



Message from the Section Chair

Robert Sitkoff (Harvard)

Greetings! It is my great pleasure to write the first Message from the Section Chair for the Section on Trusts and Estates. Previously known as the Section on Donative Transfers, Fiduciaries, and Estate Planning, our Section name was changed by vote of the Section members in attendance at the 2009 Annual Meeting in San Diego. The new name, which is less cumbersome and more intuitive, better reflects the way most of us self identify.



Our new name is just start of the many exciting happenings within the Section and in our field more generally. At the San Diego meeting our Section program, New Voices in Trusts and Estates, highlighted new work by three junior faculty: **Sophie Smyth** (Temple), **Carla Spivak** (Oklahoma City), and **Josh Tate** (SMU). The program involved presentations by each, commentary from **Stew Sterk** (Cardozo), **Melanie Leslie** (Cardozo), and **Ray Madoff** (BC), and then a question-and-answer session. For more details, see the Spotlight on Sophie, Carla, and Josh at page 5.

In view of the success of the San Diego program, which was based on a call for papers, the Program Chair for next year's meeting, Melanie Leslie, has decided to issue a call for papers for next year too. The subject, Changing Times, Changing Law: Evaluating Legal Trends in Trusts and Estates Law, is broad, but so has been the updating of the trusts and estates canon over the last few years, most recently evident in the extensive 2008 revisions to the Uniform Probate Code adopted in July. For more details on the call for papers, see page 2.

Moving beyond Section programming, there is much other activity to report. The ACTEC Foundation is sponsoring another academic conference, its third since 2005, this one on Philanthropy in the 21st Century. The exciting line up for this conference can be found in the message from **Anne-Marie Rhodes** (Loyola-Chicago) at page 14. As usual, **Ron Volkmer** (Creighton) has a report on recent cases of note (page 8). And in the last months our colleagues have been busy with a multitude of new projects (see News, page 3, and Publications, page 10).

As trusts and estates lawyers, we are in the business of succession. Let me close, therefore, with a word of warm thanks to **Tom Gallanis** (Minnesota), who has just completed his service on the Executive Committee, and to **Laura Rosenbury** (Washington University), who has joined the Executive Committee with immediate responsibility for this and the upcoming Fall newsletter.

That's it for now. Please do not hesitate to contact me or any of the Executive Committee members with questions or comments on Section activities or, for that matter, about anything else. Our email addresses appear in the box to the right of this message.

2009 Executive Committee

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SECTION ON TRUSTS AND ESTATES



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Call For Papers: 2010 AALS Annual Meeting

Melanie Leslie (Cardozo)

Changing Times, Changing Law: Evaluating Legal Trends in Trusts and Estates Law

Trusts and Estates law was for centuries a fairly stable, if dusty, body of doctrine. Over the past few decades, however, striking changes in the economic, legal and social landscape have prompted an explosion of new doctrinal developments. Major trends in banking and tax law – including the gradual elimination of Glass-Steagall, which resulted in mergers of investment and commercial banking institutions and increased competition for trust business, and the Economic Growth and Tax Relief Reconciliation Act of 2001, which is set to expire next year – spurred the development of dynasty and domestic asset protection trusts and significant changes in fiduciary duty law governing trustees' management and investment duties. Banks' demand for more predictability in law helped jump start a trend away from common law and toward codification, which produced the Uniform Trust Code and increasingly detailed revisions to the Uniform Probate Code. Cultural changes and scientific and medical advances caused states to grapple with their conception of family relationships, and with treatment of end-of-life issues.

The AALS section on Trusts and Estates issues a call for papers that evaluate and critique these and other trends and developments in Trusts and Estates Law. Those chosen will present papers at the 2010 AALS Annual Meeting. To encourage greater participation and attendance, some preference will be given to academics who have not previously presented at the AALS Annual Meeting. Please submit papers by August 24, 2009 to Melanie Leslie at Leslie@yu.edu.

