including inlet hazard areas, energy facilities and a more comprehensive approach to how we manage our beaches and inlets.

## Taking the Risk and Reaping the Reward: Trial Strategies for the Not so Faint of Heart

Steven B. Epstein, Poyner Spruill

This presentation will focus on trial strategies and techniques that cut against the grain of traditional orthodoxy. Attendees will learn that success at trial often depends upon taking risks and pushing the envelope. The entire trial process will be addressed from voir dire to closing argument.

## The North Carolina’s Banking Law Modernization Act

Daniel E. Garner, Executive Legal Specialist, N.C. Office of the Commissioner of Banks

Marking the first significant rewrite since the 1920s, the Banking Law Modernization Act, enacted in 2012, should make some things better and easier while retaining many tried and true provisions. This session will give the context and background to the act, provide an overview of new Chapter 53C and highlight a few significant improvements.

# Friday Session Five

## 1:30 p.m. - 2:30 p.m.

### Free Legal Information on the Web

*Sara Sampson, Clinical Assistant Professor of Law, UNC School of Law and Deputy Director, Kathrine R. Everett Law Library; and Nick Sexton, Clinical Assistant Professor of Law, UNC School of Law and Reference/Information Delivery Services Librarian, Kathrine R. Everett Law Library*

This presentation will focus on legal research. The presenters will give an overview of the leading sources of free legal materials and describe the pros and cons of incorporating these sources into your practice.

### Hot Topics in Health Law and Policy

*Dean M. Harris, Clinical Associate Professor, Department of Health Policy and Management, UNC Gillings School of Global Public Health; Joan H. Krause, Associate Dean for Faculty Development and Dan K. Moore Distinguished Professor of Law, UNC School of Law; and Richard S. Saver, Professor of Law, UNC School of Law*

This session will explore current hot topics in health law and policy. Subjects covered will include an update on the 2010 federal health reform legislation, as well as new developments in the regulation of health care fraud and abuse and comparative effectiveness research.

### Legalizing China: What Lawyers Need to Know About the New China

*Joseph E. Kennedy, Professor of Law, UNC School of Law; and Maria Savasta-Kennedy, Clinical Professor of Law and Director of the Externship Program, UNC School of Law*

Doing business in China and with the Chinese is more important than it has ever been, but China is not an easy place for westerners to understand. Historically misunderstood in the West, China is an even more complicated place today because of the enormous changes and challenges that the country has experienced over the last few decades.

### Life and Light at the End of the Tunnel: Recovering from Debilitating Mental Conditions and Addictions SA

*Stacey A. Phipps, Stacey A. Phipps, Attorney-at-Law; and John L. Sarratt, Harris Sarratt & Hodges*

An estimated one-third of attorneys suffer from depression and/or alcohol or drug addiction – a rate two to three times higher than the general population. The implications for lawyers, loved ones, clients and the profession are obvious. Two members of the bar who have successfully dealt with these afflictions will share their stories and identify resources for obtaining confidential intervention and treatment. *This session is a repeat from 2012.*

### North Carolina Shale Gas Rights and Access

*Alexander Elkan, Brooks, Pierce, McLendon, Humphrey & Leonard*

This session will explore mineral rights law in the context of potential shale gas development in our state. Potential shale gas development in our state continues to be discussed and debated. As the legislative and executive branches move forward in preparation for eventual development, landowners, municipalities, oil and gas developers, ancillary industries and advisors need to understand mineral rights, surface rights, royalty rights, leases, easements and surface use agreements in the context of common law and existing and evolving statutes and regulations.

### Professional Status of Brokers and Advisers

*Thomas Lee Hazen, Cary C. Boshamer Distinguished Professor of Law, UNC School of Law; and Marianne K. Smythe, Senior Consultant, Atlantic Fund Services*

This session will explore the Securities and Exchange Commission's evolving views on the status of brokers and financial advisers.

### The Other Car Insurance

*John W. Van Alst, National Consumer Law Center*

Numerous insurance and insurance-like products are sold and financed with cars, from credit life and disability to GAP insurance, tire protection and more. This session will examine these products, their regulation, the ways in which they are sold and potential consumer claims.

### Workshop: Getting Started, Getting Support and Getting a Draft

*Amanda S. Hitchcock, Clinical Assistant Professor, Writing and Learning Resources Center, UNC School of Law; and Craig T. Smith, Clinical Professor of Law and Assistant Dean for Legal Writing and Academic Success, UNC School of Law*

Before a lawyer starts a writing project, three questions typically arise: (1) What story do I want to tell? (2) What legal authority can I use to help me tell that story? (3) How can I start writing? The presenters will offer concrete tips on how to answer those questions quickly and effectively. Participants will explore how to use storytelling and big-picture concepts to guide a project, how to research efficiently online, and how to translate a collection of information into a solid draft document.



# Friday Session Six

2:40 p.m. - 3:40 p.m.

## A Handful of Pearls: A Quick Refresher on Mental Illness and Substance Abuse

SA

*Dr. Eric B. Elbogen, Associate Professor, UNC Department of Psychiatry; Dr. Sally C. Johnson, Professor, UNC Department of Psychiatry, UNC School of Medicine; and Alyson R. Kuroski-Mazzei, Assistant Professor and Associate Director of the Forensic Psychiatry Residency Program, Department of Psychiatry, UNC School of Medicine*

A brief survey of common mental health problems and diagnoses affecting lawyers will be completed. Attendees will leave with a “handful of pearls” to assist them in recognizing and handling these issues as they arise. *This session is a repeat from Festival 2012.*

## Hosanna-Tabor: Employment Considerations for Religious Employers

*Dorrian H. Horsey, Brooks, Pierce, McLendon, Humphrey & Leonard*

This session will broadly explore the legal considerations that arise when faith intersects with the workplace in the context of religious employers. We will discuss the Supreme Court’s *Hosanna-Tabor v. EEOC* decision regarding the application of the ministerial exception in employment discrimination cases and other relevant case law.

## Master Class: Trial Advocacy (Part 1 of 2)

*Jonathan E. Broun, Staff Attorney and Training Director, Center for Death Penalty Litigation; and Kenneth S. Broun, Henry Brandis Professor of Law Emeritus, UNC School of Law*

This session will provide participants with an overview of techniques of direct and cross-examination. Participants will also have an opportunity to practice direct and cross-examination and will receive critiques and suggestions for improvement. *This session is a repeat from Festival 2011 and 2012.*

*“Trial Advocacy Master Class” is a two-hour course that begins in Session Six and ends in Session Seven. Participants should also register for Session 7-3.*

## On Fraud, Vulnerability and Aging

*David N. Kirkman, Assistant Attorney General, Consumer Protection Division, N.C. Department of Justice*

This program will discuss various age-related vulnerabilities that make older consumers major targets of fraud, the techniques that fraud groups have developed to exploit those vulnerabilities and steps attorneys can take to prevent further harm to their clients and perhaps recoup some of their losses.

