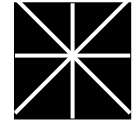




RES IPSA LOQUITUR

Faculty news



Chapman University School of Law
Faculty Update

Available online at: www.chapman.edu/law/news/resipsa.asp

FALL EDITION

2011

DEEPA BADRINARYANA published *Environmental Challenges of Climate-Nuclear Fusion: a Case Study of India* in the JOURNAL OF ENVIRONMENTAL LAW AND POLICY, and *International Law in a Time of Climate Change, Sovereignty Loss, and Economic Unity* in the PROCEEDINGS OF THE AMERICAN SOCIETY OF INTERNATIONAL LAW 104TH ANNUAL MEETING.

Deepa presented “*All But Migration: Reconciling Global Trade with Globalization of Climate Change by Finding the New ‘Bottom’*” at the Law and Society Annual Meeting in San Francisco; “*Global Warming and India's Constitutional Rights*” at a Conference on Climate Justice at the University of Irvine School of Law; “*Governing Climate Change, Achieving Human Security, Sustaining Democracy*” at the International Studies Association Annual Meeting in Montreal; and, “*Litigation and Climate Justice, Civil Litigation as a Tool for Regulating Climate Change*” at the 25th Monsanto Conference on Tort Law and Jurisprudence at Valparaiso School of Law.

Deepa received the Chapman University Award for Curriculum Innovation in Sustainability Education.

MICHAEL BAZYLER published *From "Lamentation and Liturgy to Litigation": The Holocaust-Era Restitution Movement as a Model for Bringing Armenian Genocide-Era Restitution Suits in American Courts* in the

MARQUETTE LAW REVIEW, and *Prosecuting Nazi War Criminals in the UK and Lessons For Today: Will History Repeat Itself?* in the UNIVERSITY COLLEGE OF LONDON'S HUMAN RIGHTS REVIEW.

TOM BELL published *Jurisprudence in a Polycentric Legal Order* in the GRIFFITH LAW REVIEW, and *What the Third Amendment Teaches About the Constitutional Meaning of "Property"* in the WILLIAM AND MARY BILL OF RIGHTS JOURNAL.

DANIEL B. BOGART published the Second Edition of COMMERCIAL LEASING: TRANSACTIONAL PRIMER (Carolina Academic Press) with co-author Celeste Hammond. Danny also contributed to the 16th release of the treatise FRIEDMAN ON LEASES (PLI).

Danny presented “*Professors' Roundtable, an In-Depth Analysis of the Year's Most Important Legal Developments*” at the 30th Annual Real Property Law Section Retreat in La Jolla, California.

TOM CAMPBELL published *Severability of Statutes* in the HASTINGS LAW JOURNAL.

He was a panelist at the American Academy of Arts & Sciences, National Commission on the Humanities and Social Sciences in Chicago, where he discussed the importance of the humanities in higher education and elements of humanities and social sciences in the study of law and business.

Tom also presented “*Dimensions of the State Budget Deficit in California*” and “*Systemic Solutions to the Debt Crisis in State and Municipal Governments*” at the Hoover Institution Conference on State and Municipal Default at Stanford University.

TIMOTHY A. CANOVA published *Black Swans and Black Elephants in Plain Sight: an Empirical Review of Central Bank Independence* in the CHAPMAN LAW REVIEW, and *The Public Option: The Case for Parallel Public Banking Institutions*, a policy paper in the NEW AMERICA FOUNDATION, NEXT SOCIAL CONTRACT INITIATIVE.

Tim presented “*A Federal Reserve for the 21st Century*” to the New America Foundation in Washington, D.C.; “*The Future of the Federal Reserve*” to the Roosevelt Institute in New York City; and, “*Central Banking in U.S. Constitutional Law and History*” at the Loyola University of New Orleans College of Law Scholarly Program.

Tim also delivered presentations on numerous panels, including “*Shift Happens: Financial and Regulatory Paradigms in Crisis*” at the LatCrit South-North Exchange in Santo Domingo, Dominican Republic; “*Credit Ratings Agencies Gone Wild*” at the West Coast Law & Society Retreat at Southwestern University School of Law in Los Angeles; and, “*Wall Street to Main Street: The Future of Financial Regulation*” at the CHAPMAN LAW REVIEW Symposium on the Future of Financial Regulation.

