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Faculty changes

► New faces and titles



Megan Shaner joined the OU College of Law in July as an associate professor of law. She previously practiced law in Wilmington, Delaware, as a senior associate at Richards, Layton & Finger PA, where she advised and represented clients in matters involving the Delaware General Corporation Law and related issues. Shaner teaches Contracts and

Agency and Partnership.



Alexander Domrin was a visiting international professor of law during the 2011 fall semester. He is head of the department for international programs at the Pepeliaev Group, the largest Russian law firm. Since 1993, he has taught at numerous major universities in the United States and served as a Fulbright Research Scholar. Domrin taught International

Business Transactions and International Law Foundations.



Stephen Henderson came to OU Law in July as a professor of law after eight years at Widener University School of Law in Wilmington, Delaware. Following law school, he clerked for a judge of the U.S. Court of Appeals for the Fifth Circuit and then practiced with Vinson & Elkins and Fish & Richardson in Dallas. Henderson teaches Criminal Law,

Criminal Procedure, Intellectual Property and Computer Crime.



Wayne Alley returned to the College of Law as jurist in residence in August. He advises competition teams and mentors students. Following his military career, in which he attained the rank of brigadier general, Alley served as dean of OU Law from 1981 to 1985. In 1985, he was nominated and confirmed as a judge for the U.S. District Court for the

Western District, where he served until his retirement from the bench in 2004.



Christina Bennett joined the faculty in August as a visiting assistant professor of law. After graduation, she clerked for two years with a judge on the Tennessee Court of Criminal Appeals and later joined a small firm in Nashville, Tennessee, where she managed the bankruptcy and debt-related practice. After practicing, Bennett worked as

research director for Common Ground Cases, a public policy-based special project of Search for Common Ground. Bennett teaches Legal Research and Writing.



D. Kent Meyers ('64), longtime adjunct professor, was named visiting professor of law and assumed a heavier class load beginning Fall 2011. He is a director of Crowe & Dunlevy, based in Oklahoma City. His law practice has been focused on antitrust and complex commercial litigation since 1972. At OU Law, he teaches Antitrust I and II, Federal Courts

and Initiatives and Referenda.

► Retirement reception honors three professors



The College of Law hosted a faculty retirement reception November 9 for three longtime professors. Two of the honorees, Peter Krug and Robert Spector, had officially retired in Spring 2011, and Drew Kershen will retire at the end of the 2011-12 academic year. Faculty, staff and friends attended the event in the Sneed Lounge and Boren Atrium. Krug, Spector and Kershen are pictured with the stone carvings commissioned and presented by the College of Law to honor their years of valued service.

Faculty honors

► Anderson receives national teaching award



Owen L. Anderson is the 2011 recipient of a national teaching award that recognizes an outstanding educator in natural resources law. The Rocky Mountain Mineral Law Foundation presented Anderson with the Clyde O. Martz Award for Excellence in Teaching. Anderson, an OU Law faculty member since 1992, is the Eugene Kuntz Chair

in Oil, Gas and Natural Resources and director of the John B. Turner LL.M. Program.

“The entire OU family joins me in congratulating Professor Anderson for receiving this signal national honor,” said OU President David L. Boren. “It is a tribute to his national and international stature in his field.”

OU College of Law Dean Joe Harroz said, “Professor Anderson is a treasure. He is an international expert in natural resources law, lecturing extensively to audiences worldwide on the topic. He is also an invaluable mentor to OU law students pursuing natural resources law. Professor Anderson is an incredible classroom teacher who takes the time and initiative to connect students to international opportunities. He is very deserving of this award, and we are honored to have him on faculty.”

Anderson also is a Distinguished Lecturer for the Centre for Energy, Petroleum and Mineral Law and Policy at the University

of Dundee in Scotland and serves on the LL.M. visiting faculty at the University of Melbourne and the University of Sydney. Anderson has authored numerous articles on oil and gas law and serves on the board of editors for the *Oil and Gas Reporter* and the *Texas Title Standards*. A member of the Oklahoma, Texas and North Dakota bars, he serves as a Commissioner for the National Conference of Commissioners on Uniform State Laws and is a member of the American Law Institute. In addition, he is a trustee of both the Energy Mineral Law Foundation and Rocky Mountain Mineral Law Foundations; a member of the International Oil and Gas Educational Center Advisory Board of the Center for American and International Law in Dallas; and a member of the Association of International Petroleum Negotiators.