## Post-Election Results: The Future of Health Care Reform

*Carolyn Lloyd Coward, Van Winkle, Buck, Wall, Starnes & Davis*

Now that the election is over, what does it mean for the future of health care reform? This seminar will explore the post-election impact of health care reform on providers and payors, including its effect on the integration of delivery systems, new payment models for hospitals and physicians, legal barriers to clinical integration and new potential areas of litigation.

## Slave Trials in Virginia and North Carolina, 1830-1834

*Alfred L. Brophy, Judge John J. Parker Distinguished Professor, UNC School of Law*

This talk focuses on two trials in North Carolina: one of a white man who attacked a slave in his custody and another of a slave who killed his overseer. Sandwiched between those two cases, *State v. Mann* in 1830 and *State v. Will* in 1834, was the Nat Turner rebellion in neighboring Virginia. The trials of the Turner rebels and suspected rebels in our state, along with the vigilante violence that accompanied the panic, further illustrate the ways that trials functioned to support slavery. They also illustrate how the legal system worked in conjunction with (and sometimes in opposition to) the community to establish and regulate slavery.

## Social Media: Legal Perspective on “Big Data”, the Internet and the Use of Mobile Platforms

*Christin Coan, Legal Counsel, SAS Institute Inc.*

Do you have clients seeking to mine social media and other online data and/or combine it with their own data? Are your clients publishing apps and other content on various mobile platforms and devices? This session will examine the legal significance of the trend toward commercial use of “Big Data”, and how it affects you and your clients.

## Workshop: Large-Scale Organization - Communicating Analyses and Arguments

*Jon P. McClanahan, Clinical Assistant Professor and Director of Academic Success, UNC School of Law; and Oscar J. Salinas, Clinical Assistant Professor of Law, UNC School of Law*

Written communication lies at the heart of the legal profession. Attorneys can lose their audience – and maybe their case – by failing to frame and organize their legal analysis and arguments effectively. In this hands-on session, the presenters will share effective methods for constructing arguments and give participants an opportunity to practice the methods by critiquing and revising sample court documents.

# Friday Session Seven

## 3:50 p.m. - 4:50 p.m.

### Employment Litigation in the Fourth Circuit: Current Developments and Trends

Kimberly J. Korando, Smith, Anderson, Blount, Dorsett, Mitchell & Jernigan

This session will be a fast-paced overview of the Fourth Circuit's most significant employment decisions during the past year. Emphasis will be given to the most impactful decisions on practitioners in case selection, discovery and dispositive motions.

### Law Blogging in the 21st Century

Tamar R. Birckhead, Associate Professor of Law, UNC School of Law

You are an expert in your field and you'd like to start a legal blog. This session will explore how to use social media to establish your presence in the blogosphere.

### Master Class: Trial Advocacy (Part 2 of 2)

Jonathan E. Broun, Staff Attorney and Training Director, Center for Death Penalty Litigation; and Kenneth S. Broun, Henry Brandis Professor of Law Emeritus, UNC School of Law

"Trial Advocacy Master Class" is a two-hour course that began in Session Six and ends in Session Seven. Participants should also register for Session 6-3. Please see the course description in Session Six.

### Recent Developments in Insider Trading Law

Justin N. Outling, Brooks, Pierce, McLendon, Humphrey & Leonard; and David Smyth, Brooks, Pierce, McLendon, Humphrey & Leonard

The Securities and Exchange Commission and Department of Justice have recently thrust insider trading to the forefront of their enforcement agendas. This session will cover the current state of insider trading law and the impact of recent cases.

### Security Breach Notification: Current and Pending Legal Requirements

Elizabeth H. Johnson, Poyner Spruill; and Anne Klinefelter, Associate Professor of Law, UNC School of Law and Director, Kathrine R. Everett Law Library

A growing body of state and federal data breach notification laws affects a variety of businesses that hold sensitive data. Applying these laws to particular situations can involve complex and even conflicting choices. The presenters will lead participants through a breach notice scenario systematically, bringing in a variety of potentially applicable laws to demonstrate the process of compliance and concluding with an overview of pending legislation that could alter the landscape of breach notice.

### The JOBS Act (Jumpstart Our Business Startups Act): The Good, the Bad and the Ugly

Thomas Lee Hazen, Cary C. Boshamer Distinguished Professor of Law, UNC School of Law

The JOBS Act was designed to facilitate small business financing by easing certain disclosure requirements and by adopting a new exemptions for securities offerings, including one directed at crowd funding. This session will provide an overview of the legislation and the Securities and Exchange Commission rulemaking that followed, some of which is still to come and will evaluate whether the legislation is likely to achieve its objectives.

### Violence Risk Assessment and Management

Dr. Eric B. Elbogen, Associate Professor, UNC Department of Psychiatry; Dr. Sally C. Johnson, Professor, UNC Department of Psychiatry, UNC School of Medicine; and Alyson R. Kuroski-Mazzei, Assistant Professor and Associate Director of the Forensic Psychiatry Residency Program, Department of Psychiatry, UNC School of Medicine

Were you ever assigned a pro bono case? Have you wondered whether your client is violent or capable of violence? The focus will be on assessing risk of violence toward others through awareness of risk and protective factors. The importance of ongoing monitoring of risk and intervention techniques to reduce risk will also be discussed.

### Workshop: Small-Scale Organization - Effectively Structuring Documents Paragraph by Paragraph

Lewis M. Everett, Clinical Assistant Professor, UNC School of Law; and Aaron R. Harmon, Clinical Assistant Professor, Writing and Learning Resources Center, UNC School of Law

Lawyers must make difficult choices as they structure legal documents to guide, inform and convince the documents' readers. The presenters will explore those choices and provide useful tools to help propel arguments and analyses forward with every paragraph. Topics include using syllogisms strategically, creating strong topic sentences, keeping paragraphs focused, ordering sentences to proceed from broad to narrow concepts and statements.

# Friday Session Eight

5:00 p.m. - 6:00 p.m.

## Building Successful Pro Bono Projects: Insights from the Field **PR**

Joseph M. Buckner, Chief Judge, Orange County, N.C., Judicial District 15B; Chrissy Cianflone, Administrative Director, Cancer Health Policy and Outcomes Research, Duke Cancer Institute; Kari Hamel, Legal Aid of North Carolina; Madlyn Morreale, The Medical-Legal Partnership, Legal Aid of North Carolina; Jeff Nieman, Assistant District Attorney, N.C. Judicial District 15B; and Matthew Suczynski, Law Office of Matthew Charles Suczynski

This panel presentation will provide information on successful models of pro bono projects that address crucial unmet community and legal needs, including those relating to individuals with poor health, those who cannot access basic legal services and those who are homeless or mentally ill. Participants will learn how to meet ethical obligations and professional commitments toward those with limited means and will gain insights into how to structure local bar initiatives as effectively as possible.