Tim appeared on a C-Span broadcast where he addressed issues raised by the talk to the New America Foundation. Tim also gave the keynote address, “*Lawless Finance, Failing States, and the Unfinished Agenda of the United Nations*,” at the annual meeting of the United Nations Association of Orange County in Santa Ana.

ANTHONY T. (“TOM”) CASO published an op-ed in the LOS ANGELES DAILY JOURNAL entitled *Global Warming Isn't the Real Issue*. Together with students in the Constitutional Jurisprudence Clinic, Tom filed briefs in the United States Supreme Court in *American Electric Power Corp. v. Connecticut*. He also filed an amicus brief in support of certiorari in *Sackett v. EPA*. Tom also filed briefs in the Ninth Circuit Court of Appeals in *Montana Shooting Sports Association v. Holder*, and in the California Court of Appeal in *Vargas v. Salinas*.

MARISA S. CIANCIARULO published *Batterers as Agents of the State: Challenging the Public/Private Distinction in Intimate Partner Violence-Based Asylum Claims*, in the HARVARD JOURNAL OF LAW & GENDER.

She participated in an Anti-Defamation League debate on *Birthright Citizenship* with Orange County Superior Court Judge (ret.) Jim Gray at Chapman University School of Law.

Marisa continues to serve on the Board of Directors of Concern America, a non-profit organization that won Chapman's 2010-2011 Albert Schweitzer Award for Excellence.

Marisa was selected Professor of the Year by Chapman law students for the 2010-2011 school year.

M. KATHERINE B. DARMER published “*Immutability' and Stigma: Towards a More Progressive Equal Protection Rights Discourse*” in the AMERICAN UNIVERSITY JOURNAL OF GENDER, SOCIAL POLICY AND THE LAW; *The Enduring Force of Scalia's Romer and Lawrence Dissents: The Case of Proposition 8* in the BERKELEY LA RAZA LAW JOURNAL; and, she co-edited NATIONAL SECURITY, CIVIL LIBERTIES, AND THE WAR ON TERROR (Prometheus) with Richard D. Fybel.

Katherine serves as the Chair of the Criminal Justice Section of the AALS.

BOBBY DEXTER presented “*Interest Indenture of the Talented Tenth*” at the Annual Meeting of the Law & Society Association in San Francisco. He also presented “*Socratic Dialogue and Circumventing the Risk of Shame*” at the International Conference on Education and New Learning Technologies in Barcelona, Spain.

JOHN EASTMAN published *Chemerinsky’s Assault on the English Language, a Review of Erwin Chemerinsky, The Conservative Assault on the Constitution* in the CLAREMONT REVIEW OF BOOKS; *Justice Thomas: The Court’s Sole Natural Law Jurist* in the DETROIT MERCY LAW REVIEW; and the 2011 supplement to the Third Edition of THE AMERICAN CONSTITUTIONAL ORDER: HISTORY, CASES, AND PHILOSOPHY (Anderson).

John presented “*The Supreme Court at Mid-Term Conference*” at Stanford Law School; “*The Contracts Clause and California’s Pension Crisis*” at the Federalist Society Western Regional Conference at the Ronald Reagan Presidential Library; “*The Politicization of International Law*” at the Lawfare Conference on Western World Radio; and, “*Arizona’s SB1070*” at the Federalist Society’s Annual Faculty Conference in San Francisco.

John’s speeches included “*Wheat, Weed & Obamacare: Are There Any Limits to the Commerce Clause?*” at the inaugural meeting of the Bakersfield Lawyers Chapter of the Federalist Society in Bakersfield; “*Citizenship and the Moral Foundations of the American Regime*” at the inaugural conference of the Amherst Committee for the American Founding in Washington, D.C.; and “*Twentieth Anniversary of Justice Clarence Thomas’s Appointment to the*

Supreme Court” at the Detroit Mercy School of Law in Detroit.