New Orleans, Louisiana

January 9, 2010

1:30-3:15



Mentoring program

The Section has a mentoring program for both new faculty members and any faculty member who is teaching a new course. If you would like to be placed in contact with a T&E mentor, please contact Professor **Wendy Gerzog**, who manages the program, at wgerzog@ubalt.edu. Please provide Professor Gerzog with your email address and a short description of the area(s) in which you desire to be assigned a mentor or would like to serve as a mentor.

*Wendy Gerzog
(Baltimore)*

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News of the Membership

Gerry Beyer (Texas Tech) has published new editions of the following books: *Modern Dictionary for the Legal Profession* (4th ed. 2008); *Texas Wills and Estates: Cases and Materials* (6th ed. 2008); and *West's Legal Forms – Real Estate Transactions – Residential – Volumes 19 & 19A* (4th ed. 2008). In addition, he gave presentations on *Morals From the Courthouse: A Study of Recent Texas Cases Impacting the Wills, Probate, and Trust Practice*, to the Texas Bankers Association, Advanced Trust Forum in November 2008, and on *Avoid Being a Defendant: Estate Planning Malpractice and Ethical Concerns*, to the South Plains Trust & Estate Council in October 2008. Beyer also stands ready to post information about professors' accomplishments, articles, presentations, research, inquiries, etc. on his blog, <http://www.beyerblog.com>.



Gerry Beyer
(Texas Tech)

Paul Caron (Cincinnati), **Paul McDaniel** (Florida) and **Jim Repetti** (Boston College) published a new edition of their casebook, *Federal Wealth Transfer Taxation* (Foundation Press, 5th ed. 2009), as well as a new edition of their accompanying *Study Problems* book. Caron, along with Jim Repetti (Boston College), will also publish *The Estate Tax Non-Gap: Why Repeal a "Voluntary" Tax?*, 20 *Stan. L. & Pol'y Rev.* (forthcoming 2009).



Bridget Crawford
(Pace)

Jeffrey Cooper (Quinnipiac) was elected to the Executive Committee of the Faculty at Quinnipiac University School of Law. Along with John R. Ivimey, he will be publishing *2008 Developments in Connecticut Estate and Probate Law*, 83 *Conn B.J.* (forthcoming 2009).

Bridget Crawford (Pace) has been elected to the membership of the American Law Institute and the American College of Trust and Estate Counsel. In February, she presented her work on "Privacy, Pregnancy & Taxation" at a symposium sponsored by the William & Mary Journal of Gender and the Law.

Anne S. Emanuel (Georgia State) has been elected to the membership of the American Law Institute.

Frances Foster (Washington University St. Louis) will publish her article *American Trust Law in a Chinese Mirror* in 94 *MINN. L. REV.* (forthcoming 2010). The article examines the Chinese-language critique of American trust law and possible lessons for U.S. scholars and reformers.



Frances Foster
(Wash. U.)

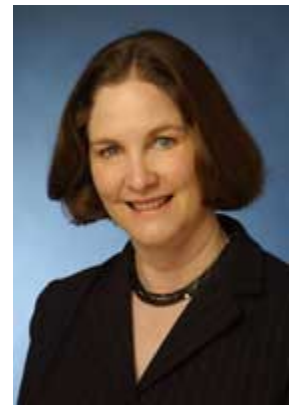
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News of the Membership *(cont'd from previous page)*

Kristine S. Knaplund (Pepperdine) will shortly publish *The Right to Privacy and America's Aging Population* in 46 Denver L.Rev. 439 (2009). The abstract is as follows: "As the number of elderly grows significantly, especially those with cognitive impairments, how do we as a society deal with their need for privacy and intimate association? Two critical issues have so far gone unaddressed in the legal literature: the lack of personal freedom suffered by those who move into large assisted living facilities and nursing homes, and the lack of social support for those who remain in their own homes. While seniors in nursing homes are lectured and ridiculed, even transferred involuntarily, for having a sexual relationship, elderly living alone are being preyed upon by unscrupulous caregivers who know that a marriage, even one kept secret to someone who lacks any understanding that s/he is married, is virtually impossible to annul. Staff in many nursing homes conclusively presume that an elderly person with dementia is incapable of consenting to physical contact, while at the same time courts are refusing to set aside a marriage of someone who had no idea he was participating in a ceremony. This article explores innovative solutions to both problems, including education, new legislation, better living conditions for seniors, and a more assertive role for the judiciary."