## Employment and Labor Law: A National Roundup

Jeffrey M. Hirsch, Associate Professor of Law, UNC School of Law

This session will examine some of the year's most significant labor and employment cases, with a focus on national trends.

## Foreclosures, Evictions and Personal Property: Tenant Protections and Lender Responsibilities

Anna McLamb, Brooks, Pierce, McLendon, Humphrey & Leonard; and Mary Fletcher Peña, Brooks, Pierce, McLendon, Humphrey & Leonard

Lenders and tenants can find themselves in unfamiliar territory when property changes hands after foreclosure or deed in lieu of foreclosure. We will offer perspectives on the consequences of loan default for lenders and tenants in both the commercial and residential context.

## Sex, Violence and Student Athletes: Penn State and Beyond

Barbara J. Osborne, Associate Professor, UNC Department of Exercise & Sport Science

This session will explain the 2012 U.S. Department of Education's Sexual Violence guidance. Institutional liability will be discussed using recent situations involving student-athletes at the high school and college level, as well as the Office of Civil Rights' complaint against Penn State for the Sandusky scandal.

## Substance Abuse: Deep Insights for Attorneys **SA**

Dr. Thomas P. Britton, Director of Operations, Wellspring Camps, Academies and Structure House

This session will encourage participants to explore very deeply their assumptions regarding substance abuse, whether those beliefs apply in working with clients or in dealing with their own demons. What do we (and the law) understand when we refer to "substance abuse"? What assumptions do we hold regarding responses to substance abuse and possible interventions (such as 12-step programs)? Join us to explore these issues and more.

## The Common Law in North Carolina

John V. Orth, William Rand Kenan Jr. Professor of Law, UNC School of Law

When North Carolina became an independent state, it reaffirmed its allegiance to the English legal tradition and readopted colonial legislation receiving the common law. Over the years, state judges were required, with remarkably little guidance from the legislature, to adapt the common law to the conditions of the new society. What is the role of this common law heritage today?

## The New Debate over Software Patents

Andrew Chin, Associate Professor, UNC School of Law

Recent U.S. Supreme Court decisions on patentable subject matter have provoked new controversies over the patentability of software among the lower courts and in industry and academia. This presentation will describe the split in the Federal Circuit on the patent-eligibility of software inventions in the wake of *Bilski* and survey some proposals in the recent literature for addressing some problematic aspects of software patents.

## Workshop: Polish Your Writing to (Near) Perfection

Kaci Bishop, Clinical Assistant Professor, Writing and Learning Resources Center, UNC School of Law; Alexa Z. Chew, Clinical Assistant Professor, Writing and Learning Resources Center, UNC School of Law; and Katie Rose Guest Pryal, Clinical Assistant Professor of Law, Writing and Learning Resources Center, UNC School of Law

In this practical workshop on making good legal writing great, the presenters will share easy-to-implement tips on readability, word choice, concision and eloquence. Participants may either bring a sample of their own writing to work on or use a sample provided by the presenters.

# Consumer Law and Consumer Credit Symposium 2013

*Sponsored by the UNC Center for Banking and Finance*

THE CONSUMER LAW AND CONSUMER CREDIT SYMPOSIUM offers courses on a variety of issues related to the representation of consumers, with a focus on issues related to consumer credit law. Those who counsel consumers and counsel businesses that deal with consumers will want to attend and catch up with some of the rapidly evolving changes and regulations in the consumer marketplace. Participants may choose to attend all sessions or select among them as interest and schedules allow.

## Friday

**Session Four** 11:30 a.m. - 12:30 p.m.  
**North Carolina's Banking Law  
Modernization Act**

*Daniel E. Garner, Executive Legal Specialist, N.C. Office of the  
Commissioner of Banks*

**Session Five** 1:30 p.m. - 2:30 p.m.  
**The Other Car Insurance**

*John W. Van Alst, National Consumer Law Center*

**Session Six** 2:40 p.m. - 3:40 p.m.  
**Fraud, Vulnerability and Aging**

*David N. Kirkman, Assistant Attorney General, Consumer  
Protection Division, N.C. Department of Justice*

**Session Eight** 5:00 p.m. - 6:00 p.m.  
**Foreclosures, Evictions and Personal  
Property: Tenant Protections and Lender  
Responsibilities**

*Anna McLamb, Brooks, Pierce, McLendon, Humphrey &  
Leonard; and Mary Fletcher Peña, Brooks, Pierce, McLendon,  
Humphrey & Leonard*

## Saturday

**Session One** 8:00 a.m. - 9:00 a.m.  
**Scams Affecting North Carolinians**

*Caroline Farmer, Deputy Director, N.C. State Attorney  
General's Office*

**Session Three** 10:20 a.m. - 11:20 a.m.  
**Consumer Financial Protection Bureau:  
Hits, Misses and Unfinished Business**

*Jeffrey P. Taft, Mayer Brown*

**Session Four** 11:30 a.m. - 12:30 p.m.  
**Defending Against Deficiency Claims  
& Tax Consequences Associated with  
Foreclosures, Loan Modifications and  
Short Sales**

*Mallam J. Maynard, Executive Director, Financial Protection  
Law Center*

# Shape of the Coast Symposium 2013

**CONTINUING THE SHAPE OF THE COAST PROGRAM'S TRADITION** of providing the scientific, economic and sociological context in which coastal legal and policy issues arise, this year we look at the concept of "ecosystem services" and the complexities inherent in applying the concept in effectively managing coastal resources.

Session one will focus on the impacts of the effects of sea level rise on coastal planning and examine the emerging issues of the inner coast region and some proposals to address those. In session two, issues of our states estuarine shoreline. Session three explores recent federal and state cases, statutes, regulations and litigation that influence activities on North Carolina's coastal lands or in its coastal and ocean waters. Session four, the chair of the Coastal Resources Commission providing his annual update on the CRC's activities and decisions over the past year and a peek at the issues on the CRC's agenda for the upcoming year. This symposium is comprised of four self-contained sessions that may be taken individually or together in any combination.

Sponsored by the North Carolina Coastal Resources Law, Planning and Policy Center (CRC), which is a collaboration between UNC School of Law, the North Carolina Sea Grant Program and the UNC Department of City and Regional Planning.

## Friday

**Session One** 8:00 a.m. - 9:00 a.m.  
Practical Effects of Sea Level Rise  
Planning Projections

**Session Two** 9:10 a.m. - 10:10 a.m.  
Estuarine Shoreline Management Issues  
in North Carolina

**Session Three** 10:20 a.m. - 11:20 a.m.  
Coastal Legislation and Case Law Update

**Session Four** 11:30 a.m. - 12:30 p.m.  
Annual Update from the Chair of the  
Coastal Resources Commission and a  
Look Ahead

# Environmental Law Symposium 2013

*Sponsored by the UNC  
Environmental Law Project*

**THIS EVER-POPULAR ENVIRONMENTAL LAW SYMPOSIUM** seems to have more to discuss this year than ever, including one of the first public CLE reflections on national environmental law and policy after the presidential election of 2012. Topics range from coastal- and land-use issues (including the state's approach to sea-level rise), a retrospective on the Clean Water Act at Forty, Energy Law (including a fracking update) and a look ahead at the next presidential term. Professors Victor Flatt, Donald Hornstein and Maria Savasta-Kennedy (just back from her Fulbright year teaching environmental law in China) will lead us through the maze. The symposium is comprised of four self-contained sessions that may be taken individually or together in any combination.