John participated in a number of debates, including “*Free Speech and Funeral Protests*” at the Whittier Law School Constitutional Rights Foundation; “*Birthright Citizenship and the 14th Amendment*” at the Los Angeles Chapter of the Federalist Society; “*The Constitutionality of National Health Care*” at the University of California, Irvine American Constitution Society and Federalist Society student chapters; “*Same-Sex Marriage*” at Syracuse Law School; “*Citizens United*” at the UCLA American Constitution Society; “*Recent Decisions by, and Pending Cases in, the U.S. Supreme Court*” at the Federal Bar Association of Orange County; “*Must Government Lawyers Defend Laws They Think Are Unconstitutional?*” at Stanford Law School; “*Is There a Conservative Assault on the Constitution?*” at the Mark Taper Auditorium in Los Angeles; “*The ‘Gay Rights’ Appeals*” at the San Francisco Bar Association; “*Originalism or Living Constitution*” at Golden Gate University Law School Federalist Society; and, “*Wikileaks and National Security*” at the World Affairs Council of Orange County.

John appeared on numerous television and radio shows, including the Gil Gross Show, KGO-San Francisco); the Forum Show, KQED-San Francisco); the Ray Appleton Show, KMJ-Fresno; Airtalk with Larry Mantle, KPCC-Pasadena; the Chris Reid Show, KOGO-San Diego; America’s Nightly Scoreboard with David Aslam, Fox Business News; and, on KNRS-Radio in Salt Lake City.

John received the Silver Good Citizenship Medal from The National Society of the Sons of the American Revolution, was named a Peter Jennings Scholar at the National Constitution Center, and received the Meritorious Service Award from the Sons of the Revolution.

JOHN HALL published *Sex Offenders and Child Sex Tourism: The Case for Passport Revocation* in the VIRGINIA JOURNAL OF SOCIAL POLICY & THE LAW.

John joined Chapman students and film school faculty on a trip to Ghana, West Africa, where the students made four documentary films about social justice issues, as part of Chapman's interdisciplinary human rights film program. The films will premiere in late fall 2011.

KATHY HELLER published *Upper Level Courses: Three Exemplars* in TRANSACTIONS: THE TENNESSEE JOURNAL OF BUSINESS LAW with Mark Fagan, Tamar Frankel, and Eric J. Gouvin.

ERNESTO HERNÁNDEZ-LÓPEZ presented "*Author Meets Reader—Tierra y Libertad, Land, Liberty, and Latino Housing, by Steven W. Bender*" at the San Francisco Law and Society Association Annual Meeting; and, "*Food Trucks and Public Space: How Law Shapes Eating, 'Fair' Vending, and Local Culture*" at the Law and Society Association Annual Meeting and the West Coast Law and Society Retreat at Southwestern Law School.

Ernesto presented "*Immigration Law and Uighur Detention on Guantánamo*" at the Emerging Immigration Scholars Workshop at the Washington College of Law, American University in Washington, D.C.; "*Persistent Puzzles in Immigration Law*" at the Law Review Symposium at the University of California, Irvine School of Law; and, "*Guantánamo and Empire: the Past, Present, and Future Lessons of Extraterritorial Authority (1898-2010)*" at the Cuba Future: Past and Present Conference at the Graduate Center of The City University of New York. Ernesto also presented his work-in-progress "*Guantánamo's Culture: American Values Frame Extraterritorial Jurisprudence*" at the University of California, Irvine, School of Law Workshop.

Ernesto was also a speaker in "*Getting Started with a Scholarly Agenda*," at the AALS Workshop for Pre-Tenured People of Color Law School Teachers in Washington, D.C.

Ernesto was elected to be a member of the Executive Committee, Association of American Law Schools (AALS) Minority Groups Section 2011-14, and was appointed to the Program Planning Committee for the 2012 Immigration Law Teachers Workshop.

HUGH HEWITT appeared frequently CNN and FOX national news shows as a commentator on the 2012 elections as well as various legal and political issues. He also recently addressed the Products Liability Council, the Chief Legal Officers Summit, and the Sporting Goods Manufacturing Association.

Hugh's column on political issues appears regularly in the WASHINGTON EXAMINER.

