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## Recent Articles by UB Law Faculty Members

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# Recent articles by UB Law faculty members

Associate Professor **Mark Bartholomew**, “Advertising and the Transformation of Trademark Law” (*New Mexico Law Review*, Vol. 38). Looking at the formative era in American trademark law, Bartholomew finds that courts granted robust legal protection to trademark holders in the early 20th century because they accepted the benign view of advertising presented to them by advertisers, and that judges adopted a specific construction of the consumer mind in the early 1900s to reconcile the tension between legal protection for trademark goodwill and belief in free competition.

UB Distinguished Professor **Guyora Binder**, “The Culpability of Felony Murder” (*Notre Dame Law Review*, Vol. 83). Binder defends the much-maligned felony murder doctrine, saying that the theory of culpability assesses blame for harm on the basis of the actor’s expectation of causing harm, and the moral worth of the ends for which the actor imposes this risk.

Associate Professor **Irus Braverman**, “Planting the Promised Landscape” (*Natural Resources Journal*, Spring 2009). Braverman analyzes the use of natural resource laws and policies to simultaneously conduct and mask political conflict, with particular focus on the battle

over pine versus olive forests in Israel/Palestine.

Joseph Belluck and Laura Aswad Professor of Civil Justice and Vice Dean for Academic Affairs **James A. Gardner**, “In Search of Sub-National Constitutionalism” (*4 European Constitutional Law Review*). Gardner examines such issues as federalism as a consequence of local/cultural self-determination; the degree of autonomous human rights protection on a subnational level; and how the rise of international human rights protection makes subnational human rights protection less important.

Distinguished Professor **Alfred S. Konefsky**, “The Legal Profession: From the Revolution to the Civil War” in *The Cambridge History of Law in America*, Vol. 2. As part of “the most comprehensive and authoritative account possible of the history of American law,” Konefsky writes a history of the legal profession in the nation’s formative years.

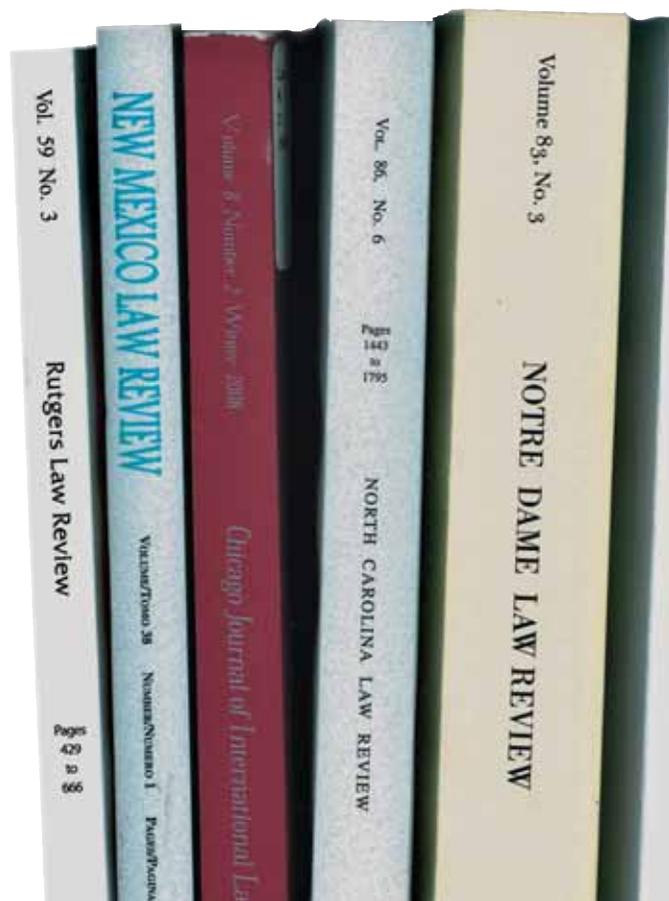
Professor and Vice Dean for Research and Faculty Development **Errol Meidinger**, “Competitive Supragovernmental Regulation: How Could It Be Democratic?” (*Chicago Journal of International Law*, Vol. 8). Meidinger says an emerging mode of transnational governance may also be generating a novel form of democracy, in which competing regulatory

programs aim to anticipate emergent public values and institute regulatory mechanisms to implement them, thereby advancing their own authority.

Professor **Athena D. Mutua**, “Restoring Justice to Civil Rights Movement Activists?: New Historiography and the ‘Long Civil Rights Era’” (*Buffalo Legal Studies Research Paper Series No. 2008-12*). Mutua asks, What do participants in the Civil Rights and Restorative Justice Project mean when they talk about the civil rights era? and argues for a richer and more diverse story of the civil rights movement in America.