## Saturday

**Session One** 8:00 a.m. - 9:00 a.m.  
Land Use, Coastal Issues,  
Property Rights

**Session Two** 9:10 a.m. - 10:10 a.m.  
The Clean Water Act at Forty

**Session Three** 10:20 a.m. - 11:20 a.m.  
Energy Law and Policy, in  
North Carolina and Beyond

**Session Four** 11:30 a.m. - 12:30 p.m.  
The 2012 Presidential Election and the  
Future of Environmental Law and Policy

# Saturday Session One

## 8:00 a.m. - 9:00 a.m.

### Agricultural and Food Law: Recent Developments

Ray A. Starling, *General Counsel to the N.C. Speaker of the House and Policy Adviser on Agriculture*; and Chris Saunders, *Staff Attorney, Legislative Research Division, N.C. General Assembly*

This session will address key trends in agricultural law, including biotechnology, the local food movement, food safety and implications of pending “farm bill” legislation.

### Deeds, Devises, Divorce – Oh, My: Dilemmas at the Intersection of Real Property, Estate Planning and Family Law

Charlie D. Brown, *Charlie Brown Estate Planning and Elder Law*; Nancy Short Ferguson, *Vice President, Chicago Title Insurance Company*; and James Wade Harrison, *Wishart, Norris, Henninger and Pittman*

Have you ever wondered how colleagues with differing legal expertise might approach issues that you face in practice? If so, join this panel for a lively discussion of how differing perspectives, drawn from real estate, estate planning and family law, may result in “collisions” or “collaborations” that can hinder or help your clients.

### Environmental Symposium I: Land Use, Coastal Issues, Property Rights

Donald T. Hornstein, *Aubrey L. Brooks Professor of Law, UNC School of Law*; Victor B. Flatt, *Thomas F. and Elizabeth Taft Distinguished Professor in Environmental Law and Director of the Center for Law, Environment, Adaptation and Resources (CLEAR), UNC School of Law*; and Maria Savasta-Kennedy, *Clinical Professor of Law and Director of the Externship Program, UNC School of Law*

This session focuses on recent developments, especially in North Carolina, that center on land use – a suddenly very hot topic. Subtopics include state’s approach to sea-level rise, coastal zoning and development (including beach nourishment and preservation), zoning and conservation planning and riparian water rights.

### Internal Investigations for Financial Institutions

Jennifer T. Harrod, *Brooks Pierce McLendon Humphrey & Leonard*

In today’s economic and political environment, financial institutions operate under a microscope. As highly regulated institutions, the opportunities for misconduct, real or suspected, are manifold. This presentation will cover circumstances where a financial institution should conduct an internal investigation as well as the process of the investigation.

### New View from the Courtroom: Professionalism **PR**

R. Allen Baddour Jr., *Resident Superior Court Judge, District 15B*; and Ripley E. Rand, *U.S. Attorney, Middle District of North Carolina*

A fun look at professionalism in various court settings in all phases of litigation. The presenters will develop and discuss issues of professionalism and ethics through the lens of a hypothetical case that considers both pre-trial activities and the trial itself. The session will highlight potential ethical pitfalls with opposing counsel, witnesses, the jury and the court. A new presentation this year!

### Scams Affecting North Carolinians

Caroline Farmer, *Deputy Director, N.C. State Attorney General’s Office*

Become scam smart! Scam artists take money from hardworking individuals and retirees. Learn the facts on fraud and learn the easy steps to help clients and friends avoid becoming victims. Learn where in North Carolina these crimes hit hardest.

### Understanding the Disease of Addiction

**SA**

Dr. Eric B. Elbogen, *Associate Professor, UNC Department of Psychiatry*; Dr. Sally C. Johnson, *Professor, UNC Department of Psychiatry, UNC School of Medicine*; and Alyson R. Kuroski-Mazzei, *Assistant Professor and Associate Director of the Forensic Psychiatry Residency Program, Department of Psychiatry, UNC School of Medicine*

This session will consider the role substance abuse and addiction can play in the lives of lawyers and their clients. It will offer an up-to-date understanding of the addiction process itself. This talk will focus on the current knowledge about the causes and management of addiction – knowledge that can be useful on both personal and professional levels.

### Using the Cloud: Resources, Protections and Ethical Considerations **PR**

Steve J. Melamut, *Clinical Assistant Professor of Law, UNC School of Law and Information Technology Services Librarian, Kathrine R. Everett Law Library*

Lawyers are increasingly interested in using cloud-based resources such as Dropbox, Box, iCloud, SkyDrive and UbuntuOne for file storage and easy access from multiple locations. Come to this session to learn about client related security and ethical obligations.

# Saturday Session Two

9:10 a.m. - 10:10 a.m.

## **A Distant Mirror: How 19th Century Lawyers from Guilford and Edgecombe Counties Are Models for the Next Generation of Lawyers & Firms Worldwide** **PR**

*Edward C. Winslow III, Brooks, Pierce, McLendon, Humphrey & Leonard*

Our profession and firms are undergoing radical changes, abetted by new technologies and prodded by outsourcing, project management, globalism and restructuring. Perhaps surprisingly, North Carolina's first mature generation of lawyers may point the way to new practice models and suggest principles for managing 21st century law firms.

## **Copyright and the Music Industry: Pirates, Profits and Politics**

*David L. Harrison, Associate Vice President for Legal Affairs, The University of North Carolina General Administration*

This session is an overview of music copyright from piano rolls to peer-to-peer file sharing, featuring the range of legal issues that arise from the tradition of consistently bad behavior by the music industry, its stars and its customers. In addition to surveying traditional copyright issues such as originality, derivatives, public domain, parody, authorship, fair use and infringement, the presentation will emphasize the unique nature of copyright law for music. *This session is a repeat from Festival 2011 and 2012.*

## **Environmental Symposium II: The Clean Water Act at Forty**

*Donald T. Hornstein, Aubrey L. Brooks Professor of Law, UNC School of Law; Victor B. Flatt, Thomas F. and Elizabeth Taft Distinguished Professor in Environmental Law and Director of the Center for Law, Environment, Adaptation and Resources (CLEAR), UNC School of Law; and Maria Savasta-Kennedy, Clinical Professor of Law and Director of the Externship Program, UNC School of Law*

This session focuses on national (and international) challenges facing water pollution and, indirectly, the provision of safe drinking water. Topics include inter-basin transfers in times of drought and otherwise, pollutant/nutrient trading and storm water management.

