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INDIANA UNIVERSITY
Maurer School of Law
Bloomington



INDIANA LAW UPDATE

A [newsletter](#) for friends of the Indiana University School of Law—Bloomington • October/November 2005 (Vol. 3, No. 9)

Dear Friend,

The Law School joins so many others in mourning the death of Judge **Jesse Eschbach II**, JD'49. A Warsaw, Ind., native, Eschbach graduated from the Law School after serving in World War II. Appointed to the U.S. District Court for the Northern District of Indiana by President John F. Kennedy in 1961, he became chief judge before President Ronald Reagan appointed him to the U.S. Court of Appeals for the Seventh Circuit.



That combination of appointments speaks volumes about what sort of judge he was. To all who knew him, Eschbach was the definition of rectitude, a judge who believed in law and did not believe that law was infinitely malleable. He understood that the essence of judging was judgment, and that the judge's job was to exercise judgment in the interest of justice. The U.S. attorneys who served in his courtroom all recall that he told each of them, "Because you represent the United States and because you hold the power and resources of the United States, I hold you to a higher standard." He held all who knew him to a higher standard, through the examples of professionalism, dignity, and kindness he set. Judge Richard Posner called him one of the greatest judges of his generation, and those who knew him would agree with that assessment.

On behalf of the Law School community, I offer our sympathy and prayers to Sally Eschbach and to Jake and Ginny. We were honored to count Jesse Eschbach as one of our family, too.

All my best.

Lauren Robel, JD'83
Dean and Val Nolan Professor of Law

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Buroker, McAvoy Reach New Heights



Andrew Buroker, JD'89, and **David McAvoy**, JD/MSES'88, showed their Indiana pride atop the tallest point in Europe, near Terskol in southern Russia. Buroker, a partner at Krieg DeVault, and McAvoy, an attorney with Eli Lilly and Company, planted the IU flag in the swirling mist of Mt. Elbrus, at 18,530 feet above sea level, on Aug. 1. The climb was McAvoy's first "7 Summit" and Buroker's second. "After quite a few backpacking and wilderness excursions as vacations in the 90s, I climbed Mt. Kilimanjaro in 2001 in celebration of my 40th birthday," Buroker said. "Since then, it has been a passion of mine to try to do a major mountain expedition each year as a means of rejuvenation, travel, meeting new people, and staying in shape."

In 2002, Buroker and McAvoy attempted to summit Mt. Chimbarazo in Ecuador, the tallest equatorial peak in the world. "We didn't quite make it due to a number of factors, including an avalanche on the mountain in the middle of the night," Buroker explained. Then, in 2003, they climbed Mt. Blanc in France, the tallest peak in Western Europe. In 2004, Buroker scaled Washington's Mt. Adams and Mt. St. Helens, two months before it erupted. "Work and family permitting, we plan to do several more "7 Summits" together while our bodies still can!"

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Alumni Honored at 2005 ISBA Awards Luncheon

Several Law School alumni were honored at the 2005 Indiana State Bar Association Awards Luncheon held on Oct. 20 in Indianapolis. Recipients of the Presidential Citation include **Donald R. Lundberg**, JD'76, **Clayton C. Miller**, JD'93, and **Dirck H. Stahl**, JD'93. In addition, **H. Curtis Johnson**, JD'00, received the Outstanding Young Lawyer Award; **Bruce M. Pennamped**, JD'72, received the Gale Phelps Award; and **Thomas E. Wheeler II**, JD'87, received the Harrison Legal Writing Award.

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Student Awarded Fellowships in International Intelligence, Foreign Language

Third-year student **Katie Jay** has been awarded a David L. Boren Graduate Fellowship in international intelligence from the National Security Education Program. In April of 2006, Jay will go to Sao Palo, Brazil, where she will study international money laundering and the link to terrorist financing through the drug industry.

"Because Argentina and Paraguay have soft borders, people are able to cross the borders without documentation," the 29-year-old Texas native explained. Jay said her year in Brazil will be especially interesting because of alleged money laundering within the Brazilian president's staff. Her Boren Fellowship will last for one year. Boren Fellowships support students pursuing the study of languages, cultures, and world regions that are critical to U.S. national security but are less frequently studied by U.S. graduate students, such as areas of the world other than Western Europe, Canada, Australia, and New Zealand.

Jay has also received a Foreign Language and Area Studies (FLAS) Fellowship. The FLAS Fellowship enables U.S. graduate students to add an important international and language component to their education through specialization in area study, language study, or increased language proficiency. Jay is studying Portuguese this year to prepare for her upcoming research in Brazil. After the fellowship ends, Jay says she plans to pursue a career in international banking and finance in both the public and private sectors.

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Kashiwagi Observes Trials across United States

Visiting scholar **Hideyuki ("Ben") Kashiwagi**, LLM'04, demonstrates a true passion for American law. He and his family have spent their breaks visiting as many state capitol buildings as possible before they depart for Japan. They have missed only Alaska and Hawaii.



