

2006

2006-2007 Supreme Court Preview: Schedule

Institute of Bill of Rights Law at the William & Mary Law School

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SUPREME COURT PREVIEW

INSTITUTE OF BILL OF RIGHTS LAW

September 15 & 16, 2006

Program Schedule

FRIDAY, September 15, 2006

McGlothlin Court Room- *Friday Evening Program*

6:10 pm **Welcome** Neal Devins

6:15 pm **Moot Court: *Partial Birth Abortion***

Advocates: Erwin Chemerinsky
Jay Sekulow

Court: Joan Biskupic, Chief
Randy Barnett
Beth Brinkmann
Linda Greenhouse
Dahlia Lithwick
Paul Smith
Amy Wax
Steve Wermiel
John Yoo

7:30 pm **War on Terror**

Chuck Lane, Moderator/Panelist
Walter Dellinger
Lyle Denniston
Neal Katyal
John Yoo

8:30 pm **The Roberts Court**

David Savage, Moderator
Linda Greenhouse
Pam Karlan
Dahlia Lithwick
Maureen Mahoney

SATURDAY, September 16, 2006

Room 119 - *Saturday Panels*

9:00 am **Advocacy**

Steve Wermiel, Moderator
Beth Brinkmann
Tom Goldstein
Richard Lazarus
Carter Phillips

10:00 am **Criminal Procedure**

Joan Biskupic, Moderator
Randy Barnett
Erwin Chemerinsky
Neal Katyal
David Savage

11:00 am **Business Law**

Chuck Lane, Moderator
John Duffy
Alan Meese
Richard Lazarus
Tom Goldstein
Amy Wax

12:15 pm **Lunch**

1:30 pm **Civil Rights**

Neal Devins, Moderator
Michael Carvin
Maureen Mahoney
Carter Phillips
Bill Van Alstyne

2:30 pm **Election Law & Concluding Thoughts**

Lyle Denniston, Moderator
Michael Carvin
Walter Dellinger
Pam Karlan
Paul Smith
Jay Sekulow

3:45 pm **Conference Conclude**



SUPREME COURT PREVIEW

September 15 & 16, 2006

WHO'S WHO

RANDY E. BARNETT is The Carmack Waterhouse Professor of Legal Theory at the Georgetown University Law, where he teaches constitutional law and contracts. He has also taught cyberlaw, torts, criminal law, evidence, agency and partnership, and jurisprudence. After graduating from Northwestern University and Harvard Law School, he tried many felony cases as a prosecutor in the Cook County States' Attorney's Office in Chicago. In November 2004, he argued the medical cannabis case of *Gonzales v. Raich* in the U.S Supreme Court, after prevailing in the Ninth Circuit. This spring, he again appeared in the Ninth Circuit to argue the case on remand. He also represents the Oakland Cannabis Buyer's Cooperative and coauthored an amicus brief to the Supreme Court in the case of *Lawrence v. Texas*.

Professor Barnett has published more than seventy articles and reviews, as well as seven books, including *Restoring the Lost Constitution: The Presumption of Liberty* (Princeton, 2004), *Contracts Cases and Doctrine* (Aspen, 3rd ed. 2003) and *Perspectives on Contract Law* (Aspen, 3rd ed. 2005). His book *The Structure of Liberty: Justice and the Rule of Law* (Oxford, 1998) has been translated into Japanese. He is currently writing a new casebook on constitutional law.

Professor Barnett has been a visiting professor at Northwestern University and Harvard Law School. He lectures internationally and appears frequently on radio and television programs such as *The CBS Evening News*, *The News Hour* (PBS), *Talk of the Nation* (NPR), and *The Ricki Lake Show*. He delivered the Kobe 2000 Lectures in Jurisprudence at the University of Tokyo and Doshisha University in Kyoto, a series that previously featured Ronald Dworkin, Joseph Raz and Will Kimlicka. He has also lectured on contract law theory at Waseda University (Tokyo) and on criminal justice theory at Kansai University (Osaka).

JOAN BISKUPIC has covered the Supreme Court since 1989 and is the author of *Sandra Day O'Connor: How the First Woman on the Supreme Court Became Its Most Influential Justice*, published by HarperCollins in 2005. Before joining USA TODAY in June 2000, she was the Supreme Court reporter for the Washington Post (1992-2000) and legal affairs writer for Congressional Quarterly (1989-1992). Biskupic holds a law degree from Georgetown University. She is the author of several legal reference books, including Congressional Quarterly's two-volume encyclopedia on the Supreme Court (3rd Ed., 1997, with co-author Elder Witt). She won the 1991 Everett McKinley Dirksen award for distinguished reporting of Congress for her coverage of the Clarence Thomas nomination.