## **Emotional Intelligence and Other Key Competences for Lawyers** **PR**

*Judith Welch Wegner, Burton Craige Professor of Law, UNC School of Law*

There has been growing attention to lawyer competences as a means of focusing professional development and evaluating junior lawyers. This presentation will explore the notion of emotional intelligence and other key competences for lawyers, drawing on key concepts from the U.S., United Kingdom, and Australia.

## **Lawyering in the Public Eye: What I Learned on My Way to a National Political Convention**

*Robert E. Hagemann, City Attorney, City of Charlotte*

When Charlotte hosted the 2012 Democratic National Convention, it was thrust into a national spotlight. Come hear the Charlotte City attorney discuss key legal issues that arose in the city's preparation for and hosting of this major event. Learn how to think ahead about possible crisis management strategies that can help if you or your clients end up in the public eye.

## **Lawyering on the Go: Making the Most of Your Mobile Devices**

*Timothy J. Gallina, Clinical Assistant Professor of Law, UNC School of Law, and Reference Librarian, Kathrine R. Everett Law Library; and Leslie A. Street, Clinical Assistant Professor of Law, UNC School of Law, and Assistant Director for Public Services, Kathrine R. Everett Law Library*

This session will highlight a number of the best apps and mobile websites that lawyers can use to conduct research, communicate with clients, manage files and engage in other practice-related tasks. Bring your iPad, smart phone or other mobile device and see what you can do.

## **Same-Sex Relationships: Recent U.S. Developments**

*Maxine Eichner, Reef C. Ivey II Professor of Law, UNC School of Law; and Holning S. Lau, Associate Professor of Law, UNC School of Law*

This session will discuss recent developments regarding the legal recognition of same-sex relationships. Specifically, the session will examine how developments from around the country affect same-sex couples in North Carolina.

## **The Student Athlete: A Study in Hypocrisy**

*Robert F. Orr, Poyner Spruill*

This presentation will deal with academic issues governed by the NCAA by-laws as applied to students playing intercollegiate sports.

# Saturday Session Three

## 10:20 a.m. - 11:20 a.m.

### Alcohol Taxation

*H. Patrick Oglesby, Former Chief Tax Counsel, U.S. Senate Finance Committee*

This session will explore American taxes on alcohol and how they have balanced the conflicting goals of maximizing revenue and minimizing evasion. It will cover topics like the Whiskey Rebellion of the 1790s; the time in the 1800s when alcohol taxes supplied over 20 percent of Federal revenue; Prohibition's dependence on the 16th (Income Tax) Amendment; moonshiners and revenuers; and the ways we have taxed beer, wine, and liquor in recent times.

### Consumer Financial Protection Bureau (CFPB): Hits, Misses and Unfinished Business

*Jeffrey P. Taft, Mayer Brown*

This presentation will briefly highlight important CFPB developments during the past 12 months and examine the regulations implementing the Mortgage Reform and Anti-Predatory Lending Act. In addition, this session will highlight the bureau's jurisdiction over larger participants in a market for consumer financial services, rulemaking with respect to mortgage loans and enforcement actions.

### Environmental Symposium III: Energy Law and Policy in North Carolina and Beyond

*Donald T. Hornstein, Aubrey L. Brooks Professor of Law, UNC School of Law; Victor B. Flatt, Thomas F. and Elizabeth Taft Distinguished Professor in Environmental Law and Director of the Center for Law, Environment, Adaptation and Resources (CLEAR), UNC School of Law; and Maria Savasta-Kennedy, Clinical Professor of Law and Director of the Externship Program, UNC School of Law*

This session focuses primarily on developments in North Carolina, including the early returns on the state's consideration of hydraulic fracturing (fracking), the state's continued interest in renewable energy and the state's emerging approach to offshore energy.

### Eyewitness Identifications: The State of the Science

*Dr. Lori R. Van Wallendael, Associate Chair of Psychology, UNC Charlotte*

Mistaken eyewitness identification has played a role in more than 70 percent of the erroneous convictions studied by the Innocence Project. North Carolina has been a leader in modifying traditional lineup procedures in order to reduce false identifications. The presenter will review recent research on lineup procedures, eyewitness error and what jurors still need to know to evaluate eyewitness evidence.

### Lien Perfection and Representing Creditors in Bankruptcy

*Katherine J. Clayton, Brooks, Pierce, McLendon, Humphrey & Leonard*

This session will cover common mistakes in perfecting liens in both real and personal property and provide a refresher for representing a secured or unsecured creditor in a bankruptcy case.

### National Security Law Update

*Scott L. Silliman, Professor of the Practice of Law, Duke University School of Law; and Judge, United States Court of Military Commission Review*

This session will focus on a number of current national security topics including issues pertaining to targeted killings, including the killing of American citizens, the trial of alleged terrorists in military commissions and surveillance under the Foreign Intelligence Surveillance Act.

### Sticks & Stones: An Update of Recent Developments in Construction Law

*R. Harper Heckman, Nexsen Pruet*

This session will examine recent trends and developments in construction law and their effect on the rights and obligations of owners, contractors, subcontractors and design professionals. No prior sessions or construction law background is required.

### The Exoneration of Willie Grimes: A Long Road to Justice **PR**

*Christine C. Mumma, Executive Director, The N.C. Center on Actual Innocence*

Willie Grimes' 1988 conviction for rape and life sentence resulted from the perfect storm of misidentification, investigative errors, discovery violations and over-reliance on the justice system to always get it right. His exoneration in October 2012 took another perfect storm of criminal justice reform, commitment and an unfortunate amount of good luck. This session will analyze the good, the bad and the ugly of Grimes' story.



# Saturday Session Four

11:30 a.m. - 12:30 p.m.

## A New Look at Balance: The Centered Lawyer **SA**

*William S. Bost III, William S. Bost III, Attorney-at-Law*

Frequently, when mental health professionals talk about balance, they talk about work-life balance or an appropriate mix of activities. These efforts frequently fail because they do not address the thinking that causes imbalance to start with. Kierkegaard famously said, "A self is a relationship of a self to itself." Human beings, including lawyers, desire to experience a good relationship with themselves; in other words, we like to be centered, or balanced. When our relationship with yourself is not good and we are not balanced, then our mental health suffers. This presentation will focus on new ideas from literature and philosophy to help you find a balanced and centered self.

## Defending Against Deficiency Claims & Tax Consequences Associated with Foreclosures, Loan Modifications and Short Sales

*Mallam J. Maynard, Executive Director, Financial Protection Law Center*

There are unprecedented numbers of deficiency suits, tax refund intercepts and grievances against professionals arising from liabilities appearing after homeowners thought that the worst was over. This session will outline best planning practices for debtors facing loss of their home and defenses to claims arising after the loss has occurred.