DONALD KOCHAN published *While Effusive, "Conclusory" is Still Quite Elusive: The Story of a Word, Iqbal, and a Perplexing Lexical Inquiry of Supreme Importance* in the UNIVERSITY OF PITTSBURGH LAW REVIEW; *On Equality: The Anti-Interference Principle* in the UNIVERSITY OF RICHMOND LAW REVIEW; "*Learning*" *Research and Legal Education: A Brief Overview and Selected Bibliographical Survey* in the SOUTHWESTERN LAW REVIEW (which was selected by the Institute For Law Teaching and Learning as its "Article of the Month" in June); *Thinking Like Thinkers: Is the Art and Discipline of An "Attitude of Suspended Conclusion" Lost on Lawyers?* in the SEATTLE UNIVERSITY LAW REVIEW; "*Thinking*" *in a Deweyan Perspective: The Law School Exam as a Case Study for Thinking in Lawyering* in the NEVADA LAW JOURNAL; and, *You Say You Want a (Nonviolent) Revolution, Well Then What? Further Thoughts on the Soft Power and Persuasion of Translations for Governments*

Emerging Out of Peaceful Chaos in a special issue of the WEST VIRGINIA LAW REVIEW.

Donald also published *Reading Adam Smith in Arabic*, an op-ed in the WALL STREET JOURNAL. The op-ed was mentioned by Senator Ron Johnson at a Senate Appropriations Committee Hearing on the State Department Budget.

Donald was a panelist on “*The Rise of Lawfare, the Politicization of International Law and the Challenges to U.S. Sovereignty*” at the American Freedom Alliance International Conference, an Internet conference.

MICHAEL B. LANG published the second edition of FEDERAL TAX ACCOUNTING (LexisNexis), co-authored with Elliott Manning and Mona L. Hymel. Michael also published *Coping with Bilski* in the BNA TAX MANAGEMENT MEMORANDUM (BNA), and Winter and Spring Supplements to the INDEX TO FEDERAL TAX ARTICLES (WGL) with Isa Lang.

Michael presented “*A Panel Discussion on the Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010*” at the ABA Section of Taxation 2011 Midyear Meeting, Committee on Tax Practice Management (organizer and moderator) in Boca Raton; “*Will Dealing with Tax Patents Become Easier?*” at the Distinguished Tax Lecture, New York Law School; “*Ethical Warning Signs – Avoiding and Dealing with Difficult Clients*” at the ABA Section of Taxation, 2011 May Meeting, Committee on Tax Practice Management (organizer and speaker), Washington D.C.; and, “*Conflicts of Interest and Related Considerations in Representing the Closely-Held Business and Its Owners,*” Portland Tax Forum (invited organizer and speaker) in Portland.

Michael continues as vice-chair of the ABA Tax Section's Committee on Tax Practice

Management and as an active member of the Nominations Committee, the Professional Services Committee, and various substantive committees.

CELESTINE MCCONVILLE presented “*Developments in the Provision and Efficacy of Capital Postconviction Counsel*” to the California Appellate Defense Counsel, Annual Meeting in Glendale, California.

HENRY NOYES published *The Rise of the Common Law of Federal Pleading: Iqbal, Twombly and the Application of Judicial Experience* in the VILLANOVA LAW REVIEW.

RICHARD E. REDDING published *Knowledgeable Judges Make a Difference: Judicial Beliefs Affect Juvenile Court Transfer Decisions* in the JUVENILE AND FAMILY COURT JOURNAL (with K. Hensl); *Recurrent Issues in Efforts to Prevent Homicidal Violence in Schools* in NEW DIRECTIONS IN YOUTH DEVELOPMENT (with K. Dill, et al.); and, *When the Shrinks Ignore Science, Sue Them* in the SKEPTICAL INQUIRER magazine (with J. Herbert).

Richard was the organizer and panelist for “*The Politically Correct University: Fact or Fiction?*” at the American Association of University Professors (AAUP) Conference on the State of Higher Education, in Washington, D.C.

In addition to serving on the editorial board of a number of peer-reviewed journals, Richard also served as a reviewer for the journal POLITICAL PSYCHOLOGY.

Richard became a Fellow of the American Bar Foundation in 2011.

Richard's articles and book chapters have been downloaded by SSRN and Berkeley Electronic Press readers over 25,000 times, to date.

LARRY ROSENTHAL published *The Law Professor as Counterterrorist Tactician* in the TEXAS LAW REVIEW; *Those Who Can't, Teach: What the Legal Career of John Yoo Tells Us about Who Should Be Teaching Law* in the MISSISSIPPI LAW JOURNAL; *First Amendment Investigations and the Inescapable Pragmatism of the Common Law of Free Speech* in the INDIANA LAW JOURNAL; and, *Pragmatism, Originalism, Race, and the Case against Terry v. Ohio* in the TEXAS TECH LAW REVIEW. Larry's debate with Professor Joyce Lee Malcolm of George Mason Law School was published as *McDonald v. Chicago: What Standard of Scrutiny Should Apply to Gun Control Laws?* in the NORTHWESTERN LAW REVIEW.