BETH BRINKMANN is chair of the Appellate Practice Group at the law firm of Morrison & Foerster LLP. She is a partner in the firm's Washington, D.C. Office, where her primary focus is on litigation in the Supreme Court of the United States and other appellate matters. Ms. Brinkmann has argued 20 cases before the Supreme Court and regularly files briefs in numerous cases before the Court each Term. She previously served for 8 years as an Assistant to the Solicitor General of the United States. She also served as an Assistant Federal Public Defender in Washington, D.C., and practiced in a small law firm in San Francisco. She received her A.B. from the University of California, Berkeley, and her J.D. from Yale Law School. She clerked for Judge Phyllis Kravitch of the United States Court of Appeals for the Eleventh Circuit, and for Justice Harry A. Blackmun of the United States Supreme Court.

MICHAEL CARVIN is a partner in the D.C. office of Jones Day and specializes in constitutional, appellate, civil rights, and civil litigation against the federal government. During the Reagan Administration, Carvin was Deputy Assistant Attorney General in both the Justice Department's Civil Rights Division and the Office of Legal Counsel. In those positions, he was involved in the Department's leading civil rights, separation-of-powers and other constitutional law controversies. In private practice, he has argued numerous cases in the United States Supreme Court and in virtually every federal appeals court. These cases include the decisions overturning the federal government's plan to statistically adjust the census, limiting the Justice Department's ability to create "majority-minority" districts, upholding Proposition 209's ban on racial preferences in California, the *Winstar* decision holding the government liable for breaching contracts in the thrift bailout legislation, and a decision upholding a Cincinnati referendum barring special gay rights laws. Carvin was one of the lead lawyers who argued before the Florida Supreme Court, on behalf of President George W. Bush in the 2000 election Florida recount controversy. He has also represented numerous state governments, financial institutions, telecommunications, and energy companies in "takings," First Amendment, civil rights, and statutory challenges to federal government actions.

ERWIN CHEMERINSKY, Alston & Bird Professor of Law and Political Science, joined the Duke Law faculty on July 1, 2004. From 1983 to 2004, he was the Sydney M. Irmas Professor of Public Interest Law, Legal Ethics, and Political Science at the University of Southern California Law School. He is the author of four books: a one-volume treatise on federal courts *Federal Jurisdiction* (Aspen Law & Business 4th ed. 2003), a one-volume treatise on constitutional law *Constitutional Law: Principles and Policies* (Aspen Law & Business 3d ed. 2006), a casebook, *Constitutional Law* (Aspen Law & Business 2d ed. 2005), and *Interpreting the Constitution* (Praeger 1987). Professor Chemerinsky frequently argues appellate cases, including in the Supreme Court.

WALTER DELLINGER is head of the Appellate Practice at O'Melveny & Myers and is the Douglas B. Maggs Professor of Law at Duke University. He served as acting Solicitor General for the 1996-97 Term of the Supreme Court. During that time, Walter argued nine cases before the Court, the most by any Solicitor General in more than 20 years. His arguments included cases dealing with physician-assisted suicide, the line item veto, the cable television act, the Brady Act, the Religious Freedom Restoration Act, and the constitutionality of remedial services for parochial school children. His most recent successful arguments before the U.S. Supreme Court include *Jackson v. Birmingham School District*, *Brown v. Legal Foundation of Washington*, *US Airways v. Barnett*, *Utah v. Evans*, *Hunt v. Cromartie*, and *Hunt v. Easley*. His recent Court of Appeals arguments include *Martha Stewart v. United States*; *Whiteside v. United States*, *Exxon v. Alabama* and *LCI v. Phillips*. He is currently serving as Special Counsel to the Board of Directors of the New York Stock Exchange in connection with the NYSE's transformation into a publicly held company and its acquisition of an electronic trading company. After serving in early 1993 in the White House as an advisor to the President on constitutional issues, Walter was nominated by the President to be Assistant Attorney General and head of the Office of Legal Counsel (OLC) and was confirmed by the Senate in October 1993 and served for three years. As head of the OLC, Walter issued opinions on a wide variety of issues, including: the President's authority to deploy United States forces in Haiti and Bosnia; whether the Uruguay Round GATT Agreements required treaty ratification; and a major review of separation of powers questions. He provided extensive legal advice on questions arising out of the shutdown of the federal government, on national debt ceiling issues, and on loan guarantees for Mexico. Walter has published articles on constitutional issues for scholarly journals including the *Harvard Law Review*, the *Yale Law Journal*, and the *Duke Law Journal*, and has written for the *New York Times*, the *Washington Post*, *Newsweek*, the *New Republic* and the *London Times*. He has been a visiting professor at the Catholic University of Belgium and has given lectures to university faculties in Florence, Siena, Nuremberg, Copenhagen, Leiden,

Utrecht, Tilburg, Mexico, and Rio de Janeiro and has delivered major lectures at Stanford, Yale, Harvard, Michigan, Berkeley, Penn, Duke, Chicago, and other US law schools. He has testified more than 25 times before committees of Congress.