*Kristine Knaplund
(Pepperdine)*

Ray Madoff (Boston College), has been speaking to the Massachusetts Bar Association about the state's recent adoption of portions of the Uniform Probate Code. She will also be traveling to Barcelona, Spain to speak to faculty at the University of Barcelona on *The Rising Power of the American Dead*.

Mary Radford (Georgia State) was elected Vice President of the American College of Trust and Estate Counsel in March 2009. She also gave a presentation on *Probate and Related Issues Surrounding Frozen Sperm, Embryos & Zygotes* to the National College of Probate Judges in November 2008, and a presentation on *Postmortem Sperm Retrieval and the Social Security Administration: How Modern Reproductive Technology Makes Strange Bedfellows* at Texas Southern University Thurgood Marshall School of Law in March 2009.



*Kent Schenkel
(New England)*

Kent Schenkel (New England) has posted *Trust Law and the Title-Split: A Beneficial Perspective* at <http://ssrn.com/abstract=1331597>.

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Spotlight on Sections Members: Sophie Smyth, Carla Spivak and Joshua Tate

Newsletter Editor Laura Rosenbury (Washington University St. Louis) interviews the panelists of the “New Voices in Trusts and Estates” program at the 2009 AALS meeting: Sophie Smyth (Temple University Beasley School of Law), Carla Spivak (Oklahoma City University School of Law) and Joshua Tate (SMU Dedman School of Law).

How did you decide to write in the Trusts and Estates field?

SS: I studied trusts and equity at Trinity College in Ireland and then at Oxford. I then began to think about trusts again during my 17 years working at the World Bank, when the Bank was asked to serve as trustee for large trust funds funded by governments and large foundations to address a wide range of development issues.

CS: I really enjoyed teaching Trusts and Estates, so I decided to start writing about some of the issues I encountered in class. I think it’s a fascinating field because it brings formalistic law up against our most intimate experiences, as well as our fear of death.

JT: My father is an estate planner in Colorado, so I grew up being aware of this area of the law. In graduate school at Yale, I pursued a joint degree program in medieval legal history, and I discovered that inheritance was crucial to the social relationships and power struggles in the cases I studied for my dissertation.



*Carla Spivack
(Oklahoma City)*

What inspired you to write the papers you presented at the AALS panel?

SS: I began working on “The Global Trust Imperative: Reassessing the Trust as an Instrument of International Development Finance” because I was concerned that the trusts I came across at the World Bank did not comply with the essence of what a trust is or should be. Joseph Gold first raised this issue with respect to trust arrangements governed by international law in 1978, but by the 1990s the issue became even more salient because developed governments came to want to control the funds themselves, deciding grant by grant what the trust funds will be used for. As such, the trusts are not really trusts but are more like non-profit vehicles, so I began looking to non-profit governance principles to determine whether the arrangements could be structured differently in order to better serve the needs of international development. I came to believe that we need to develop a new legal framework for international cooperation designed to set up



*Sophie Smyth
(Temple)*

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Spotlight on Section Members *(cont'd from previous page)*

financing for special purposes. International law currently has no equivalent of non-profit law; we need to adopt mechanisms to allow countries to work together to set up pooled funds.