## Environmental Symposium IV: The 2012 Presidential Election and the Future of Environmental Law & Policy

*Donald T. Hornstein, Aubrey L. Brooks Professor of Law, UNC School of Law; Victor B. Flatt, Thomas F. and Elizabeth Taft Distinguished Professor in Environmental Law and Director of the Center for Law, Environment, Adaptation and Resources (CLEAR), UNC School of Law; and Maria Savasta-Kennedy, Clinical Professor of Law and Director of the Externship Program, UNC School of Law*

This session, taking place within weeks of the inauguration of the next President of the United States, will be one of the first presentations that reflect on the next four years of national environmental policy.

## Ethical Action and the Penn State Scandal: Lessons for Lawyers **PR**

*Kimberly J. Strom-Gottfried, Smith P. Theimann Distinguished Professor for Ethics and Professional Practice, UNC School of Social Work*

This session will explore ethical issues raised by the Penn State football scandal, most particularly, the ethical dilemmas raised by actions by Jerry Sandusky in connection with the campus football program and Sandusky's Second Mile charity developed to help disadvantaged young people.

## Fast Case: New Tools, Fresh Tips

*Margaret F. Hall, Clinical Assistant Professor of Law, UNC School of Law, and Reference/Student Services Librarian, Kathrine R. Everett Law Library; and Nichelle J. Perry, Assistant Law Library Director, NCCU School of Law*

This session will explore the new "Fast Case" research system that is the system of choice of the North Carolina Bar Association. Come to see a hands-on demonstration and to learn research tips that will save you time.

## Private Foundations: The Next Generation

*Robert W. Saunders, Brooks, Pierce, McLendon, Humphrey & Leonard*

This session will examine the tax law provisions that specifically apply to charitable organizations that are classified as private foundations, including rules on self-dealing, minimum payouts and restrictions on charitable contributions. The presentation will conclude with current topics such as succession planning, sunset provisions and the role private foundations can play in economic development and social enterprises through program related investments and mission related investments.

## The Fall and Rise of the Fourth Amendment

*Arnold H. Loewy, George R. Killam Jr. Chair of Criminal Law, Texas Tech and Kenan Professor Emeritus, UNC School of Law*

This session will offer reflections on the evolution of Fourth Amendment jurisprudence, emphasizing historical and recent developments and suggesting possible future trends.

## The Federal Courts and International Human Rights: the Impact of *Kiobel*

*A. Mark Weisburd, Reef C. Ivey II Distinguished Professor of Law, UNC School of Law*

This session will consider *Kiobel v. Royal Dutch Petroleum*, the most recent case in which the U.S. Supreme Court has considered the extent to which the federal courts may entertain civil suits premised on violations of international human rights law. The case raises fundamental jurisprudential questions and will have considerable significance for the application by federal courts of international law.

# Faculty

## David S. Ardia

Assistant Professor of Law, UNC School of Law, Co-Director, UNC Center for Media Law and Policy. B.S., 1989, Clarkson; M.S., 1995, SUNY; J.D., 1996, Syracuse; LL.M., 2007, Harvard.

## R. Allen Baddour Jr.

Resident Superior Court Judge, N.C. Judicial District 15B. B.A., 1993, J.D., 1997, UNC-Chapel Hill.

## Ida T. Baker

Managing Attorney, Legal Aid of North Carolina B.A., Pembroke State; J.D., 1990, NC A&T.

## Tamar R. Birckhead

Associate Professor of Law, UNC School of Law. B.A., 1987, Yale; J.D., 1992, Harvard.

## Kimberly C. Bishop

Clinical Assistant Professor, Writing and Learning Resources Center, UNC School of Law. B.A., 1994, Smith; J.D., 2004, UNC-Chapel Hill.

## John Charles Boger

Dean and Wade Edwards Distinguished Professor of Law, UNC School of Law. A.B., 1968, Duke, M.Div., 1971, Yale, J.D., 1974, UNC-Chapel Hill.

## William S. Bost III

William S. Bost III, Attorney at Law. B.A., 1986; J.D., 1989, UNC-Chapel Hill.

## Thomas P. Britton

Director of Operations, Wellspring Camps, Academies and Structure House. B.A., 1993, University of Connecticut; M.A., 1998, Appalachian State; Ph.D., D. PH, 2012, UNC-Chapel Hill.

## Alfred L. Brophy

Judge John J. Parker Distinguished Professor, UNC School of Law. A.B., 1987, University of Pennsylvania, J.D., 1990, Columbia, Ph.D., 2001, Harvard.

## Jonathan E. Broun

Staff Attorney and Training Director, Center for Death Penalty Litigation and Adjunct Professor of Law, UNC School of Law. J.D., 1991, UNC-Chapel Hill.

## Kenneth S. Broun

Henry Brandis Professor of Law Emeritus, UNC School of Law. B.S., 1960; J.D., 1963, University of Illinois.

## Charlie D. Brown

Brown Estate Planning and Elder Law. B.A., 1992; J.D. and M.B.A., 1997, Wake Forest.

## Patricia L. Bryan

Martha Brandis Professor of Law, UNC School of Law. B.A., 1973, Carleton College; J.D., 1976, University of Iowa; LL.M., 1982, New York University.

## Joseph M. Buckner

Chief Judge, Orange County, N.C. Judicial District 15B. B.A., 1982; J.D., 1987, UNC-Chapel Hill.

## Bernard A. Burk

Assistant Professor of Law, UNC School of Law. B.A., 1980, Yale; J.D., 1983, Stanford.

## Suzanne M. Chester

Clinical Assistant Professor of Law, UNC School of Law. J.D., 1995, UNC-Chapel Hill.

## Alexa Z. Chew

Clinical Assistant Professor, Writing and Learning Resources Center, UNC School of Law. A.B., 2001, Princeton; J.D., 2005, Duke.

## Andrew Chin

Associate Professor, UNC School of Law. B.S., 1987, University of Texas, D.Phil., 1991, Oxford, J.D., 1998, Yale.

## Chrissy Cianflone

Administrative Director, Cancer Health Policy and Outcomes Research, Duke Cancer Institute. J.D., 2003, University of Pittsburgh.

## Katherine J. Clayton

Brooks, Pierce, McLendon, Humphrey & Leonard. B.S.M.E., 1971, Vanderbilt; M.B.A., 1980, Duke; J.D., 2004, UNC-Chapel Hill.

## Christin B. Coan

Legal Counsel, SAS Institute Inc. A.B., 1995, Duke; J.D., 2001, UNC-Chapel Hill.

## Charles E. Coble

Brooks, Pierce, McLendon, Humphrey & Leonard. B.A., 1995, Yale; J.D., 1998, Harvard.

## John Martin Conley

William Rand Kenan Jr. Professor of Law, UNC School of Law. B.A., 1971, Harvard; J.D., 1977, Ph.D., 1980, Duke.

## Carolyn Lloyd Coward

Van Winkle, Buck, Wall, Starnes & Davis. B.S., 1974, Tennessee; J.D., 1999, UNC-Chapel Hill.