LYLE DENNISTON is covering the Supreme Court for an online legal clearinghouse about the Court, *SCOTUSblog*. He is a graduate of the University of Nebraska, and received a master's degree in history and political science from Georgetown University. After retiring from the *Baltimore Sun*, he covered the Court for three years for the *Boston Globe*. He is the longest-serving correspondent for any news organization covering the Court. He is a recipient of the annual Toni House Award from the American Judicature Society for his career in covering the law. He has received an Honorary Doctor of Laws degree from the Massachusetts School of Law in Andover, where he is on the adjunct faculty and where he appears in a series of educational TV programs on the Supreme Court and other legal subjects. He is the author of *The Reporter and The Law: Techniques of Covering the Courts* (Columbia University Press, 1992), and is a chapter author for *A Year in the Life of the Supreme Court* (Duke University Press, 1995), which won the 1996 ABA Silver Gavel Award. He contributed two articles to *100 Americans Making Constitutional History* (ed. by Melvin Urofsky, CQ Press, 2004) and a chapter to *The Public Debate over Controversial Supreme Court Decisions* (ed. by Melvin Urofsky, CQ Press, 2006).

NEAL DEVINS is the Director of the Institute of Bill of Rights Law, Goodrich Professor of Law, and Professor of Government at the College of William and Mary. He is the author of several books and articles on constitutional law and government lawyering, including *Shaping Constitutional Values* (Johns Hopkins, 1996), *Political Dynamics of Constitutional Law* (West, 4th ed. 2006) (coauthored with Louis Fisher), *Redefining Equality* (Oxford, 1998) (co-edited with Davison Douglas), *A Year at the Supreme Court* (Duke, 2004) (co-edited with Davison Douglas), *The Democratic Constitution* (Oxford, 2004) (with Louis Fisher), and *Congress and the Constitution* (Duke, 2005) (co-edited with Keith Whittington). Devins has testified before both the House and Senate and has spoken to numerous groups about constitutional law, government lawyering, and other issues.

JOHN DUFFY is Professor of Law and Oswald Symister Colclough Research Professor of Law Professor at George Washington School of Law. Duffy joined the faculty in 2003. After receiving an undergraduate degree in physics, he served as articles editor on the University of Chicago Law Review and was awarded an Olin Fellowship in Law and Economics. Professor Duffy clerked for Judge Stephen Williams on the U.S. Court of Appeals for the D.C. Circuit and for Justice Antonin Scalia on the U.S. Supreme Court, served as an attorney adviser in the Department of Justice's Office of Legal Counsel, and practiced law with the Washington firm of Covington & Burling. Since entering academia in 1996, Professor Duffy has been on the faculty of the Benjamin N. Cardozo School of Law and the William and Mary School of Law, and has also served as a visiting professor at the University of Chicago. He has published articles in the University of Chicago Law Review, Columbia Law Review, Texas Law Review, and Supreme Court Review, and he is the co-author of a casebook on patent law. Professor Duffy teaches torts, administrative law, patent law, and international intellectual property law. Professor Duffy is serving as a counsel to the Petitioner in the *KSR v. Teleflex* patent case, which will be covered in business panel of the Preview.

THOMAS C. GOLDSTEIN heads Akin Gump's Supreme Court practice. In the Supreme Court and elsewhere, Mr. Goldstein has briefed and argued cases spanning a broad array of federal law questions—including both constitutional and statutory issues – for corporate, governmental and individual clients. Mr. Goldstein has argued 16 cases before the Supreme Court, winning four straight, three by five-justice majorities. Most recently, he successfully argued *Georgia v. Randolph*, an important search and seizure case. He also argued the first case of this Term, *Tum v. Barber Foods*, which he won unanimously. Last Term he successfully argued *Spector v. Norwegian Cruise Lines* (involving the application of federal disability law to cruise

ships) and *Smith v. City of Jackson* (involving disparate impact age discrimination claims). In addition, he has taken a leading role in numerous other cases, including serving as second chair on behalf of Vice President Al Gore in *Bush v. Gore*.

In addition to practicing law, Mr. Goldstein teaches Supreme Court litigation at both Stanford Law School and Harvard Law School. Since 2003 he has been principally responsible for SCOTUSblog (www.scotusblog.com), which is devoted to coverage of the Court and is widely recognized as one of the nation's leading legal blogs.