"Ben ingratiates himself wherever he goes," said Lesley Davis, assistant dean for international programs. "He observes trials in every state he can, and he makes friends with sheriffs and judges." Making friends has its benefits. Kashiwagi is pictured receiving an honorary post as reserve deputy marshal of Nashville, Ind.

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Alumnus Mills Joins Environmental Board

Benjamin Mills, JD'03, recently joined the Board of Directors of the Alliance for the Great Lakes (formerly the Lake Michigan Federation), the oldest citizens' Great Lakes organization in North America. Mills is an attorney with the Grand Rapids law firm of Gruel Mills Nims & Pylman. As a member of the Board, Mills will play a vital role in setting the overall policy direction and overseeing the organization's health. Formed in 1970, the Alliance for the Great Lakes ensures healthy Great Lakes and clean water for generations of people and wildlife by conserving and restoring the

world's largest freshwater resource through policy, education, and local efforts.

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In Memoriam: Harold Bitzegaio

The Law School community mourns the loss of Judge **Harold James Bitzegaio**, a 1953 graduate of the Law School, who died on Oct. 5 in his residence. He was 84.

He served with the U.S. District Court of the Southern District of Indiana in 1953 and also with the U.S. Court of Appeals for the Seventh Circuit in 1956. He practiced law from 1953 to 1988 and was judge of Superior Court District 1 in Vigo County from 1959 to 1980.

Bitzegaio served as counsel for the Anderson & Nichols Law Office and was a member of the Indiana Advisory Commission on Civil Rights and the Terre Haute Mayor's Commission on Civil Rights. He was a contributing editor to "Indiana Pattern Jury Instructions" and was a member of the American Bar Association, the Indiana State Bar Association, the Terre Haute Bar Association, the Indiana Judges Association, and the Indiana Law Alumni Association.

Bitzegaio was a veteran of the U.S. Navy, where he served as a naval aviator in the Pacific Theater during World War II. He received several military awards, including a Distinguished Flying Cross with a Gold Star, an Air Medal with two Gold Stars, and a Purple Heart. He was a Sagamore of the Wabash and a member of several local and national organizations.

His wife, Betty J. Law Bitzegaio, preceded him in death on May 14, 2000. He is survived by five children and 10 grandchildren. Memorial contributions may be made to the Indiana University Alzheimer's Disease Research Center, 635 Barnhill Drive, Indianapolis, IN 46202-5120, or to the charity of your choice.

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Give to the Fund for Excellence

Your contributions to the Law School's annual giving program, the Fund for Excellence, are critical to the school's success. The Fund for Excellence supports ground-breaking conferences, law journals, and other programs that increase the Law School's visibility and influence. You may donate your tax-deductible gift [online](#) or call (812) 855-2075 for more information.

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Faculty News

On Oct. 21, Professor **Patrick Baude** served as moderator for a town hall meeting in Indianapolis on the independence of the judiciary. Sponsored by the Indiana State Bar Association House of Delegates, the panel included Judge Sarah Evans Barker, U.S. District Court for the Southern District of Indiana; Justice Ted Boehm, Indiana Supreme Court; **Thomas M. Fisher**, JD'94, Solicitor General of Indiana; and Rep. **Ralph Foley**, JD'65, Indiana House of Representatives.



Professor **Craig Bradley** was quoted in the *Bloomington Herald-Times* and the *Northwest Indiana Times*. He also wrote, "Court looks again at race and peremptory challenges," which appeared in the October issue of *Trial* magazine.

Professor **Kevin Brown** delivered a lecture titled, "The Supreme Court's Role in the Expansion of School Choice" in Delaware. The lecture, which was sponsored by the Delaware Humanities Forum, the Christina Cultural Arts Center, Inc., the Metropolitan Wilmington Urban League, and the National Coalition of 100 Black Women, was part of a discussion series titled, "Brown, Black & Blue: Closing the Achievement Gap." Brown was also recently quoted in the *Bloomington Herald-Times*.

Professor **Fred H. Cate** spoke at Eli Lilly in Indianapolis on information security breaches. He also spoke at the Experian Vision Conference in Phoenix, at the Economic Crime Institute Annual Conference in Washington, D.C., and at the Chamber of Commerce in Bloomington. His book chapter on data mining with former FCC chairman Newton Minow was published last week in the McGraw-Hill *Handbook of Homeland Security*. He was also recently quoted in the *Bloomington Herald-Times*.

Professor **Ken Dau-Schmidt** visited Law School alumni in Seoul and presented a paper with **Ryan Vann**, 3L, "The American Experience with Exclusive Representation: Implications for the Issue of Plural Unionism," at a conference on Nov. 3. The Korean Tripartite Commission is considering how to reform Korean labor law and called for the conference, which was held by the Korea Institute for Employment and Training. Dau-Schmidt then flew to Kiel, Germany, to join in the celebration of Professor Emeritus [Jost Delbruck](#)'s "Festschrift," a conference and publication honoring Delbruck's long and distinguished academic career. The "Festschrift" will include Dau-Schmidt's essay with **Carmen Brun**, JD'05, "Lost in Translation: The Economic Analysis of Law in the United States and Europe." The essay will also be published in the *Columbia Journal of Transnational Law*.

