

Business Law Program 2010–2011

The 2010–2011 academic year was especially busy for the Business Law Program. In addition to offering its extensive curriculum of over 150 courses, the Program sponsored events for students, scholars, alumni, and the public. From intimate faculty workshops and seminars to large public hearings and lectures, distinguished graduates, important regulators, and professors from AU and elsewhere contributed to a very full Program calendar. The following pages contain a few highlights. More details of these and upcoming events are available on the Program website, www.wcl.american.edu/business.

Events

Financial Crisis Inquiry Commission: Forum to Explore the Causes of the Financial Crisis

In a two-day conference, economists and experts on the financial services industry presented research to the FCIC Commissioners in an effort to draw out underlying causes, key issues, and precipitating events leading to the crisis.

Dean's Business Law Lecture with Peter Scher '87

Peter Scher, WCL alumnus and Executive Vice President for Global Government Relations and Public Policy for JPMorgan Chase & Co. spoke candidly about how a major financial institution deals with the economic crisis and how regulation reform has affected the industry.

Recording Artists' Contracts 101

Presented by the Program on Information Justice and Intellectual Property and the DC Chapter of the Copyright Society of the USA, this program aimed to teach the basics of the record business, including tips for young lawyers in the field.

Employee Rights and the Food Safety Modernization Act

The conference focused on new employee whistleblower protections given by the 2010 Act to encourage reporting food safety violations. Panelists also discussed changes in the food supply and how to positively impact the food system.

Who Owns My Data? IP and Privacy Online

Counsel for amici in *Sorrell v. IMS Health, Inc.* debated the potential impact of the Supreme Court ruling on privacy law in this event hosted by the Program on Information Justice and Intellectual Property. The discussion explored issues surrounding privacy protection in data-driven industries.



“The Commission owes a real debt of gratitude to the Washington College of Law.” — Brooksley Born

American University Business Law Review

The longstanding *Business Law Brief* transitioned into a full academic law review in Spring 2011. The *Business Law Review* increased its staff to over sixty members, gained new office space, and plans to publish two books its first year. The *Business Law Review* hosted a launch reception at Acadiana in downtown Washington.

Janet R. Spragens Federal Tax Clinic

The Clinic faculty trained qualified volunteer attorneys in handling tax issues that affect low-income taxpayers. This training, held at the law firm of Dewey & LeBeouf, was aimed at recruiting attorneys to whom the Clinic will eventually refer clients.





Vis International Commercial Arbitration Moot Court Team
WCL teams were octofinalists at both the Vienna and Hong Kong competitions, with then-2L David Teslicko taking Best Oralist in Hong Kong.

Law Review Symposia

American University Law Review

Emerging from the Recession with the Help of Increased Consumer Protection and Heightened Corporate Responsibility addressed recent reforms in connection with the Dodd–Frank Act and their potential impact on private investment companies, consumer credit, derivatives, and the mortgage industry.

Administrative Law Review

Regulating the Unexpected: Exploring Recent Problems and Potential Solutions in Environmental, Transportation, and Financial Regulation included a panel devoted to examining the problems facing the newly established Consumer Financial Protection Bureau, a product of the Dodd–Frank Act.

Business Law Review

Law, Finance, and Legitimacy After Financial Reform presented legal scholars from around the country discussing the Dodd–Frank Act’s living will provisions, transparency in financial regulation, loopholes in legislation, and the concept of “Too Big to Fail.” Brooksley Born, a commissioner of the Federal Crisis Inquiry Commission and former chair of the Commodity Futures Trading Commission, gave the keynote speech over lunch. The three-panel symposium was followed by a reception.

Guiding Students

Business Law Program Orientation

Hosted by business law faculty, the Orientation provided students with an overview of the courses, organizations, externships, and other resources within the Program.

Business Law Curriculum Advice Panel

Faculty and peers offered wisdom to upperclassmen on tailoring course selections to meet their career interests. Students asked questions about professors’ styles, course content, and offerings on main campus.