Before joining Akin Gump, Mr. Goldstein was a partner at Goldstein & Howe, the firm he founded in 1999. He previously practiced law at Boies & Schiller, LLP and at Jones Day Reavis & Pogue.

Mr. Goldstein received his B.A. from the University of North Carolina in 1992 and his J.D. summa cum laude from American University's Washington College of Law in 1995, after which he clerked for the Honorable Patricia M. Wald of the U.S. Court of Appeals for the D.C. Circuit. He is a member of the District of Columbia and Maryland Bars.

Mr. Goldstein has been recognized repeatedly as a leading member of the bar. He was named by *The National Law Journal* in 2006 as one of the 100 most influential lawyers in America; by *Legal Times* as one of the leading appellate lawyers in Washington, D.C.; by *The National Law Journal* as one of the nation's leading attorneys under the age of 40 (and profiled as one of the top 10); by *The American Lawyer* as one of the nation's top 45 attorneys under the age of 45; and by *Washingtonian* magazine as one of the leading constitutional lawyers and one of a half-dozen attorneys to watch in the 21st century in Washington, D.C.

LINDA GREENHOUSE has been on the staff of the *New York Times* since 1968. She has covered politics, the New York State Legislature, the United States Congress and, since 1978, the Supreme Court. She received her B.A. from Radcliff and earned a Masters of Studies in Law from Yale. She has seven honorary degrees. Greenhouse is a fellow of the American Academy of Arts and Sciences and a member of the American Philosophical Society. For her coverage of the Supreme Court, she was awarded a Pulitzer Prize in journalism (best reporting) in 1998. In 2002, the American Law Institute awarded her the Henry J. Friendly Medal for contributions to the law. She also received the Legal Writing Institute's Gold Pen Award and the Carey McWilliams Award from the American Political Science Association "for a major journalistic contribution to our understanding of politics." In 2004 she received the Goldsmith Career Award for Excellence in Journalism from Harvard University's Kennedy School of Government. Her book, *Becoming Justice Blackmun: Harry Blackmun's Supreme Court Journey*, was published in 2005.

PAMELA KARLAN is the Kenneth and Harle Montgomery Professor of Public Interest Law at Stanford Law School where she is also co-director of the Stanford Law School Supreme Court Litigation Clinic. This fall, she is a visiting professor at Yale Law School. She is co-author of three leading casebooks on constitutional law, civil rights litigation, and regulation of the political process, as well as numerous scholarly articles. In the past two terms, the Stanford Clinic represented the parties in nine merits cases, as well as representing a number of other petitioners or respondents at the certiorari stage. This coming Term, the Stanford Clinic will be representing parties in three merits cases. Karlan received her B.A., M.A. (history), and J.D. from Yale, and prior to entering academe, she served as a law clerk to Judge Abraham D. Sofaer of the United States District Court for the Southern District of New York and to Justice Harry A. Blackmun of the United States Supreme Court and as an assistant counsel at the NAACP Legal Defense and Educational Fund.

NEAL K. KATYAL, Professor of Law at Georgetown, was law clerk to Justice Stephen G. Breyer of the U.S. Supreme Court and to Judge Guido Calabresi of the Second Circuit Court of Appeals. During 1998-99, Professor Katyal served as National Security Adviser to the Deputy Attorney General, U.S. Department of Justice. He was commissioned by President Clinton in 1999 to co-author a report on ways the legal profession can enhance its pro bono activities and diversify the Bar, served as co-counsel to Vice

President Al Gore in the United States Supreme Court case of *Bush v. Palm Beach Canvassing Board* in 2000, and was Visiting Professor at Yale Law School in 2001-02 and Harvard Law School in 2002. His publications have appeared in *Yale Law Journal*, *Harvard Law Review*, *University of Chicago Law Review*, *Stanford Law Review*, *Michigan Law Review*, and *Pennsylvania Law Review*. His primary academic interests are Constitutional Law (primarily separation of powers, constitutional legitimacy, presidential power, slavery and affirmative action), Criminal Law (particularly cybercrime, conspiracy, architectural solutions to crime and the role of deterrence), and Education Law.

In March 2006, Neal Katyal, Counsel of Record for Salim Hamdan, argued *Hamdan v. Rumsfeld* in the U.S. Supreme Court.