Established in 1993, the Clyde O. Martz Award for Excellence in Teaching is named after a founding father and eighth president of the Rocky Mountain Mineral Law Foundation, who served as the solicitor of the U.S. Department of the Interior during the Carter Administration and as assistant attorney general in charge of the Lands and Resources Division of the Department of the Interior during the Johnson administration. He was a partner in the law firm of Davis, Graham & Stubbs in Denver and a teacher of natural resources law at the University of Colorado. He authored a casebook that pioneered the teaching of the law of natural resources, and he served as editor-in-chief of the first edition of the *American Law of Mining*.

► Oklahoma Higher Education Hall of Fame inducts Swank



Professor David Swank with Chancellor Glen Johnson ('79), left, and Dr. Earl Mitchell, president of the Oklahoma Higher Education Heritage Society



Professor David Swank joined an elite group of individuals recognized for their contributions to higher education in Oklahoma when he was inducted into the Oklahoma Higher Education Hall of Fame in October. Started in 1994 by the Oklahoma Higher Education Heritage Society, the Hall of Fame recognizes outstanding men and women (living and deceased) who have excelled in higher education and encouraged others to contribute to the economic development and quality of life in Oklahoma. The Hall of Fame inducts individuals who have been employed by one or more of Oklahoma's institutions of higher education for 10 years or more.

Swank joined the University of Oklahoma in 1963 and has served as legal counsel, professor of law, associate dean, dean of the College of Law, director of the Law Center, and interim president. In addition, he was the university faculty representative to the National Collegiate Athletic Association and the Big Eight Conference and was vice president of the NCAA for seven years. He also served on the NCAA Executive Committee and in 1991 and was named to the NCAA Committee on infractions, on which he served a total of nine years, seven as chairman.



Professor Swank enjoys the reception with his wife, Ann, and daughter, Ami.

Photos by Kellie Driscoll

► **Forman completes fellowship in Australia**

Jonathan B. Forman was awarded an Abe Greenbaum Fellowship by the Australian School of Taxation and Business at the University of New South Wales (UNSW) and completed a month-long summer research fellowship in Sydney, Australia. Forman, an OU Law faculty member since 1985, is the Alfred P. Murrah Professor of Law and the author of *Making America Work* (Urban Institute Press, 2006).

Forman spent most of his fellowship time working with UNSW Senior Lecturer Gordon Mackenzie on a paper and speech. "Pension Reform: What Can the United States and Australia Learn from Each Other?" was the title of their completed work. Forman also gave a speech for the UNSW Centre for Pension Studies on "An American Perspective on Optimal Retirement Age."

In addition, Forman spoke on "Tax Reform in the United States" at the University of Sydney School of Law and at the University of Queensland's T.C. Beirne School of Law in Brisbane. Forman was also the keynote speaker for a program on "Work and Tax: Intersections and Conflicts" at the University of Melbourne Law School.

The Treasury of the Australian Government invited Forman to present a seminar in Canberra on "An American Perspective on Not-for-Profit Tax Concessions." Forman also met with many other Australian government officials, including Australia's Inspector-General of Taxation and senior executives in the Australian Taxation Office.

► **Oklahoma Bar Association honors Spector**



Deborah Reheard, OBA president, presents the Maurice Merrill Golden Quill Award to Robert Spector.

Photo by Jeff Kelton, OBA Communications Specialist

Robert G. Spector received the Maurice Merrill Golden Quill Award for his article titled "Children and Divorce: A 31-Year Retrospective," which appeared in the August 6, 2011, issue of *The Oklahoma Bar Journal*.

A noted authority on family law, Spector has authored a myriad of books and articles on the topic. During his career, he has been a frequent lecturer at events across the nation and internationally.

Spector has taught Family Law, Children and the Law, Conflict of Laws, Evidence and Child Abuse and Neglect. In addition to his teaching duties, he has served as the reporter for the Uniform Child Custody Jurisdiction and Enforcement Act and the Family Law Joint Editorial Board for the National Conference of Commissioners on Uniform State Laws.

He was a member of the governing council of the American Bar Association's Family Law Section for 10 years. Spector also chaired the committee on marital torts and served as vice chair of the Law School Curriculum Committee. He is a member of the American Law Institute.