Larry presented a work-in-progress, "Binary Searches and the Central Meaning of the Fourth Amendment," at the Law & Society Conference in San Francisco and the Southeastern Association of Law School Criminal Procedure Discussion Forum, Hilton Head, South Carolina.

Larry was a guest on KPCC Southern California Public Radio, Air Talk, in a segment entitled "Supreme Court Upholds Arizona's Employer Sanctions Law."

RONALD ROTUNDA published *Resolving Client Conflicts by Hiring "Conflicts Counsel"* in the HASTINGS LAW JOURNAL; *Equal Employment Opportunities for Female Prison Guards* in the NATIONAL LAW JOURNAL; *Stern v. Marshall, and the Power of Bankruptcy Courts to Issue Final Orders on All Compulsory Counterclaims* in the BNA BANKRUPTCY LAW REPORTER (BNA); *We Do Declare: Libya and the United States Constitution* in the NATIONAL REVIEW ONLINE; *Constitutionalizing Judicial Ethics: Judicial Elections after Republican Party v. White, Caperton, and Citizens United* in the ARKANSAS LAW REVIEW; *Transparența Judiciară, Etica Judiciară și o Soluție Judiciară*, in the REVISTA FORUMUL JUDECĂTORILOR; *The Intellectual Forebears*

of Citizens United in the NEXUS JOURNAL OF LAW AND POLICY; and, *Are Capitalists Happier?* in REUTERS.

Ron published new editions of LEGAL ETHICS: THE LAWYER'S DESKBOOK ON PROFESSIONAL RESPONSIBILITY (ABA-Thomson/West); PROFESSIONAL RESPONSIBILITY: A STUDENT'S GUIDE (ABA-Thomson/West); PROFESSIONAL RESPONSIBILITY (Thomson/West); and, PROBLEMS AND MATERIALS ON PROFESSIONAL RESPONSIBILITY (Foundation Press).

Ron filed briefs in *American Electric Power, Inc. v. Connecticut*, No. 10-174 (U.S. Supreme Court); *Stern v. Marshall*, No. 10-179 (U.S. Supreme Court); *United States v. Sholom Rubashkin*, Nos. 10-2487, 10-3580 (8th Circuit); and, *Shelton v. Department of Corrections*, 2011 WL 3236040 (*M.D. Fla.*).

Ron presented "The Empirical Impact of *Citizens United*" at the Federalist Society Conference on Current Developments in Election Law and Litigation, at the Reagan Library.

Ron also made multiple radio appearances on the topic of health care reform, including: KOGO in San Diego; WIOD in Miami; and, WHAS in Louisville. He also appeared on WDUN, WPR-AM and KCBS News Desk on the topic of the War Powers Resolution. Ron was also interviewed by Tony Perkins, president of the Family Research Council, on his national radio show, "Washington Watch."

Ron participated in monthly hearings in Sacramento as a Commissioner of the California Fair Political Practices Commission. Ron also is a member of the Consultative Group of the ALI, PRINCIPLES OF GOVERNMENT ETHICS.

NANCY SCHULTZ published PERSUASIVE LEGAL WRITING (Aspen) with co-author Lou Sirico.

Nancy presented “*Lawyer-client Relations: Should it be Part of Every Law Qualification?*” with Professor Aalt-Willem Heringa, Dean of the Faculty of Law at the University of Maastricht, the Netherlands; and, “*Teaching Ethics Experientially*” at the Educating Advocates Conference at Stetson University College of Law.

Nancy acted as the North American Representative to the Executive Committee for the International Negotiation Competition in Copenhagen, and helped to administer the competition.

ROBIN SLOCUM published *LEGAL REASONING, WRITING & OTHER LAWYERING SKILLS*. The book is a third, and expanded, edition of an earlier textbook, *Legal Reasoning, Writing, & Persuasive Argument*. The title of the book was changed to reflect its expanded coverage and new therapeutic jurisprudence perspective.