CHARLES LANE has covered the Supreme Court for the Washington Post since October 2000. Prior to that, he was editor and senior editor of The New Republic, and a foreign correspondent for Newsweek. His articles have been published in Foreign Affairs, The New York Review of Books, The Atlantic Monthly, Slate.com and The Wall Street Journal, and he has appeared as a commentator on many television and radio programs including The NewsHour with Jim Lehrer (PBS), and The Diane Rehm Show (NPR). He was a contributor to Crimes of War: What the Public Should Know, edited by Roy Gutman and David Rieff (Knopf, 1999) and is a member of the Council on Foreign Relations. Lane received his Bachelor's degree from Harvard in 1983 and, as a Knight Fellow, a Master of Studies in Law from Yale in 1997. He was a 2003-2004 Media Fellow of the Japan Society and U.S. Japan Foundation.

RICHARD LAZARUS is Professor of Law at the Georgetown University Law Center, where he teaches Supreme Court Advocacy, Torts, Environmental Law, and Natural Resources Law. He is also Faculty Director of Georgetown's Supreme Court Institute, which sponsors academic courses and workshops on the Supreme Court and provides practice moot court arguments for counsel in approximately three-fourths of the cases before the Court. He has previously taught at Indiana University, Harvard University, Columbia University, Northwestern University, University of Texas, and Washington University schools of law. He worked for the United States Justice Department, including in the Solicitor General's Office, where he was Assistant to the Solicitor General. Professor Lazarus has represented the United States, state and local governments, and environmental groups in the United States Supreme Court in 37 cases and has presented oral argument in 12 of those cases. He received a B.S. in chemistry and a B.A. in economics from the University of Illinois in 1976 and his JD from Harvard in 1979. His primary areas of legal scholarship are environmental and natural resources law, with particular emphasis on constitutional law and the Supreme Court. He recently published a book on the history of modern U.S. environmental law, *The Making of Environmental Law* (University of Chicago Press 2004).

DAHLIA LITHWICK is a senior editor at *Slate*. She received a 2001 Online Journalism Award for her "Supreme Court Dispatches." Her work has appeared in *The New York Times*, *The New Republic*, *Commentary*, *The Washington Post*, and *The American Lawyer*. She is co-author of *Me vs. Everybody* published in 2003 by Workman Publishing. Lithwick graduated in 1996 from Stanford Law School and clerked for Chief Judge Procter R. Hug on the 9th Circuit Court of Appeals. She lives in Charlottesville, VA with her family.

MAUREEN MAHONEY is a partner in the Washington, D.C. office of Latham & Watkins, and leads the firm's appellate and constitutional practice. She previously served as a United States Deputy Solicitor General. Maureen has argued numerous cases in the Supreme Court, including the landmark affirmative action case of *Grutter v. Bollinger* on behalf of the University of Michigan Law School. She is a trustee of the Supreme Court Historical Society and serves on the Judicial Conference Advisory Committee on Appellate Rules. She is a member of the American Academy of Appellate Lawyers as well as the American College of Trial Lawyers.

Ms. Mahoney is a 1978 graduate of the University of Chicago Law School and served as a law clerk to the Honorable William H. Rehnquist (then-Associate Justice) and Seventh Circuit Judge Robert Sprecher.

ALAN MEESE is the Ball Professor of Law at the William and Mary School of Law and a fellow in the Institute. He is Vice President and President-elect of the William and Mary Faculty Assembly. Professor Meese received his A.B. with High Honors from the College of William and Mary, where he was first in his class. He received his J.D. (with Honors) from the University of Chicago where he was elected to Order of the Coif and a Comment Editor on the Law Review. He was admitted to the Virginia Bar in 1989 and remains an Associate Member of the Virginia and Washington D.C. Bars. Before joining the William and Mary faculty, he was an associate in the antitrust department at Skadden, Arps, Slate, Meagher and Flom in Washington, D.C. Previously, he served as a law clerk, first to Judge Frank Easterbrook of the U.S. Court of Appeals for the Seventh Circuit and then to Justice Antonin Scalia of the Supreme Court of the United States. He was Visiting Professor of Law at the University of Virginia in 2001-2002 and is currently serving as a Senior Advisor to the Antitrust Modernization Commission. Professor Meese is the author of twenty-five essays and articles on antitrust law and other subjects appearing in the *Antitrust Bulletin*, *Antitrust Law Journal*, *Green Bag*, *Harvard Journal of Law and Public Policy*, and *Law and Contemporary Problems* as well as the *Boston University*, *Cornell*, *Fordham*, *George Mason*, *Michigan*, *Minnesota*, *North Carolina*, *U.C.L.A.*, *University of Chicago*, *University of Pennsylvania*, and *William and Mary Law Reviews*. He serves on the Board of the Virginia Federalist Society and is co-advisor to the organization's chapter at William and Mary.