Professor **Joshua Fairfield** co-chaired a panel on "Digital Property" for the Harvard Berkman Center and Yale Information Society Project at the "State of Play III: Social Revolutions" conference, held at the New York Law School for game-design leaders, general counsel of major corporations, and leading

Joshua Fairfield



academics on virtual worlds. He also participated in the "Center for the Study of Synthetic Worlds" conference, held by the IU Telecommunications Department. Fairfield collaborated with top industry designers and academics to design a proposed disaster simulator to track information flow through social networks. In addition, Fairfield recently gave a talk on the legal implications of using virtual worlds as research environments at a conference sponsored by the Defense Advanced Research Projects Agency. The conference focused on using virtual worlds as academic test beds, specifically to disable information communities like those used by terrorists. His article, "Virtual Property," was recently published in the *Boston University Law Review*, 85 B.U. L. Rev. 1047 (2005).

Professor **Robert Fischman** presented a faculty colloquium on his current work on cooperative federalism and natural resources law at the University of California at Santa Barbara's School of Environmental Science and Management.

Professor **Charles Geyh** was interviewed on WVON (Chicago), WFIU's *Noon Edition*, and WTIU. He was also quoted in *Congressional Quarterly*, the *ABA Journal*, and the *Bloomington Herald-Times*.

Professor **Michael Grossberg** gave a plenary address, "History and the Disciplining of Plagiarism," which was presented at "Originality, Imitation, Plagiarism: A Cross-Disciplinary Conference on Writing" at the Sweetland Writing Center at the University of Michigan. His piece, "Duped Dads and Discarded Children: A Historical Perspective on DNA Testing in Child Custody Cases," recently appeared in *Genetic Ties and the Family: The Impact of Paternity Testing on Parents and Children* (Mark Rothstein et al., eds.), Johns Hopkins University Press (2005).

Professor **William Henderson** wrote an article for the November/December issue of *Legal Affairs*, titled "Second Look at the Second City." It is a review of the book, *Urban Lawyers*, by John Heinz et al.

Professor **Joseph Hoffmann** was interviewed on *Court TV*, WFIU's *Noon Edition*, WXNT (Indianapolis), and WTOP (Washington, D.C.). He was also quoted in *People* magazine, the *National Law Journal*, the *Bloomington Herald-Times*, and the *Indianapolis Star*.

Professor **Sarah Jane Hughes** was recently a speaker on a keynote panel at the "Annual Money Laundering Compliance Conference" held in Washington, D.C. Jointly sponsored by the American Bar Association and the American Bankers Association, the event is the most widely attended conference on anti-money laundering issues. The keynote presentation focused on how small business handles

compliance responsibilities for various federal anti-money laundering and anti-terrorism statutes and regulations.

Professor **Dawn Johnsen** was interviewed for Bloomberg Television's *Money & Politics* and on WFIU. She was also quoted in the *Wall Street Journal*, the *Toledo Blade*, the *Bloomington Herald-Times*, and the *Northwest Indiana Times*.

Professor **Leandra Lederman** was quoted in *Tax Notes Today*.

Adjunct Professor **Robert Meitus** spoke at the Korean Digital Content International Conference (DICON 2005), "All About Content Business: From Licensing to Networking," on Nov. 10 and Nov. 11 in Seoul. Since 2001, the Korea Culture and Content Agency (KOCCA), a government agency under the Ministry of Culture and Tourism, has been holding the conference, which has become a leading digital content event in Asia. Industry leaders and experts from around the world gather to share their knowledge and views on marketing, production, market trend, and technological advances. Meitus spoke on "Recent Developments in Copyright Protection of Digital Content in the United States."

Professor **Aviva Orenstein** authored an article titled, "Deviance Due Process and the False Promise of Federal Rule of Evidence 403," that was recently published in the *Cornell Law Review* (2005). The article examines the federal courts' application of evidence rules that admit prior sexual crimes to show the accused's propensity as sexual predators and suggests how courts can mitigate the unfairness to the accused. On Dec. 6, Orenstein will present a paper to the IU Center for Law, Society, and Culture titled "The Ethics of Child Custody Evaluation: Advocacy, Respect for Parents, and the Right to an Open Future." She was also recently quoted in the *Northwest Indiana Times*.



Dean **Lauren Robel** was quoted on *Fox News* and in the *Pittsburgh Post-Gazette*.

Professor **Jeff Stake** was interviewed on WNIN (Evansville).

Professor **Alex Tanford** was quoted in the *Louisville Courier-Journal*.

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