Careers in Business Law: Antitrust & Regulation

Accomplished practitioners representing the Federal Trade Commission, United States Department of Justice, Howrey LLP, and the Federal Deposit Insurance Corporation shared their conceptions about antitrust law, how they broke into the field, and what their practices entailed. This event was co-hosted by the Business Law Society as part of its Business Law Awareness Week.

Pathways to Employment in International Law

The Office of Career & Professional Development and the ABA Section of International law hosted several WCL alumni in the international law community. They advised JD and LLM students on how to succeed in international practice. The event highlighted careers involving international business transactions.

Pension & Employee Benefit Law

This annual roundtable discussion, moderated by Professors Abramowitz and Pike, centered on current trends in employee benefit law and careers in the field. Panelists included attorneys from Steptoe & Johnson, Employee Benefits Security Administration, United States Department of Labor, and the Senate Committee on Health, Education, Labor, and Pensions, among others.

Enhancing Your Career by Writing on Emerging Issues in Business Law

Professor Walter Effross led a panel advising students on producing scholarly pieces to establish or build an area of expertise. Adeen Postar, Deputy Director of the Pence Law Library, offered practical research tips, and 3L Editor In Chief of the *Business Law Review* Alexis Early shared her experience writing and publishing a comment on a business topic.

Community and Economic Development Law Clinic

The Community and Economic Development Law Clinic represented numerous local non-profits and businesses whose mission is to develop resources for greatly underserved urban communities. The Clinic’s clients include affordable housing cooperatives, home-based providers of child care, and a farmer’s market. Clinic students assist clients in creating basic corporate structures, drafting contracts, and meeting licensing, zoning and permitting requirements.

Faculty Workshop Series

Banks, Governments, and Debt Crises

Professor Anna Gelpern

Financial institutions and governments the world over have been locked in mutual dependence since long before the crisis that began in 2007. Post-crisis reforms will not rid banks and governments of one another; at best, they may renegotiate the terms of engagement. This paper uses case studies from Europe and the Americas to explore the implications of two enduring links between financial institutions and governments: first, the formal and informal public insurance that banks and a growing number of other firms enjoy in exchange for providing critical public services; second, the powerful economic, political and regulatory incentives for financial firms to hold government debt. The paper concludes that no sovereign bankruptcy or financial resolution regime can be effective without accounting for the links between governments and financial firms.

Conciliating Trade Wars in Transatlantic Relations

Professor Tamara Takacs (University of Utrecht)

Alongside the multilateral trade relations and disputes in the WTO, the transatlantic partnership institutions and trans-governmental policy coordination in trade has as its primary goal economic conciliation and consolidation between the EU and the US. Indeed, intergovernmental cooperation on economic issues provides the mechanisms for focused dialogue on existing trade disputes. This paper explores the modalities through which the transatlantic partnership institutions and dialogues have been used to reconcile trade disputes, with particular attention to the above mentioned three disputes of a politically controversial nature.

Offsetting and the Consumption of Social Responsibility

Professor Ezra C. Rosser

This article examines the relationship between individual consumption and consumption-based harms by focusing on the rise in consumption offsetting.

Should the IRS Require Charities to Have an 'Independent' Governing Board?

Professor Ben Leff

This paper grew out of a larger project that examines the role of "third party stakeholders" in the federal regulation of charitable organizations. The paper explores the IRS's recent attempts to persuade or require organizations to have at least some board members who are financially "independent" of the organization, even though there is no such requirement in the law. It finds that the IRS's approach to board independence is rooted in federal law, which (loosely) reflects a general theory relating to third-party stakeholders. However, current IRS policy sits uneasily within the statutory scheme governing charitable organizations.

Scholarly Roundtable

Business law professors shared their current projects and offered feedback to each other. Among others, Ken Anderson shared a presentation on the distinction between America's rule-based regulation and Britain's standards-based regulation, to be given at University of Virginia School of Law. Mary Siegel gave a preview of an article to be published in Duke Law and Contemporary Problems on the Model Business Corporations Act and voting in public corporations. Professor David Snyder briefly explained his current research on "illegitimate internationalism," or how gaps in treaty law are handled in international business practice.