CARTER G. PHILLIPS is the Managing Partner of the Washington, D.C. office of Sidley Austin LLP, and is a member of the firm's Management Committee. He served as a law clerk to both Judge Robert Sprecher on the United States Court of Appeals for the Seventh Circuit and Chief Justice Warren E. Burger on the United States Supreme Court. Mr. Phillips served as Assistant to the Solicitor General for three years, during which time he argued nine cases on behalf of the federal government in the United States Supreme Court. Since joining Sidley Austin LLP, Mr. Phillips has argued 42 cases before the Supreme Court for a career total of 51 appearances, as well as over 62 cases in the courts of appeals. Mr. Phillips has argued nine cases in the past two terms.

Examples of some of his six cases from last Term are as follows: *Mohawk Industries v. Williams*, which determined whether employers utilizing temporary employment agencies and hire undocumented workers can be held liable under RICO allegedly for underpaying the Company's non-immigrant employees. *eBay Inc. v. MercExchange*, which determined whether the standard for issuing a permanent injunction in patent cases differs from the established traditional standard for equitable relief. *IBP v. Alvarez*, in which the Court held that, on the one hand, that certain types of "waiting time" are not compensable under the Fair Labor Standards Act, and on the other hand, that certain types of "walking time" are compensable.

DAVID SAVAGE has been the Supreme Court reporter for the Los Angeles Times since 1986. Prior to that, he was an education writer for the paper in Los Angeles. He is the author of *Turning Right: the Making of the Rehnquist Court* (1992) and of the revised two-volume "Guide to the U.S. Supreme Court published by the CQ Press in 2004. He was a chapter author for "A Year in the Life of the Supreme Court" (1995 and 2004). He also writes a regular column on the Supreme Court for the ABA Journal.

JAY ALAN SEKULOW is Chief Counsel for the American Center for Law and Justice (ACLJ), a law firm and educational organization that specializes in constitutional law. He is also Chief Counsel of the European Center for Law and Justice (ECLJ).

An accomplished and respected judicial advocate, Sekulow has presented oral argument before the U.S. Supreme Court in numerous cases in defense of constitutional freedoms.

Sekulow serves as faculty member in the Office of Legal Education for the U.S. Department of Justice where he provides legal expertise to federal prosecutors on the issue of obscenity.

Several landmark cases argued by Sekulow before the U.S. Supreme Court have become part of the legal landscape in the area of religious liberty litigation. In the *Mergens* case, Sekulow cleared the way for public school students to form Bible clubs and religious organizations on their school campuses. In the *Lamb's Chapel* case, Sekulow defended the free speech rights of religious groups, ensuring that they be treated equally with respect to the use of public facilities. And, most recently, in *McConnell v. FEC*, Sekulow ensured that the constitutional rights of young people remain protected with a unanimous decision by the high court guaranteeing that minors can participate in political campaigns.

A nationally recognized and respected defender of religious freedom, Sekulow has assembled one of the most prestigious law firms in the nation. Founded in 1990, the American Center for Law and Justice specializes in constitutional law. The ACLJ, under Sekulow's direction, is involved in public interest and public policy issues working to protect religious and constitutional liberties.

In 2005, *TIME* Magazine named Sekulow one of the "25 Most Influential Evangelicals" in America and called the ACLJ "a powerful counterweight" to the ACLU. *Business Week* said the ACLJ is "the leading advocacy group for religious freedom." Sekulow's work on the issue of judicial nominees-including possible vacancies at the Supreme Court-has received extensive news coverage including a front page story in *The Wall Street Journal*. In addition, *The National Law Journal* has twice named Sekulow one of the "100 Most Influential Lawyers" in the United States. (1994, 1997) He is also among a distinguished group of attorneys known as "The Public Sector 45" named by *The American Lawyer*. (January/February 1997) The magazine said the designation represents "45 young lawyers outside the private sector whose vision and commitment are changing lives." Sekulow serves as a member of the Board of Trustees for The Supreme Court Historical Society in Washington, DC.

Sekulow brings insight and education to thousands of listeners daily with his national call-in radio program, Jay Sekulow Live!, which is broadcast throughout the country on more than 550 radio stations reaching 1.5 million listeners a day. Sekulow also hosts a weekly television program, ACLJ This Week, which tackles the tough issues of the day and is broadcast on a number of networks nationwide including the Trinity Broadcasting Network and FamilyNet. Sekulow is also a popular guest on nationally televised news programs on ABC, CBS, NBC, CNN, FOX News, MSNBC, CNBC, and PBS. He frequently contributes articles and commentary to national publications and is often quoted in the nation's leading newspapers including *USA Today*, *New York Times*, *Los Angeles Times*, *Washington Post*, and *Washington Times*.