CS: I decided to write “Abolishing the Undue Influence Doctrine in Wills” because I was getting more and more frustrated with the undue influence doctrine when I taught it in class. I have a Ph.D. in English, and I’ve read a lot of critical theory and psychoanalysis. The theory of the self embraced in the doctrine is way off base with theories of the self embraced in those disciplines and out of step with more general ways that people think about interdependence today. Why not just get rid of the doctrine?

JT: In teaching Property, I assign *Midler v. Ford Motor Co.*, and I ask my students to consider whether Bette Midler’s publicity rights ought to survive her death, and, if so, for how long. In the fall of 2007, when the California state legislature passed a law that made publicity rights retroactively devisable for long-deceased celebrities like Marilyn Monroe, I wrote a blog posting for the Property Prof Blog briefly mentioning some of the questions this legislation raised. I was in the process of doing more research on the subject when Mitchell Gans, Bridget Crawford, and Jonathan Blattmachr published an essay in the *Yale Law Journal Pocket Part* that discussed the California legislation and offered a novel tax proposal involving a forced-heirship statute. I decided to write a response, which was also published in the *Pocket Part*, and which was followed by a rejoinder from Gans, Crawford, and Blattmachr. The paper I presented at AALS, “Immortal Fame: Publicity Rights, Taxation, and the Power of Testation,” continues this debate, but also attempts to take things further, considering the broader policy issues at stake. This is the first paper of mine that has had a substantial tax component, but it also considers the property side of the problem.



*Joshua Tate
(SMU)*

Where do your papers stand now? What else are you working on?

SS: I’m continuing to work on the paper and hope to send it to the law reviews in August. The need to address these issues is even stronger in light of the world-wide economic crisis. I am also starting to examine the public/private partnerships that are being entered into in order to address world-wide greenhouse gas and global warming issues, once again examining the sort of financing structures that are being set up to address global problems.

CS: I’m currently deciding where to publish the paper. I’m also serving as the national reporter for the Comparative Law Society and writing a national report on surrogate motherhood for them. In the future I hope to address undue influence and charitable giving for the Society as well. Finally, at some point I would like to think more about the possible connections between wills and domestic violence.

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Spotlight on Section Members *(cont'd from previous page)*

JT: A draft of the paper is currently posted on SSRN. I am continuing to revise it and welcome any comments. I am also researching the issue of settlor standing to enforce charitable trusts, and I have been invited to present a paper on that topic at the ACTEC symposium in October. At the same time, I am working on expanding my Ph.D. dissertation (which I recently finished) into a book on the development of property rights and remedies in the Middle Ages.

What is your view of how Trusts & Estates links with other "big picture" questions in the law? How do you see your scholarship developing?

SS: I see trusts as just one form among many organizational forms, so I'm really looking at structures for financing international collective action and attempting to bring trust law concepts into the international forum. The interplay between trusts and international finance presents lots of areas for inquiry and future scholarship.

CS: Trusts and Estates is linked to so many areas of the law, particularly contract law, tort law and family law. I hope to explore more of the connections and to take on more of the big picture issues in the field, examining the fundamental issues that haven't been questioned enough.

JT: I think that more work needs to be done on how the gradual aging of the world population will (or ought to) shape the law of inheritance. I tried to make a small contribution in this area with my recent article on caregiving and testamentary freedom in the U.C. Davis Law Review. My goal is to find more possible connections between my research in legal history and my modern law scholarship.

Who was your Trusts & Estates professor and/or who is currently your Trusts and Estates mentor, influence or muse?

SS: At Oxford, I worked with Peter Clark (my trusts tutor) and Jeffrey Hackney. My work is also influenced by the approaches taken by Rob Sitkoff, John Langbein and Henry Hansmann.

CS: My property professor, Bill LaPiana, and my colleague Fred Schwartz have been wonderful mentors. Melanie Leslie and Ray Madoff were also very helpful at the panel.

JT: My Trusts and Estates professor was John Langbein, and my scholarship and teaching in the field has been influenced by him more than anyone else.