The Externship Program

The Externship Program has drawn from its employer database to develop a specialized list Business Law Externships that includes over 170 field placements in business, finance, trade and related practice areas. Field placements available this year:

- Financial Services Roundtable
- Financial Industry Regulatory Authority (FINRA)
- National Association of Manufacturers
- Semiconductor Industry Association
- Surety & Fidelity Association of America
- American Council of Engineering Companies
- United States Department of Justice Antitrust Division
- Direct Selling Association
- Federal Trade Commission
- United States Trade Representative
- National Association of Homebuilders
- International Trade Commission

Practitioners in Residence

Matthew Williams: Previously an associate at Mitchell, Silberberg, & Knupp LLP, this practitioner-in-residence taught both the Intellectual Property Clinic and a section of Copyright Law.

Shelly Cole: The previous attorney advisor to the Honorable Thomas B. Wells, United States Tax Court, she taught in the Janet R. Spragens Federal Tax Clinic.

International Business

The World Trade Organization & China: The First Decade (2001–2011)

Practitioners offered views on China's developing role in the World Trade Organization, including the impact on China's infrastructure, US imports and exports, and WTO litigation. The lunch panel was presented by the International Legal Studies Program and moderated by Professor Padideh Ala'i.

Roundtable Series:

A Discussion on CAFTA and NAFTA Arbitration

Two panels, presented by the Center on International Commercial Arbitration, analyzed the Central America Free Trade Agreement as an evolution from the North American Free Trade Agreement and the role of waiver, nondisputing parties, and amicus curiae under the two Agreements.

Fourth International Trade Symposium with Analistas Brasileiros de Comércio Internacional Institute

Supported by the Embassy of Brazil and the International Trade and Investment Law Society at WCL, scholars and practitioners from both public and private sectors discussed trade barriers, preferential trade agreements, and climate change and trade to come in 2011.

Future of the World Trade Organization: A Roundtable

Moderated by Professor Padideh Ala'i, several prominent members of the international trade community shared insights on the outlook for the dispute settlement mechanism in the face of a changing economic landscape.

A Fracas About Fragrance: Copyright's Application to Perfume

Charles Cronin, who recently published an article in the *Journal of the Copyright Society* on the subject, spoke about his views on the often inconsistent European case law surrounding fragrance copyright.

New Courses Added to the Curriculum

- International Commercial Arbitration Advocacy
- International Labor and Employment Law
- International Business Law
- Advanced Legal Research in Foreign and International Law
- Advanced Oil and Gas Law



European Law Student Association

Moot Court Competition on World Trade Organization Law

Hosted for the first time by WCL, teams from Canada and the United States competed to be the North American Regional Round Champions in WTO-style oral advocacy. WCL's own team took first place, progressing to the international finals in Geneva, Switzerland. They are pictured here with the team from Lithuania and three competition judges, including the problem's author.

Seventh Annual Seminar on International Commercial Arbitration: How to Handle Competition Issues

This three-day program co-sponsored by the International Chamber of Commerce took participants through a mock arbitration case designed to hone practical skills and offer insight into international arbitration. Through interactive lectures and small-group exercises, participants learned strategies for handling distribution and agency issues in the field.

The New Frontier in Oil & Gas Exploration in Brazil

Claudio A. Pinho, a constitutional law professor at Instituto Belo Horizonte de Ensino Superior, gave a lecture on the Brazilian regulations controlling oil exploration below the pre-salt layer of the earth. He also spoke about recent changes to the industry.

Fifth Annual Lecture of International Commercial Arbitration: The Arbitrator's Deliberation

Former Secretary General of the International Chamber of Commerce Arbitration Court Yves Derains spoke about arbitration from the arbitrator's perspective at this annual lecture at WCL. Derains authored *A Guide to the ICC Rules of Arbitration, 2nd Edition*, with Eric Schwartz, published in 2005.