## John F. Coyle

Assistant Professor of Law, UNC School of Law. B.A., 2000, Harvard; J.D., 2005, Yale.

## Nicole A Crawford

Brooks, Pierce, McLendon, Humphrey & Leonard. B.A., 1994, UCLA; J.D. and M.P.P., 2003, Duke.

## Braxton Davis

Director, N.C. Division of Coastal Management, N.C. Department of Environment and Natural Resource. B.S., University of Virginia; M.S., Florida International; Ph.D., University of Rhode Island.

## Kearns Davis

Brooks, Pierce, McLendon, Humphrey & Leonard and Adjunct Professor of Law, UNC School of Law. B.A., 1991, Davidson, M.A., 1994, Duke, J.D., 1995, UNC-Chapel Hill.

## Mark E. Dorosin

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# General Information

## Registration Fees\*

### Deadline to Register is January 25

	Registration Postmarked by January 11	Late Registration Postmarked between January 12-25
Friday & Saturday	\$400	\$450
Friday Only	\$350	\$400
Saturday Only	\$250	\$300

\* Reduced fees are available for judges, judicial clerks, full-time academics, JAG, government and legal aid attorneys, who register before January 11, 2013 (\$300 for Friday and Saturday, \$250 for Friday, and \$150 for Saturday). After January 11, a \$50 late fee will apply. Note: Employment verification may be required.

**You may mail in a personal, corporate or government check and completed form or register at [events.law.unc.edu/festival](http://events.law.unc.edu/festival) with a credit card.**

## On-Site Registration Not Recommended

Due to the popularity of Festival and space constraints within the Friday Center, on-site registration is strongly discouraged and desired courses are often unavailable. If you are not able to register by January 25, please call (919) 962-1679 for an update on remaining seats.

**An additional on-site fee of \$100 will be charged for all on-site registrations.**

## Friday Lunch

A buffet-style lunch is provided by the Friday Center during the lunch break on Friday. The cost is \$20, and lunch reservations must be made by January 25. To reserve a space, sign up on your registration form. Please note that lunch break is one hour and alternative lunch options are available near the Friday Center across Highway 54 at Meadowmont.

## CLE Credit

The Carolina Law Office of CLE will report credit to the N.C. State Bar Board of Continuing Legal Education after the program.

## The Friday Center

The Festival of Legal Learning will be held at The William and Ida Friday Center for Continuing Education, located approximately three miles east of the UNC-Chapel Hill campus on Friday Center Drive, just off Highway 54 East (Raleigh Road). A map and parking information will follow the registration confirmation. Messages for conference attendees can be left during the two days of the program at (919) 962-3000 or by fax at (919) 962-2061. Please reference The Festival of Legal Learning when calling or faxing to a conference participant.

## Cancellations

Cancellations made on or prior to Friday, January 11 will be honored and registration fees refunded, less a \$75 processing fee. Cancellations made after January 11 may be subject to additional fees. In fairness to all attendees, confirmed participants who do not attend their scheduled program are liable for the entire fee unless other arrangements have been made with Carolina Law's director of continuing legal education.

## Inclement Weather

In the event of inclement weather, please refer to the School of Law's website ([www.law.unc.edu](http://www.law.unc.edu)) for information about delays or cancellations. You may also contact the CLE office at (919) 962-7815 or 962-1679 to learn of any possible delays or cancellations. On the days of the program, you may contact the Friday Center directly at (919) 962-3000.

# Part I: Registrant Information

**YES, please register me for The Festival of Legal Learning.**

**Please provide us with the following information (please print):**

Mr.  Mrs.  Ms.  Dr.  Judge

Full Name \_\_\_\_\_

Nickname as you would like it on nametag \_\_\_\_\_

Firm \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Daytime Phone \_\_\_\_\_ Fax \_\_\_\_\_

Email address \_\_\_\_\_

I would like to receive CLE credit in North Carolina. My N.C. State Bar Number is: \_\_\_\_\_

I would like to receive CLE credit in the state of \_\_\_\_\_\*. My Bar Number\* is: \_\_\_\_\_

I would like to receive CLE credit in the state of \_\_\_\_\_\*. My Bar Number\* is: \_\_\_\_\_

\* *Out-of-state fees are the responsibility of the attendee; we will provide you the out-of-state forms.*

## Payment Information

### General Course Fees

(Postmarked on or Before January 11)

Friday and Saturday	\$400	\$ _____
Friday Only	\$350	\$ _____
Saturday Only	\$250	\$ _____

### Course Fees for Judges, Full-Time Academics, Legal Aid and Government Attorneys\*\*

(Postmarked on or Before January 11)

Friday and Saturday	\$300	\$ _____
Friday Only	\$250	\$ _____
Saturday Only	\$150	\$ _____

### Friday Lunch Reservations

(Must reserve by January 25)

Buffet Lunch at the Friday Center	\$ 20	\$ _____
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### Late Registration Fee

If registering after January 11 add \$50 late fee. \$ \_\_\_\_\_

If registering after January 25 add \$100 late fee. \$ \_\_\_\_\_

**Total Cost:** \$ \_\_\_\_\_

### To pay by check:

Send your completed registration form and a check made payable to *UNC School of Law—Office of CLE* (please no staples) to:

UNC School of Law  
Office of CLE, CB #3380  
Chapel Hill, NC 27599-3380  
Attn: Festival Registration

### To pay by credit card:

Use this brochure to select your classes, have a MasterCard or Visa ready and go to **events.law.unc.edu/festival** to start the registration process.

You will have a chance to select one session per hour per day and at the end of the process, you will be instantly confirmed. **It is that simple!**

\*\* Reduced rates for taking "the pledge."

# Part II: Registration Form

To register for a course via mail or fax, please **indicate your first choice by placing a “1”** on the appropriate line and in case your first choice is fully booked, **indicate a second choice by placing a “2”** in a second program offered at the same time. If you choose to skip a session, please cross out or mark through that session to denote that you will **not** be attending a class during that session. All courses are for **one-hour** general CLE credit, unless otherwise indicated.

Please Note: Pre-registration ends on January 25, 2013. Registrations received after January 25, 2013 **will NOT** be processed. If you are unable to submit your registration form before January 25, 2013, you may register onsite February 8, space permitting.

## Friday, February 8

### Session One (8:00-9:00 a.m.)

- 1-1 Capital Punishment Law: Recent Developments
- 1-2 Insider's View of the Supreme Court Confirmation Process
- 1-3 Lawyers, Writing and Professionalism **PR**
- 1-4 Online Speech and the First Amendment: Internet Defamation...
- 1-5 Public Companies and Private Foundations: Tax Pitfalls...
- 1-6 Shape of the Coast 2013: Practical Effects of Sea Level Rise...
- 1-7 Still Dreaming: Deferred Action for Childhood Arrivals (1 of 2)
- 1-8 The Future of Affirmative Action in Higher Education...