Spector received the Chair's Award from the OBA's Family Law Section in 1994 and 1997 for significant contributions to the development of family law, and in 1990, was named the Outstanding Family Law Attorney. In 1991, he received the OBA Earl Sneed Award for significant contributions to continuing legal education.

► Palomar teaches in Beijing on Fulbright grant



Professor Palomar is pictured with the women who assisted her during her semester in Beijing.

Joyce Palomar taught during the fall semester on a Fulbright grant at Beihang University Law School in Beijing, China. She taught classes on eminent domain, land recordation, and real property law and finance. As China continues to adopt new laws and regulations in furtherance of its constitutional amendment permitting private land use rights, Chinese universities have sought the knowledge and experience of real property scholars like Palomar.



Joyce Palomar stands with Professor Lou Jianbo (left), director of the Center for Commercial Law and professor at Peking University Law School in Beijing, and Professor Li Hao (right), her host at Beihang University Law School.

Palomar's experience living and working in China on this, and a previous Fulbright grant, also brought an offer for the University of Oklahoma College of Law to affiliate with four other law schools to offer a China Law Summer Program in Beijing beginning in May 2012.

In addition to teaching regular classes at Beihang University Law School,

Palomar was invited to speak at Peking University Law School in Beijing on Recent Developments in American Eminent Domain Law and at East China University of Political Science and Law in Shanghai on Legal Education in the United States.

Palomar teaches Property, Real Estate Transactions and Finance, and Land Use at OU Law. She is author of one property law textbook and two legal treatises, *Title Insurance Law*, published in 1994, and *Patton & Palomar on Land Titles*, published in 2003. Her previous Fulbright grant was in 2002 at East China University of Political Science and Law in Shanghai. She also has spoken at two international conferences in Beijing and published two articles in Chinese law journals. Additionally, Palomar has published numerous articles in U.S. law reviews on real property law, land titles and title assurance. She is an active member of the American College of Real Estate Lawyers, the American College of Mortgage Attorneys and American Association of Law Schools and has lectured at numerous conferences across the country and state. Palomar joined the OU College of Law faculty in 1988.

The Fulbright Program was established in 1946 as a vehicle for promoting mutual understanding between the people of the United States and the people of other countries. Fulbright alumni include Nobel and Pulitzer Prize winners, senators and governors, prime ministers and heads of state, ambassadors, scientists, artists, Supreme Court Justices and corporate CEOs.

The Fulbright program is sponsored by the U.S. Department of State and administered by the Council for International Exchange of Scholars in Washington, D.C. It is primarily funded by an annual congressional appropriation. Additional funding comes from participating governments, host institutions and private organizations in the United States and abroad.



Joyce Palomar taught in Beijing, China, at Beihang University Law School, pictured here.

Beyond the classroom

Symposiums and colloquiums

▶ Robertson announces online collection of historical documents



Lindsay Robertson announced the launch of an extensive online collection of historical documents related to the foundational Supreme Court decision divesting Native Americans of their ownership interest in the North American continent. The announcement, made on October 7, was part of Robertson's presentation at a symposium at the

Smithsonian National Museum of the American Indian discussing the United States courts' use of history to shape Native law jurisprudence.

The "United Illinois and Wabash Land Companies Collection" consists of 263 original manuscripts, five hand-drawn maps and seven published documents related to the companies' efforts to acquire title to Indian lands during the period from 1775 to 1823. These efforts culminated in the Supreme Court's landmark 1823 decision in *Johnson v. M'Intosh* divesting Native Americans of title to their lands.

The papers informed Robertson's award-winning book, *Conquest by Law: How the Discovery of America Dispossessed Indigenous Peoples of Their Lands* (Oxford University Press, 2005). Jasper Brinton, great-great-great grandson of John Hill Brinton, who served as the companies' secretary from 1805 to 1823, entrusted the papers to the Donald E. Pray Law Library, which digitized them to make them available to scholars worldwide.

"It gives us living Brintons great pleasure to know that, after all these years, our grandfather's interest and care devoted to the Illinois and Wabash documents have proven instrumental and useful toward clarifying the inalienable rights of Native Americans," Brinton said. "Our thanks and gratitude to Lindsay G. Robertson, who unearthed and understood the historical significance these papers held, and continue to hold, for all those involved in the course of fairness and justice."