Robin was a plenary speaker and presented “*Conducting Effective Student/Teacher Conferences*” at the AALS Workshop for Beginning Legal Writing Teachers, Washington, D.C. Robin also presented “*Rethinking ‘Thinking Like a Lawyer’: Towards a New Paradigm*” at the Institute for Law Teaching & Learning Conference at New York Law School and at the Rocky Mountain Regional Legal Writing Conference at UNLV Law School in Las Vegas.

VERNON SMITH published *Radio Spectrum and the Disruptive Clarity of Ronald Coase*, with T.W. Hazlett and D. Porter, in the *JOURNAL OF LAW AND ECONOMICS*; *Are Capitalists Happier?*, with R. Rotunda and B. Wilson, in *REUTERS*; *U.S. Fiscal Stimulus Disproportionately Increased Imports and Trade Deficit; Expect the Reverse with Austerity*, with J.A. Buchanan and S. Gjerstad, in *ECONOMISTS’ FORUM*; and, *Exchange, Specialization, and Property*

as a Discovery Process in the *HISTORY OF POLITICAL ECONOMY*.

Vernon presented “*Liberty, Institutional Size, and ‘Too Big to Fail’*” at the Liberty Fund Conference in Park City, Utah; “*Bringing Experiments and the Scottish Enlightenment into the Classroom*” at the AEA National Conference on Teaching Economics in Palo Alto, California; “*Hayek and the Problem of Scientific Knowledge*” at the Liberty Fund Conference in Tucson, Arizona; “*Key Economic Challenges in the U.S. and the World*” before the Greater Los Angeles Chamber of Commerce in Los Angeles, California; “*Discovering Exchange, Specialization, and Property*” at the Reason Weekend in Laguna Niguel, California; “*Electric Power: Early History and Industry Push for Regulation*” at the University of Alaska in Anchorage, Alaska; “*Interpreting the Great Depression*” at the Liberty Fund in Los Angeles, California; and, “*Markets, Experiments, and Financial Crises*” at Alamos Alliance XVIII in Alamos, Sonora, Mexico.

KENNETH STAHL published *The Artifice of Local Growth Politics: At-Large Elections, Ballot-Box Zoning and Judicial Review* in the *MARQUETTE LAW REVIEW*.

Ken presented “*All Power to the Neighborhoods?: The Delegation Doctrine and Neighborhood Control of Zoning*” at the Annual Meeting of the Association for Law, Property and Society in Washington, D.C.; “*Ambiguities of Neighborhood Empowerment: The Chicago School of Urban Sociology and American Land Use Law*” at the Annual Meeting of the Association for Law, Culture and the Humanities in Las Vegas; and, “*Ambiguities of Neighborhood Empowerment*” at the SEALS conference in Hilton Head, South Carolina.

GEORGE WILLIS published, as chapter editor, *Chapter 5: Securing Information from*

the IRS in EFFECTIVELY REPRESENTING YOUR CLIENT BEFORE THE IRS: A PRACTICAL MANUAL FOR THE TAX PRACTITIONER (ABA). He also published *Chapter 12: Litigation of Tax Matters for Low Income Taxpayers* in ADVOCATING FOR LOW INCOME TAXPAYERS: A CLINICAL STUDIES CASEBOOK (Vandeplas).

BART J. WILSON published *Geography and Social Networks in Nascent Distal Exchange* in the JOURNAL OF INSTITUTIONAL AND THEORETICAL ECONOMICS; *Using Experimental Economics to Understand Competition* in COMPETITION POLICY AND THE ECONOMIC APPROACH: FOUNDATIONS AND LIMITATIONS (Edward Elgar Publishing); and, *Responses to the Assurance Game in Monkeys, Apes, and Humans Using Equivalent Procedures* in PROCEEDINGS OF THE NATIONAL ACADEMY OF SCIENCES.

Bart presented “*An Experiment on Protecting Intellectual Property*” and “*A Comparative Approach to Coordination: How Apes, Monkeys, and Humans Respond to an Assurance Game with Equivalent Procedures*” at the Gruter Institute Conference on Law, Institutions and Human Behavior in Squaw Valley, California. He also presented “*An Experiment on Protecting Intellectual Property*” at the Southern California Conference on Applied Microeconomics at Claremont McKenna College.

Bart received Chapman University's 2011-2012 Pedagogical Innovation Award (with Jan Osborn).