



Videos and photo galleries from Alumni Weekend 2009 are available at www.law.yale.edu/alumniweekend09.



Supreme Court Justice Sonia Sotomayor '79 and Professor Kate Stith are met with a standing ovation in Woolsey Hall.

(top left) Dean Robert Post addresses reunion attendees at the Alumni Weekend luncheon.

(bottom left) Current YLS students were on hand to help throughout Alumni Weekend.

Alumni Weekend 2009 saw the return of more than 1,000 alumni and their guests to Yale Law School for a reunion that was both social and substantive. At the heart of the weekend's schedule were panels on the regulatory system. The theme for the Weekend, "The Regulatory Debate: Whether, What, and How?," prompted discussions about courts and regulation, the regulatory process, and regulation in health care, the economy, and the environment.

In addition to reunion lunches and dinners, alumni packed the seats of Woolsey Hall to hear a Q&A with Supreme Court Justice Sonia Sotomayor '79.

Former Dean Harold Hongju Koh (who is now serving as State Department Legal Adviser) was honored with the Yale Law School Association Award of Merit. Tribute was also paid to the late Professor Thomas I. Emerson '31.

And alumni had a chance to meet and ask questions of Dean Robert Post '77 in settings formal and informal as he visited with graduates and their guests during his first Alumni Weekend as Dean of Yale Law School.

Alumni Weekend 2009

The Regulatory Debate Whether, What, and How?

Photographs by William K. Sacco, Yale University Media Services



BRETT M. KAVANAUGH '90



ELLEN WRIGHT CLAYTON '79



EUGENE A. LUDWIG '73



REED HUNDT '74



E. DONALD ELLIOTT '74



Alumni Weekend 2009

Alumni Weekend 2009 included several panels devoted to the regulatory debate. The quotes below give a peek into some of those discussions. Videos and photo galleries from Alumni Weekend are available at www.law.yale.edu/alumniweekend09.

THE HONORABLE BRETT M. KAVANAUGH '90
U.S. Court of Appeals for the D.C. Circuit
from the panel "Do Courts Play a Productive Role in the Regulatory Process?"

"With respect to judicial review of agency interpretation of statutes—I think we are doing a fairly good job there. Courts are playing a productive role in enforcing the limits that are set by Congress with respect to agency action. Not always—but I think we're generally keeping the agencies within the bounds set by Congress... Statutory text really matters... If you sat for a week in the D.C. Circuit—and heard panel after panel, case after case...you would hear judges from all across the so-called 'philosophical spectrum' saying, 'But what does the statute say? But what do the words of the law say?'... I think we're doing a good job of making sure that when Congress passes a statute... that agencies aren't able to free form their way out of it."

DR. ELLEN WRIGHT CLAYTON '79
Rosalind E. Franklin Professor of Genetics and Health Policy, Professor of Pediatrics, Professor of Law, Vanderbilt University
from the panel "Health Regulations in Transition"

"...this is just a microcosm of the larger issue that we face in



medicine today. We have a lot of new technology coming online. There is a lot of enthusiasm about it...If we are actually to pay attention to things like clinical utility and whether things are actually effective, to say nothing of comparatively effective, then we are going to have to get a lot more serious about regulating access to this than we have been to date. That's where I would leave our discussion of regulating clinical genomics. We are going to be flooded by information that we don't know how to use and that our clinicians are not going to be able to tell us how to use. The FDA really needs to step up to bat and play a role in this area."

REED HUNDT '74
Senior Adviser, McKinsey & Company
from the panel "The Regulatory Process: Problems—Potential Solutions"

"The experience that I've had of regulation—as a regulator and as a litigator about a regulator and being in businesses that have been regulated—my experience is that, to a very large degree, regulation actually isn't part of a meaningful pattern of cause and effect in society... And secondly, where there are exceptions to that,

the effects that it generates are not those that are intended by the people who are the parties to shaping the regulations. As a professor at the Harvard Business School wrote in a slightly different context, the problem with regulation is that when you push button A you end up ringing bell B and you cause effect C. Why is this the case? One reason is the tremendous delay between the concept of what is going to be accomplished by the regulation, and then the ultimate impact of the regulation. There is no question in my mind... that the [courts] contribute monumentally to the delay, and therefore there is no question that they contribute to this tremendous gap between that what is intended and that which occurs."

E. DONALD ELLIOTT '74
Professor (adjunct) of Law, Yale Law School, and Partner, Willkie Farr & Gallagher
from the panel "Does Clean and Green Require Mean? New Directions in Energy and Environmental Regulation"

"The regulatory approaches—including cap and trade—that are on the table, even if they were enacted, are too weak to deal with the problem...If you build an integrated gasification

and combined cycle plant with carbon capture and storage, it won't run under today's regulatory system because it will be more expensive than the competing plants, even with the cap and trade program....Most of the people who are working on climate change legislation recognize that it's just a down payment...."

EUGENE A. LUDWIG '73
Founder & CEO, Promontory Financial Group
from the panel "The Global Financial Crisis and the Future of Financial Regulation"

"The economic crisis we're living through is an indictment, it seems to me, of our financial regulatory system... What the financial crisis is *not* about is an industry or regulatory mechanism of knaves or fools. On the contrary, our regulatory agencies and financial services companies have been filled with decent people of talent. Nor is it about too little regulation. We have as many tough rules in the United States in terms of finance as anywhere in the world. Nor is it the case that these crises just happen, or that every country is affected... These crises have not been the result of a bad actor or a bad financial firm...rather we have a governmental system that fails to identify and deal with financial problems early and cannot supervise institutions correctly by reason of an alphabet soup of a regulatory structure that is a product of history, not deliberation." Y