The public may access the collection online through the OU Law Digital Collections at <http://digital.libraries.ou.edu/IWLC/>.

▶ Five alumni honored at Kuntz Conference



Winners of the 2011 Eugene Kuntz Award are Phillip Hart ('60), Henry Hood ('85), Lyndon Taylor ('84), Mark Christiansen ('80) and R. Clark Musser ('70).

The Eugene Kuntz Conference on Natural Resources Law & Policy was held November 18 at the Cox Convention Center in Oklahoma City. A record-setting 426 people attended the annual program, which is designed for mineral law attorneys and petroleum landmen. Expert speakers from across the country provided updates on law and policy in the oil and gas industry.

At the conference, the Eugene Kuntz Award was presented to five individuals for their valuable work in oil and gas law and policy, particularly in Oklahoma. The award was established in the early 1990s to honor Eugene Kuntz, a former dean and oil and gas law professor at OU as well as a national expert on oil and gas law.

▶ Four professors participate in First Monday Forum

The latest landmark decisions of the U.S. Supreme Court were reviewed and some of the upcoming cases were previewed at a public forum held October 3, the opening day of the court's new term. The constitutional forum, held in the Dick Bell Courtroom, was co-sponsored by the OU College of Law and the Institute for the American Constitutional Heritage.

OU Law Professors Mary Sue Backus, Stephen Henderson, Rick Tepker and Joe Thai participated, along with Justin Wert, IACH faculty member.



Owen Anderson



Taiawagi Helton



Drew Kershen



Brian McCall

Published

Owen Anderson wrote "Lord Coke, the Restatement, and Modern Subsurface Trespass Law" in the *Texas Journal of Oil, Gas, and Energy Law*, Vol. 6, No. 2.

Taiawagi Helton published "Indigenous and Tribal Peoples' Rights Over Their Ancestral Lands and Natural Resources: Norms and Jurisprudence of their Inter-American Human Rights System" in the *American Indian Law Review*, Vol. 35, No. 2.

Drew Kershen co-published three opinion pieces, "Innovation Arrested by the Law of Unintended Consequences" on Forbes.com March 30, 2011; "EPA Biotech Regulation Bucks the Scientific Consensus" on Forbes.com July 6, 2011; and "A Label We Don't Need" in *Nature Biotechnology* November 8, 2011.

Brian McCall authored "The Corporation as Imperfect Society" in *The Delaware Journal of Corporate Law*, Vol. 36, No. 2.

Emily Mezell published "Deference and Dialogue in Administrative Law" in the *Columbia Law Review*, Vol. III, No. 8 and will publish "Presidential Control, Expertise and the Deference Dilemma" in a forthcoming issue of *Duke Law Journal*.

Michael Scaperlanda wrote "Secular Not Secularist America" in *Campbell Law Review*, Vol. 33, No. 3.

Robert G. Spector published articles in *Family Law Quarterly*, *The International Lawyer*, *Oklahoma Law Review*, *The Oklahoma Bar Journal* and *Yearbook of Private International Law*.

At the podium

Randy Coyne spoke at Northern Illinois University College of Law October 5 on "Representing the Unpopular Client."

Steven Gensler spoke at Seattle University Law School September 16 during a symposium, "25th Anniversary of the Summary Judgment Trilogy: Reflections on Summary Judgment." His presentation was titled "Summary Judgment: The Newest Frontier for Case Management."

Gensler presented at the 44th Transferee Judges' Conference October 16. The conference was held by the Judicial Panel on Multidistrict Litigation for federal court judges handling MDL cases. He was joined by the Honorable Lee H. Rosenthal (S.D. Tex.) in presenting "Discovery After Iqbal: Where Do We Go From Here?"

Gensler participated in a symposium, "Facebook and the Law," at the University of Arkansas (Fayetteville) School of Law November 4. His presentation was titled "Social Media and Discovery: Another Reason for Reform?"

Stephen Henderson spoke November 4 at a symposium at the Widener University School of Law in Wilmington, Delaware, regarding the search warrants and computer searches in the child abuse prosecution of Delaware pediatrician Earl Bradley.

Henderson also presented a day-long training in November for staff of Match.com in Dallas.