A graduate of Mercer University, Sekulow graduated cum laude receiving both a bachelor's degree and doctor of jurisprudence from Mercer University where he served on the Mercer Law Review as an editorial staff member. He also received a Ph.D. in American Legal History from Regent University in Virginia Beach, Virginia and is the author of numerous publications and law articles.

PAUL M. SMITH is a partner in Jenner & Block's Washington, DC office. He is a member of the Firm's Management Committee. Mr. Smith also is Co-Chair of the Firm's Appellate and Supreme Court, and Media and First Amendment Practices and is a member of the Firm's Litigation & Dispute Resolution Practice.

Mr. Smith has had an active Supreme Court practice for two decades, including oral arguments in twelve Supreme Court cases. These arguments have included *LULAC v. Perry* and *Vieth v. Jubelirer*, two congressional redistricting cases, *Lawrence v. Texas*, involving the constitutionality of the Texas sodomy statute, *United States v. American Library Ass'n*, involving a First Amendment challenge to the Children's Internet Protection Act and *Mathias v. WorldCom* (2001), dealing with the Eleventh Amendment immunity of state commissions. His first argument was in *Celotex Corp. v. Catrett* in 1986. Mr. Smith also worked extensively on several other First Amendment cases in the Supreme Court, involving issues ranging from commercial speech to defamation to "adult" speech on the Internet.

Mr. Smith also represents various clients in trial and appellate cases involving commercial and telecommunications issues, the First Amendment, intellectual property, antitrust, and redistricting and voting rights, among other areas. His recent trial work has included several cases involving congressional redistricting as well as challenges to State video game restrictions under the First Amendment.

Before coming to Jenner & Block, Mr. Smith practiced for 13 years in Washington, DC with the firms of Onek, Klein & Farr and Klein, Farr, Smith & Taranto.

Mr. Smith graduated *summa cum laude* and Phi Beta Kappa from Amherst College in 1976 and received a J.D. from Yale Law School in 1979, where he served as Editor-in-Chief of the *Yale Law Journal*. The following year, Mr. Smith was a law clerk to Judge James L. Oakes of the United States Court of Appeals for the Second Circuit. From 1980-81, Mr. Smith was a law clerk to Supreme Court Justice Lewis F. Powell, Jr.

Mr. Smith is a current member of the Board of Governors of the District of Columbia Bar. He is also Chair of the National Board of Directors of The American Constitution Society, and a member of the Board of Directors of the Lambda Legal Defense & Education Fund. Mr. Smith was a member of the Steering Committee of the DC Bar Litigation Section from 1998 to 2001 and is a member of the Board of Directors of the Washington Lawyers Committee for Civil Rights and Urban Affairs. Since 2003, Chambers & Partners USA has named him one of the country's leading lawyers.

WILLIAM VAN ALSTYNE was appointed Lee Professor of Law at the Marshall-Wythe Law School at the College of William and Mary in 2004. He is a graduate of the University of Southern California (B.A. in philosophy, magna cum laude) and Stanford University Law School (J.D., Articles and Book Review Editor of *The Stanford Law Review*). Following his admission to the California Bar and brief service as Deputy Attorney General of California, he joined the Civil Rights Division of the U. S. Department of Justice handling voting rights cases in the South. After active duty with the U. S. Air Force, he was appointed to the law faculty of the Ohio State University, advancing to full professor in three years. Appointed to the Duke law faculty shortly thereafter, he was named to the William R. & Thomas S. Perkins Chair of Law in 1974.

Van Alstyne's professional writings have appeared during four decades in the principal law journals in the United States, with frequent republication in foreign journals. They address virtually every major subject in the field of constitutional law. His work has been cited in a large number of judicial opinions including those of the Supreme Court. The *Journal of Legal Studies* for January, 2000, named Professor Van Alstyne in the top forty most frequently cited legal scholars in the United States of the preceding half-century. Van Alstyne has also taught and given professional papers internationally, in Germany, Austria, and Denmark, in Chile, the former Soviet Union, China, Japan, Canada, and Australia. He has been a visiting faculty member on the law faculties of the University of Chicago, Stanford, California (Berkeley and UCLA), Pennsylvania, Michigan, and Illinois, a Fulbright Lecturer in Chile, a Senior Fellow at the Yale Law School, and a faculty fellow at the Hague International Court of Justice. He has appeared as counsel and as amicus curiae in constitutional litigation in the federal courts, including the Supreme Court. He has also appeared in numerous hearings before Senate and House Committees, on legislation affecting the separation of powers, war powers, constitutional amendments, impeachments, legislation affecting civil rights and civil liberties, and nominations to the Supreme Court.