### Session Two (9:10-10:10 a.m.)

- 2-1 A Primer: Merger or Share Exchange
- 2-2 Introduction to Intellectual Property Law
- 2-3 Poverty and Economic Justice in North Carolina
- 2-4 Recent Developments in Internet Law
- 2-5 Recent Developments in North Carolina Family Law
- 2-6 Shape of the Coast 2013: Estuarine Shoreline Management...
- 2-7 Still Dreaming: Deferred Action for Childhood Arrivals (2 of 2)
- 2-8 The Stakes Are High: Recognizing and Responding... **PR**

### Session Three (10:20-11:20 a.m.)

- 3-1 An Artist Meets the Crimson Tide: Did the First Amendment...
- 3-2 Contempt: The Law in North Carolina **PR**
- 3-3 Federal Criminal Health Care Fraud: Responding to Investigations...
- 3-4 Lawyers on Nonprofit Boards **PR**
- 3-5 Recent Developments in Class Action Law: From Waivers...
- 3-6 Shape of the Coast 2013: Coastal Legislation and Case Law Update
- 3-7 The Outsourcing Contract: Best Practices
- 3-8 The Rise of Business Courts in the United States

### Session Four (11:30 a.m.-12:30 p.m.)

- 4-1 Building the New Yankee Stadium: Tax-Exempt Bonds...
- 4-2 Drafting Website Terms and Statements
- 4-3 Just Enough To Be Dangerous: What Every Non-Employment...
- 4-4 Living the Inauthentic Life: When Ignorance Isn't Bliss **SA**
- 4-5 POTPOURRI@OAH: Possums, Pow Wows, Penalties & Powers
- 4-6 Shape of the Coast 2013: Annual Update from the Chair...
- 4-7 Taking the Risk and Reaping the Reward: Trial Strategies...
- 4-8 The North Carolina's Banking Law Modernization Act

### Special Presentation: The Fundamentals of Domestic Violence for Lawyers Institute

\_\_\_ Friday, January 8 (8:30 a.m. - 5:00 p.m.)

### Session Five (1:30-2:30 p.m.)

- 5-1 Free Legal Information on the Web
- 5-2 Hot Topics in Health Law and Policy
- 5-3 Legalizing China: What Lawyers Need to Know About the New China
- 5-4 Life and Light at the End of the Tunnel **SA**
- 5-5 North Carolina Shale Gas Rights and Access
- 5-6 Professional Status of Brokers and Advisers
- 5-7 The Other Car Insurance
- 5-8 Workshop: Getting Started, Getting Support and Getting a Draft

### Session Six (2:40-3:40 p.m.)

- 6-1 A Handful of Pearls: A Quick Refresher on Mental Illness... **SA**
- 6-2 *Hosanna Tabor*: Employment Considerations for Religious Employers
- 6-3 Master Class: Trial Advocacy (1 of 2)
- 6-4 On Fraud, Vulnerability and Aging
- 6-5 Post-Election Results: The Future of Health Care Reform
- 6-6 Slave Trials in Virginia and North Carolina, 1830-1834
- 6-7 Social Media: Legal Perspective on "Big Data," the Internet...
- 6-8 Workshop: Large-Scale Organization - Communicating Analyses...

### Session Seven (3:50-4:50 p.m.)

- 7-1 Employment Litigation in the Fourth Circuit: Current Developments...
- 7-2 Law Blogging in the 21st Century
- 7-3 Master Class: Trial Advocacy (2 of 2)
- 7-4 Recent Developments in Insider Trading Law
- 7-5 Security Breach Notification: Current and Pending Legal Requirements
- 7-6 The JOBS Act (Jumpstart Our Business Startups Act): The Good...
- 7-7 Violence Risk Assessment and Management
- 7-8 Workshop: Small-Scale Organization - Effectively Structuring...

### Session Eight (5:00-6:00 p.m.)

- 8-1 Building Successful Pro Bono Projects: Insights from the Field **PR**
- 8-2 Employment and Labor Law: A National Roundup
- 8-3 Foreclosures, Evictions and Personal Property: Tenant Protections...
- 8-4 Sex, Violence and Student Athletes: Penn State and Beyond
- 8-5 Substance Abuse: Deep Insights for Attorneys **SA**
- 8-6 The Common Law in North Carolina
- 8-7 The New Debate over Software Patents
- 8-8 Workshop: Polish Your Writing to (Near) Perfection



Please join us on February 8-9, 2013

# FESTIVAL

## OF LEGAL LEARNING

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### Part III: Registration Form

### Saturday, February 9

PART III: REGISTRATION

#### Session One (8:00-9:00 a.m.)

- 11-1 Agricultural and Food Law: Recent Developments
- 11-2 Deeds, Devises, Divorce - Oh, My: Dilemmas at the Intersection...
- 11-3 Environmental Symposium I: Land Use, Coastal Issues...
- 11-4 Internal Investigations for Financial Institutions
- 11-5 New View from the Courtroom: Professionalism **PR**
- 11-6 Scams Affecting North Carolinians
- 11-7 Understanding the Disease of Addiction **SA**
- 11-8 Using the Cloud: Resources, Protections and Ethical... **PR**

#### Session Two (9:10-10:10 a.m.)

- 22-1 A Distant Mirror: How 19th Century Lawyers... **PR**
- 22-2 Copyright and the Music Industry: Pirates, Profits and Politics
- 22-3 Environmental Symposium II: The Clean Water Act at Forty
- 22-4 Emotional Intelligence and Other Key Competences... **PR**
- 22-5 Lawyering in the Public Eye: What I Learned on My Way...
- 22-6 Lawyering on the Go: Making the Most of Your Mobile Devices
- 22-7 Same-Sex Relationships: Recent U.S. Developments
- 22-8 The Student Athlete: A Study in Hypocrisy

#### Session Three (10:20-11:20 a.m.)

- 33-1 Alcohol Taxation
- 33-2 Consumer Financial Protection Bureau: Hits, Misses and...
- 33-3 Environmental Symposium III: Energy Law and Policy...
- 33-4 Eyewitness Identifications: The State of the Science
- 33-5 Lien Perfection and Representing Creditors in Bankruptcy
- 33-6 National Security Law Update
- 33-7 Sticks & Stones: An Update of Recent Developments...
- 33-8 The Exoneration of Willie Grimes: A Long Road to Justice **PR**

#### Session Four (11:30 am-12:30 p.m.)

- 44-1 A New Look at Balance: The Centered Lawyer **SA**
- 44-2 Defending Against Deficiency Claims & Tax Consequences...
- 44-3 Environmental Symposium IV: The 2012 Presidential Election...
- 44-4 Ethical Action and the Penn State Scandal: Lessons... **PR**
- 44-5 Fast Case: New Tools, Fresh Tips
- 44-6 Private Foundations: The Next Generation
- 44-7 The Fall and Rise of the Fourth Amendment
- 44-8 The Federal Courts and International Human Rights...