Emily Meazell



Michael Scaperlanda



Robert G. Spector



Randy Coyne

Drew Kershen delivered six presentations, “The Illinois River Litigation – Water Law Implications Extra Large?” to the Oklahoma City Association of Petroleum Lease and Title Analysts on June 16 and the Oklahoma City Real Property Lawyers Association on September 9; “Well Exemption Litigation in the West: Implications for Oklahoma Groundwater Law” at the Third Annual Oklahoma Water Law Conference on May 6; “Oklahoma Comprehensive Water Plan (OCWP) 2011 and Agriculture” for an Oklahoma Bar Association Ag-Futures CLE on October 6; “Animals and Water in Oklahoma Agriculture” at the Oklahoma Farm Bureau Fall Convention on November 13; “Ethics for Landmen and Lawyers” at the Eugene Kuntz Conference on Natural Resources Law & Policy held November 18; “Vatican Adventure: The Pontifical Academy of Science Conference on Agricultural Biotechnology May 2009” for Morning with the Professors, at OU’s Osher Learning Center on December 6.

Brian McCall participated in a panel discussion, “The Essential Augustine for 21st Century Lawyers and Law Professors,” at the Sixth Annual Conference on Catholic Legal Thought, held in May at the OU College of Law.

Emily Meazell presented “Dread Risks, Formal Procedures, and Stakeholder Engagement” at the Second Annual Colloquium on Environmental Scholarship at Vermont Law School, South Royalton, Vermont, September 23.

Lindsay Robertson testified before the U.S. Senate Committee on Indian Affairs June 9 about implementing the U.N. Declaration on the Rights of Indigenous Peoples.

Robertson presented “The Tortured History of the Discovery Doctrine in the Marshall Court” at the Eighth Annual Haudenosaunee Conference at Syracuse University College of Law, held November 18.

Robert G. Spector was one of five faculty members chosen for the Aspen Institute Law and Justice Program, held in New York June 14 and December 7. He discussed the role of international law in state courts with two groups of state supreme court justices.

Joe Thai attended the 2011 Law and Society Conference in San Francisco in June 2011 and participated in a panel discussion, “Designing and Teaching Courses on the U.S. Supreme Court: Strategies and Objectives for Different Audiences.”

Professional service

Stephen Henderson met October 29 with the American Bar Association Criminal Justice Section Council, which voted in favor of a new set of Criminal Justice Standards, “Law Enforcement Access to Third Party Records.” He serves as reporter for the Task Force that developed the standards.

Stephen Henderson and **Joe Thai** continue to develop Crimprof Multimedia, an online teaching resource for criminal law and procedure professors. The site currently is used by more than 300 U.S. professors. The launch of an updated version is planned for summer 2012.

Michael Scaperlanda serves on the editorial advisory board for the *Journal of Christian Legal Thought*, published by the Institute for Christian Legal Studies and sponsored by the Christian Legal Society and Regent University School of Law.



Steven Gensler



Steven Henderson



Lindsay Robertson



Joe Thai

Quoted

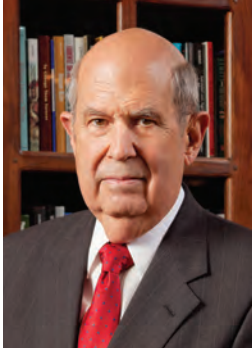
Owen Anderson was quoted October 13, 2011, on FoxBusiness.com in a story discussing the probable reaction of oil-service contractors to the issuance of oil spill citations to two contractors, along with the operator, in the Deepwater Horizon oil spill. *"They will probably review their contracts," said Owen Anderson, a professor of law specializing in energy at the University of Oklahoma. "When oil prices are high and there's lots of activity, service contractors can drive a very hard bargain."*

Randy Coyne was quoted in a May 27, 2011, article in *The Wall Street Journal* about the Jerome Erslund murder conviction. *"The main question before the jury was whether Mr. Parker still represented a threat after the first shot. Under Oklahoma law, the right to use deadly force ends as soon as the menace has passed," said Randy Coyne, a law professor at the University of Oklahoma.*

Coyne also was quoted in *The Joplin Globe* in a November 12, 2011, story concerning an Ottawa County judge's order dismissing a case due to double jeopardy. Prosecutors had dismissed the original case when one of their witnesses was not allowed to testify due to a violation of the rule of sequestration. *Randall Coyne, a professor of law at the University of Oklahoma College of Law, said it's rare for double jeopardy to prevent a second attempt at prosecution, but it does happen. "He (the accused) is placed in jeopardy in a jury trial the moment a jury is sworn," Coyne said. "That doesn't mean the prosecution has to complete the trial."*