SUNY Distinguished Professor and Dean **Makau W. Mutua**, “Human Rights and Powerlessness: Pathologies of Choice and Substance” (*56 Buffalo Law Review*). Mutua argues for a wider vision of human rights law and the role of the state in advancing such law, saying, “The human rights regime appears to be more concerned with certain forms of human powerlessness, and not others.”

Professor **Robert I. Reis**, “Rights and Remedies Post eBay v. MercExchange – Deep Waters Stirred” (*Akron*



## Professor James A. Wooten named Law Library Director

*Intellectual Property Journal*, Vol. 2). Analyzing the 2006 Supreme Court decision on patent infringement, Reis asks why the court distinguished between rights and remedies in this case and asks, "Is this potentially a line in the sand drawn by the court based on their constitutional obligations under separation of powers?"

Associate Professor **Rick Su**, "A Localist Reading of Local Immigration Regulations" (*North Carolina Law Review*, Vol. 86). Su debunks the idea that immigration restrictions at the local level are a new development, saying that local immigration regulations "reflect a natural extension of how we've traditionally used legal rules to organize our local communities to deal with demographic and socioeconomic diversity and change."

Associate Professor **Winnifred Fallers Sullivan**, "Religion Naturalized: The New Establishment" in Courtney Bender and Pamela Klassen, eds., *After Pluralism* (Columbia). Sullivan's book chapter explores the idea that a new naturalization of religion is present in U.S. legal contexts. Moving beyond church-state separation, she writes, "There are no churches left to establish or to disestablish. In their place, the human, every human, is now imagined by law as being in need of spiritual care."

Associate Professor **Mateo Taussig-Rubbo**, "Outsourcing Sacrifice: The Labor of Private Military Contractors" (*New York University Journal of Legislation and Public Policy*). Taussig-Rubbo notes the tenuous legal position of armed private military contractors, and argues that the emergence of the contractor is an effort by U.S. officials to avoid the political liability entailed in calling a loss a sacrifice.

Associate Professor **Ruqaiyah Yearby**, "Striving for Equality, But Settling for the Status Quo in Health Care: Is Title VI More Illusory Than Real?" (*Rutgers Law Review*, Vol. 59). Title VI, part of the landmark Civil Rights Act of 1964, prohibits discrimination on the basis of race, color and national origin in programs receiving federal financial assistance. But Yearby finds evidence of unequal treatment in such measures as delay of transfer from hospitals to nursing homes, denials of admission to nursing homes, and disproportionate populations of African-Americans in nursing homes providing substandard care.



Law School Professor James A. Wooten has been appointed director of the Charles B. Sears Law Library and vice dean for legal information services, effective Aug. 14. Wooten will be responsible for the overall management and direction of the Law Library. His appointment was made by SUNY Distinguished Professor and UB Law Dean Makau Mutua.

"Jim has a great passion for books and research," said Mutua. "He is in tune with the changing nature of law libraries in the information age and the importance of the law library to our school and the greater Buffalo legal community. Jim is a collegial member of the Law School community, and I feel very fortunate to have him leading our library and on my leadership team."

Wooten teaches courses at UB on pension and employee benefit law, federal income taxation and federal tax policy. He has also taught bankruptcy, legislative policymaking, and law and economics. Wooten's research focuses on regulatory and tax policies that affect retirement plans, health plans and other employee benefit plans. He serves on the steering committee of the Tobin Project and chairs its working group on retirement security. Wooten is also a member of the National Academy of Social Insurance and a fellow of the Employee Benefit Research Institute.

"For the last decade, my research has focused on federal policymaking in the fields of employee benefit law and taxation," Wooten said. "The major puzzle was to understand why Congress would pass legislation that was opposed by business and most of organized labor. The answer is in my book, *The Employee Retirement Income Security Act of 1974: A Political History*, which appeared in January 2005.

"More recently, I have analyzed the origins of the financial problems at the Pension Benefit Guaranty Corporation. My research on ERISA has given me a fascination with legislative policymaking. Over the next year, I plan to begin work on a book on the politics of policymaking in the U. S. Congress."

Wooten grew up in a small steel town in northeast Texas. After graduating from Rice University in 1981, he moved to the University of Chicago, where he spent two years pursuing graduate studies in the Department of Anthropology. In 1985, Wooten entered a J.D./Ph.D. program at Yale University. After completing his law degree in 1989, Wooten clerked for Federal District Judge William Wayne Justice of the Eastern District of Texas.

In 1992-93, Wooten was an associate at Bredhoff & Kaiser, one of the nation's leading firms in the fields of labor and employee benefit law. Wooten later served as Legal History Fellow at Yale Law School and as a Golieb Fellow in Legal History at New York University School of Law before joining the faculty of UB Law School in 1995. Wooten received his Ph.D. in American studies from Yale University in 2003.