We Know You Know

This Newsletter is a forum for the exchange of points of view. Opinions expressed herein are not necessarily those of the Section and do not necessarily represent the position of the Association of American Law Schools.

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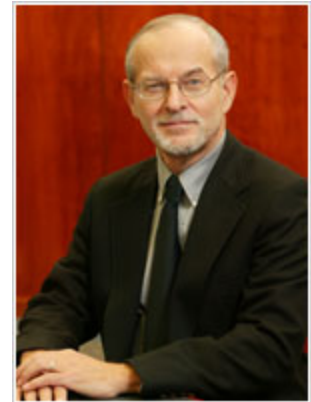


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Recent Cases of Note

Ronald R. Volkmer (Creighton)

Some cases are too obvious to put on this list. (I'm thinking here of the decisions of the Iowa and California Supreme Courts relating to gay marriage). Beyond that, there are the recent cases continuing to deal with the more traditional issues (if posthumously conceived children cases now fit into that category). In the spirit of the times, I would pose the following question: Has the economic downturn affected the case law as it relates to trusts and estates? Perhaps it's too soon to tell, but it seems to me that trustees are being sued more frequently for breach of fiduciary duty. At the same time lawyers drafting trusts are attempting to insulate trustees from liability. Meanwhile charitable trustees and foundation managers are caught in the middle between the demands of their beneficiaries and the grim reality of a portfolio of assets that have tanked. It will be interesting to see if appellate courts are going to get caught up in this morass as well. Now, on to the business at hand:



Case Update: Approximately one year ago this column's listing of cases included *Schoukroun v. Karsenty*, 937 A.2d 262 (Md. App. 2007). In my last column I reported that the *Karsenty* case was on appeal. And now I can report the final outcome in the Maryland Court of Appeals: *Schoukroun v. Karsenty*, 959 A.2d 1157 (2008) (remand resulted on the "fraud on marital rights" issue).

Other Cases

Finley v. Astrue, 270 S.W.3d 849 (Ark. 2008) (child created as an embryo through *in vitro* fertilization during parent's marriage, but implanted into mother's womb after father's death, not an "heir" under Arkansas law; Social Security benefits denied).

Gushwa v. Hunt, 197 P.3d 1 (N. Mex. 2008) (lawyer-drafted document, curiously entitled "Revocation of Missing Will(s)," presents New Mexico's highest court with a will revocation issue worthy of final exam question in law school; Chief Justice Chavez, in dissent, opts for a remand).

Carlson v. Sweeney, Dabagia, Donoghue, Thorne, Janes & Pagos, 895 N.E.2d 1191 (Ind. 2008) (legal malpractice action against estate planning attorneys brings into play a reformation action and its binding effect on the IRS; nine year old lawsuit results in – you guessed it – a remand).

Estate of Kievernagel, 83 Cal. Rptr.3d 311 (Cal. App. 2008) (disposition of the frozen sperm at issue (shades of *Hecht v. Superior Court*); widow's claim trumped by contract signed by herself and her late husband).

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Recent Cases of Note *(cont'd from previous page)*

In re Estate of Feinberg, 891 N.E.2d 549 (Ill. App. 2008) (badly split Illinois court confronts the validity of the “Jewish clause” contained in trust (shades of *Shapira v. Union National Bank*); case on appeal to Illinois supreme court).

In re Estate of Samuelson, 757 N.W.2d 44 (N. Dak. 2008) (North Dakota “negative disinheritance” statute highlighted).

JP Morgan Chase Bank, N.A. v. Longmeyer, 297 S.W.3d 697 (Ky. 2009) (fascinating discussion of alleged breach of fiduciary duty by former trustee of revocable living trust who informed former trust beneficiaries of changes in trust; forceful dissent by Justice Schroder).

Vena v. Vena, 899 N.E.2d 522 (Ill. App. 2008) (“majority approval” provision of trust did not provide “effective oversight of the trustee” and is invalidated; drafter’s attempt to insulate trustee from liability thwarted).