In 1987, Van Alstyne was selected in a poll of federal judges, lawyers, and academics by the *New York Law Journal* as one of three academics among "the ten most qualified" persons in the country for appointment to the Supreme Court, a distinction repeated in a similar poll by *The American Lawyer*, in 1991. Past National President of the American Association of University Professors, and former member of the National Board of Directors of the A.C.L.U., he was elected into the American Academy of Arts and Sciences in 1994.

AMY L. WAX graduated with a B.S. from Yale in 1975, and holds an M.D. from Harvard and a J.D. from Columbia. She trained as a neurologist at New York Hospital in the early 1980s, served as a law clerk to Judge Abner J. Mikva on the D.C. Circuit Court of Appeals, and from 1988 to 1994 worked as an attorney in the Office of the Solicitor General at the Department of Justice, where she argued 15 cases before the United States Supreme Court. She taught at the University of Virginia Law School before coming to Penn in 2001. Her areas of teaching and research include civil procedure, remedies, employment law, social welfare law, and the law and economics of work and family, and she has written on social welfare and group disadvantage for the *Wall Street Journal*. Articles include *Rethinking Welfare Rights: Reciprocity Norms, Reactive Attitudes and the Political Economy of Welfare Reform*, 63 *Law & Contemporary Problems* 257 (Winter/Spring 2000) and *Something*

for Nothing: Liberal Justice and Welfare Work Requirements 53 Emory Law Journal (2003); *Evolution and the Bounds of Human Nature*, Law & Philosophy (November 2004); *The Political Psychology of Redistribution: Implications for Welfare Reform*, in *The Politics of Welfare Reform* (Sage Foundation Press 2005); *The Conservative's Dilemma: Traditional Institutions, Social Change, and Same-Sex Marriage*, 42 San Diego L. Rev. (Summer 2005); and *Too Few Good Men*, Policy Review (Dec. 2005/Jan. 2006). She is currently writing a book on group justice, to be published by the Hoover Institution.

STEPHEN WERMIEL is associate director of the Marshall-Brennan Constitutional Literacy Project (a program in which 50 law students teach a year-long course in constitutional law in the D.C. public high schools) and an adjunct professor at American University Washington College of Law. He currently teaches constitutional law and seminars on the Supreme Court and on education and the Constitution. From 1979 to 1991, he was the Supreme Court correspondent for *The Wall Street Journal*. From 1972 to 1979, he was a reporter for *The Boston Globe*, and covered stories in Boston before moving to the Globe Washington Bureau in 1974. Since 1991, he has been teaching law, first as a fellow at William and Mary Law School, then at Georgia State University Law School in Atlanta from 1992 to 1997, and now at American. As administrator of the Marshall-Brennan Constitutional Literacy Project, he supervises 60 law students who teach constitutional law in the D.C. public high schools for a year. Mr. Wermiel has published law review articles about judicial selection, the federal courts, news media coverage of the Supreme Court, and the legacy of the late Supreme Court Justice William J. Brennan Jr., whose biography he is writing, and book chapters on Justice Souter and on the fallout from the 2000 *Bush v. Gore* decision. In 1982, Mr. Wermiel received a law degree from the Washington College of Law. He has been admitted to the Bar of the District of Columbia since 1984. He received his B.A. from Tufts in 1972.

JOHN YOO is professor of law at the University of California at Berkeley School of Law (Boalt Hall), where he has taught since 1993. From 2001-03, he served as a deputy assistant attorney general in the Office of Legal Counsel of the U.S. Department of Justice, where he worked on issues involving foreign affairs, national security, and the separation of powers. He served as general counsel of the U.S. Senate Judiciary Committee from 1995-96, where he advised on constitutional issues and judicial nominations.

Professor Yoo received his B.A., summa cum laude, in American history from Harvard University. Between college and law school, he worked as a newspaper reporter in Washington, D.C. Professor Yoo was an articles editor of the Yale Law Journal, and after graduating from law school, he clerked for Judge Laurence H. Silberman of the U.S. Court of Appeals of the District of Columbia Circuit. He joined the Boalt faculty in 1993, and then clerked for Justice Clarence Thomas of the U.S. Supreme Court.

Professor Yoo was a visiting professor at the University of Chicago Law School in 2003 and at the Free University of Amsterdam in 1998. He has received fellowships from the Olin Foundation (for work on treaties and constitutional law) and the Rockefeller Foundation (for a book on the effects of globalization on American constitutional law). He has received the Bator Award for excellence in legal scholarship and teaching from the Federalist Society.

Professor Yoo has published articles on foreign affairs, national security, and constitutional law in a number of the nation's leading law journals. He is the author of *The Powers of War and Peace: Foreign Affairs and the Constitution after 9/11* (University of Chicago Press, 2005).