Taiawagi Helton was quoted in an August 2011 Associated Press article as part of a legislative panel discussing Oklahoma water rights. The AP article was picked up by multiple media outlets in the region. *"I would encourage both sides to negotiate," Helton said. "The tribes have a strong argument that they have a right to a substantial amount of water, but it would take years of litigation to determine what those rights are. In the meantime, we would have an incredible amount of conflict between neighbors; we would spend an immense amount of money on litigation; and we would delay development in ways that would do no good for anyone. All the while, the ground is getting drier under our feet."*

Drew Kershen was quoted in the Salem, Oregon, *Capital Press* on September 2, 2011, concerning a lawsuit in federal court in which a biotechnology company was seeking to force a global grain company to buy a new variety of transgenic corn by invoking the 1916 U.S. Warehouse Act, which requires grain elevators to treat storage-seeking farmers in a fair and reasonable manner. The case could have important consequences for genetic engineering in agriculture. *"It appears Syngenta is trying to break new ground with its legal strategy in the case," said Drew Kershen, a law professor at the University of Oklahoma who has studied U.S. Warehouse Act litigation for roughly two decades. "Nobody knows how this would be interpreted in a particular fact pattern," Kershen said. "As far as I know, none of the anti-discrimination principles have ever been cited... My guess would be the anti-discrimination laws have hardly ever been used at the state level as well."*



David Swank



Cheryl Wattlely

Emily Mezell's article "Super Deference, the Science Obsession, and Judicial Review as Translation of Agency Science" in *Michigan Law Review*, Vol. 109, No. 5, was cited multiple times in testimony during a hearing May 31, 2011, before the U.S. House of Representatives Subcommittee on Courts, Commercial and Administrative Law.

David Swank was quoted in an August 2011 Associated Press article about the University of Miami football scandal. The article was carried in media markets from coast to coast. *"In the nine years I served on the (NCAA) Committee on Infractions, I never saw another one that was even close to what occurred in the SMU case," said University of Oklahoma law professor David Swank, a former NCAA vice president. "In that case you had the involvement of basically members of the board of trustees and the regents," he said. "And it was repeat violations which made it a very serious case."*

Swank's NCAA experience was again relied upon in an October 31, 2011, article in *The Manhattan Mercury* about allegations that surfaced in litigation involving a former Kansas State basketball player turned pro and his former agent. The player alleged the agent arranged for a third party to pay some of his mother's living expenses during the time he played at Kansas State, but that he had no knowledge of that arrangement until after he turned pro. *"A lot of it's going to turn on the student-athlete's knowledge." Having said that, though, Swank also said "when you have an agent paying a parent, you're going to have a hard time avoiding a violation of some kind."*

Swank was contacted again in November when it was revealed the NCAA would conduct its own investigation into the Penn State sexual abuse scandal to determine if its rules were violated. A story that appeared November 23, 2011, on InsideHigherEd.

com said the NCAA action is without precedent and included a statement from another former chair of the NCAA Committee on Infractions in which she indicated she was not comfortable "stretching NCAA bylaws" in this way. *Adds another former infractions committee chair, David L. Swank of the University of Oklahoma's law school: "If you step across this line, where do you stop? Is it only criminal activity involving coaches? Administrators? Students? You've crossed the Rubicon, and where do you end up? If the NCAA wants to examine places where there have been criminal violations, they're really plowing new ground if there's no specific NCAA rule that's been violated."*

On the air waves

Randy Coyne was a guest on "Patt Morrison" on Los Angeles-based public radio on May 27, 2011, and was interviewed about the Jerome Ersland murder conviction.

Coyne also appeared on MSNBC's "NewsNation" on June 1, 2011, speaking about the Ersland conviction.

Coyne was interviewed in May 2011 by a New York City-based reporter with Fuji TV, a cable network that broadcasts in Japan and major U.S. cities. Coyne discussed Oklahoma criminal law and specifically, the felony murder law.

Joe Thai appeared as a guest on OETA's "Oklahoma Forum" September 18, 2011, to speak about key cases from the last term of the U.S. Supreme Court.

Cheryl Wattlely appeared on "The Verdict" May 29, 2011, to discuss Pros For Africa and the International Human Rights Clinic.