The United States Courts of Appeals for the Seventh and Eighth Circuits make their contributions to the list as well:

Gustafson v. zumBrunnen, 546 F.3d 398 (7th Cir. 2008) (Judge Posner explains diversity of jurisdiction requirement in the context of a plaintiff suing in her capacity as personal representative of her grandfather’s estate.)

Nelson v. First Nat. Bank and Trust Co. of Williston, 543 F.3d 432 (8th Cir. 2008) (trustee’s failure to liquidate stock in two week period following settlor’s death did not breach any fiduciary duty).

And finally a case that presented issues and results one does not see every day:

In re Mary E. Griffin Revocable Grantor Trust, 760 N.W.2d 318 (Mich. App. 2008) (trust violated rule against perpetuities (!); *in terrorem* clause not upheld (!)).

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Selected Recently Published Scholarship

The Law of Succession in the 21st Century--A Symposium. Introduction by Susan N. Gary; articles by Kristine S. Knaplund, Thomas P. Gallanis, Anne-Marie Rhodes, Ira Mark Bloom, Grayson M. P. McCouch and Ronald Chester, 43 Real Prop. Tr. & Est. L.J. 387 (2008).

Symposium: Issues in Estate Planning for Same-Sex and Transgender Couples. Foreword by Jennifer L. Levi; articles by A. Spencer Bergstedt, Aimee Bouchard, Kim Zadworny and Patience Crozier, 30 W. New Eng. L. Rev. 671 (2008).

Anne Alstott, Family Values, Inheritance Law and Inheritance Taxation, Tax L. Rev. (2009), available at <http://ssrn.com/abstract=1300440>.

Rob Atkinson Jr., Obedience as the Foundation of Fiduciary Duty, 34 J. Corp. L. 43 (2008).

Jessica Baquet, Note, Aiding Avarice: The Inequitable Results of Limited Grounds for Spousal Disqualification under EPTL Section 5-1.2, 23 St. John's J. Legal Comment 843-(2008).

Lily L. Batchelder, Estate Tax Reform: Issues and Options, Tax Notes (February 2, 2009), available at <http://ssrn.com/abstract=1320304>.

Fleur Aileen Beaupert, Terry Carney, David Taitt and Vivienne Topp, Property Management Orders in the Mental Health Context: Protection or Empowerment?, 31 University New South Wales Law Journal 795 (2008).

Martin D. Begleiter, Serve the Cheerleader--Serve the World: An Analysis of Representation in Estate and Trust Proceedings under the Uniform Trust Code and other Modern Trust Codes, 43 Real Prop. Tr. & Est. L.J. 311 (2008).

Matthew Berger and Jill M. Berger, Property and Estate Devolution Utilizing Fidei Commissum de Residuo: Rinding Residual, 54 Loy. L. Rev. 129 (2008).

Gerry Beyer, Avoiding the Estate Planning "Blue Screen of Death" – Common Non-Tax Errors and How to Prevent Them, 1 Est. Plan. & Comm. Prop. L.J. 61 (2008).

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Selected Recently Published Scholarship *(cont'd from previous page)*

Gerry Beyer, Courthouse Morals and Legislative Expectations: A Review of Recent Cases and Proposed Legislation Impacting Texas Estate Planners, in *Estate Planning & Community Property Law Journal Seminar* at 74 (February 20, 2009).

Gerry Beyer, Morals From the Courthouse: A Study of Recent Texas Cases Impacting the Wills, Probate, and Trust Practice, in *Docket Call in Probate Court* (February 13, 2009).

Matthew A. Christiansen, Unconscionable: Financial Exploitation of Elderly Persons with Dementia, 9 *Marquette Elder's Advisor* 383 (2008).

Jeffrey Cooper, Empty Promises: Settlor's Intent, the Uniform Trust Code, and the Future of Trust Investment Law, 88 *B.U. L. Rev.* 1165 (2008).

William J. Daly, Student Note, A Comparative Analysis of the New Real Estate Investment Trust Legislation in Germany and the United Kingdom: Will Those Markets Experience the Same Success as the United States? 17 *Transnat'l L. & Contemp. Probs.* 839 (2008).

Frances Foster, Individualized Justice in Disputes over Dead Bodies, 61 *VAND. L. REV.* 1351 (2008).

Rebecca F. Ganz, Note, A Portrait of the Artist's Estate as a Copyright Problem, 41 *Loy. L.A. L. Rev.* 739 (2008).

Susan N. Gary, We Are Family: The Definition of Parent and Child for Succession Purposes, 34 *ACTEC J.* 171 (2008).

Wendy Gerzog, Section 529 Plans: Not Just for Education, 123 *Tax Notes* 1267 (Mar. 9, 2009), available at: <http://ssrn.com/abstract=1355927>.

Wendy Gerzog, Hurford: FLP Practice Pointers, 122 *Tax Notes* 799 (Feb. 9, 2009), available at: <http://ssrn.com/abstract=1340363>.

Wendy Gerzog, Gross: FLP Sequence and Its Consequence, 121 *Tax Notes* 1075 (Dec. 1, 2008), available at: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1310142.

Joseph Karl Grant, Shattering and Moving Beyond the Gutenberg Paradigm: The Dawn of the Electronic Will, 42 *U. Mich. J.L. Reform* 105 (2008).

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Selected Recently Published Scholarship *(cont'd from previous page)*

Allison Elvert Graves, Comment, *Marshall v. Marshall: The Past, Present, and Future of the Probate Exception to Federal Jurisdiction*, 59 Ala. L. Rev. 1643 (2008).

Jay C. Hartzell, Jarl G. Kallberg and Crocker H. Liu, *The Role of Corporate Governance in Initial Public Offerings: Evidence from Real Estate Investment Trusts*, 51 J.L. & Econ. 539 (2008).

Adam J. Hirsch, *Text and Time: A Theory of Testamentary Obsolescence*, 86 Wash. U. L. Rev. 609 (2009).

David Horton, *The Uneasy Case for California's "Care Custodian" Statute*, 12 Chapman L. Rev. 47 (2008).

David Horton, *Unconscionability in the Law of Trusts*, 84 Notre Dame L. Rev. (2009), available at <http://ssrn.com/abstract=1280363>.

Charles Huberty, Note, *No Good Deed Goes Unpunished: The Impact of New Jersey Court Rule 4:42-9 (a)(3) on Attorney Fees in Estate Litigation*, 60 Rutgers L. Rev. 769 (2008).

J. Rodney Johnson, *Will, Trusts, and Estates*, 43 U. Rich. L. Rev. 435 (2008).

Martha W. Jordan, *Requiem for Pennsylvania's Rule Against Perpetuities?* 46 Duq. L. Rev. 555 (2008).

Diane Klein, *River Deep, Mountain High, Heir Disappointed: Tortious Interference with Expectation of Inheritance--A Survey with Analysis of State Approaches in the Mountain States*, 45 Idaho L. Rev. 1 (2008).

Kristine S. Knaplund, *Legal Issues of Maternity and Inheritance for the Biotech Child of the 21st Century*, 43 Real Property, Probate and Trust Law Journal (2008), available at <http://ssrn.com/abstract=1334915>.

Browne C. Lewis, *Dead Men Reproducing: Responding to the Existence of Afterdeath Children*, 16 Geo. Mason L. Rev. 403 (2009).

Adam J. MacLeod, *A Gift Worth Dying For? Debating the Volitional Nature of Suicide in the Law of Personal Property*, 45 Idaho L. Rev. 93 (2008).

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David Major, Comment, Revocable Transfer on Death Deeds: Cheap, Simple, and Has California's Trusts & Estates Attorneys Heading for the Hills, 49 Santa Clara L. Rev. 285 (2009).

David R. Nave, GPS: Navigation: Mapping the Use of Trusts in S Corporations, 11 J. Passthrough Entities (2008), available at <http://ssrn.com/abstract=1271767>.

Alan Newman, Revocable Trusts and the Law of Wills: An Imperfect Fit, 43 Real Prop. Tr. & Est. L.J. 523 (2008).

Alan Newman, Shoemaker v. Gindlesberger Revisited, 19 Ohio Prob. L.J. 153A (2009).

Mary Radford, Recent Developments: Wills, Trusts, Guardianships and Fiduciary Administration, 60 Mercer Law Review 417 (2008).

Ronald J. Scalise, Jr., Undue Influence and the Law of Wills: A Comparative Analysis, 19 Duke J. Comp. & Int'l L. 41 (2008).

Charles Patrick Schwartz, Comment, Thy Will Not Be Done: Why States Should Amend Their Probate Codes to Allow an Intestate Share for Unmarried Homosexual Couples, 7 Conn. Pub. Int. L.J. 289 (2008).

Steven L. Schwarcz and Gregory M. Sergi, Bond Defaults and the Dilemma of the Indenture Trustee, 59 Ala. L. Rev. 1037 (2008).

Joshua C. Tate, Caregiving and the Case for Testamentary Freedom, 42 UC Davis L. Rev. 129 (2008).

Joshua C. Tate, Inheritance Rights of Nonmarital Children in Late Roman Law, 4 Roman Legal Tradition 36 (2008).

Nelson Tebbe, Inheritance and Disinheritance: African Customary Law and Constitutional Rights, 88 J. Religion 466 (2008).

Michael T. Yu, Deductions in a Proposed Calculation and Allocation of Distributable Net Income to the Separate Shares of a Trust or Estate, 5 Pitt. Tax Rev. 123 (2008).

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Conference Announcement

The ACTEC Foundation and the Legal Education Committee of the American College of Trust and Estate Counsel announce a symposium on *Philanthropy in the 21st Century* to be held on Friday, October 23, 2009 at Chicago-Kent College of Law. The symposium, the third in a series, will be published in the Chicago Kent Law Review.

The following speakers have accepted the invitation to participate:

Marion Fremont-Smith will give the luncheon keynote.

Panel 1: Donor Intent

Susan Gary (Oregon): *Drafting for Donor Intent*

Mark Sidel (Iowa): *Defying Donors: Community Resistance to Charitable Decision Making*

Joshua Tate (SMU): *Should Charitable Trust Enforcement Rights Be Assignable*

Nancy McLaughlin (Utah), Commentator

Panel 2: Governance

Lloyd Mayer (Notre Dame): *Federal Role in Regulating Charities*

Evelyn Brody (Chicago Kent): *Legitimate Reach of Regulation of Foundations and Charities*

Melanie Leslie (Cardozo): *Rethinking Fiduciary Duty Law*

Dana Brakman-Reiser (Brooklyn): *Hybrids-- for profit/not for profit*

John Colombo (Illinois) and Harvey Dale (NYU), Commentators

Panel 3: Tax

Ray Madoff (BU): *Helmsley and the Unlimited Charitable Deduction*

Wendy Gerzog (Baltimore): *Reforming the Charitable Split-Interest Rules (Again)*

Terri Helge (Texas Wesleyan): *Cause Related Marketing*

David Brennan (AALS): Commentator



Anne-Marie Rhodes
(Loyola-Chicago)

Because of the generous support of the ACTEC Foundation, there will be no charge for attending, but registration will be required. Additional information will be forthcoming. Please contact Anne-Marie Rhodes (Loyola-Chicago), arhodes@luc.edu, with any questions.

The Last Word

Any News to Share? Please feel free to share news of your or your colleagues' accomplishments, publications, career moves, service and other professional activities. We have several hundred Section members; please let us know what you are doing by contacting Laura Rosenbury at lrosenbury@wustl.edu.