

# TUNG YIN

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## EMPLOYMENT

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**The University of Iowa College of Law**, Iowa City, IA  
*Professor and Claire Ferguson Carlson Fellow*, July 2008 – present  
*Professor*, July 2007 – June 2008  
*Associate Professor*, Aug. 2002 – June 2007

- **Courses taught:** Federal Courts; Constitutional Law I; Corporate Crimes; National Security Law; Professional Responsibility
- **Honors:** James N. Murray Award (2006) (university-wide award recognizing “an exceptional untenured UI faculty member [for] outstanding teaching and assistance to students, excellent research and writing, and service to The University of Iowa and the surrounding community”).

**University of Illinois College of Law**, Champagne, IL  
*Visiting Professor*, Sept. 2008

- **Course taught:** Corporate Crimes

## PUBLICATIONS

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### Articles

*Independent Appellate Review of Knowledge of Falsity in Defamation and False Statements Cases* (in progress).

*Crying Wolf?: In re Marriage Cases and Charges of Judicial Activism*, 14 NEXUS: A JOURNAL OF OPINION \_\_ (forthcoming 2009) [Symposium].

*Boumediene and Lawfare*, 43 UNIVERSITY OF RICHMOND LAW REVIEW \_\_ (forthcoming 2009) [Symposium] [27 pages].

*Great Minds Think Alike: The “Torture Memo,” OLC, Law Clerks, and Sharing the Boss’s Mindset*, 45 WILLAMETTE LAW REVIEW \_\_ (forthcoming 2009) [Symposium].

*Distinguishing Soldiers and Non-State Actors: Clarifying the Geneva Convention’s Regulation of Interrogation of Captured Combatants Through Positive Inducements*, 26 BOSTON UNIVERSITY INTERNATIONAL LAW JOURNAL 227 (2008) [50 pages].

*Jack Bauer Syndrome: Hollywood’s Depiction of National Security Law*, 17 SOUTHERN CALIFORNIA INTERDISCIPLINARY LAW JOURNAL 279 (2008) [Symposium] [22 pages].

*Ten Questions on National Security*, 34 WILLIAM MITCHELL LAW REVIEW (JOURNAL OF THE NATIONAL

SECURITY FORUM) 509 (2008).

*Enemies of the State: Rational Classification in the War on Terrorism*, 11 LEWIS AND CLARK LAW REVIEW 903 (2007) [Symposium] [39 pages].

*Tom and Jerry (and Spike): A Metaphor for Hamdan v. Rumsfeld and the President, the Court, and Congress in the War on Terrorism*, 42 TULSA LAW REVIEW 505 (2007) [Supreme Court Review Symposium] [31 pages].

*Blogging While Untenured and Other Extreme Sports*, 84 WASHINGTON UNIVERSITY LAW REVIEW 1235 (2007) [Symposium] [with Christine Hurt] [20 pages].

*Structural Objections to the Inherent Commander in Chief Powers Thesis*, 16 TRANSNATIONAL LAW & CONTEMPORARY PROBLEMS 965 (2007) [Symposium] [25 pages].

*The Impact of the 9/11 Attacks on National Security Law Casebooks*, 19 ST. THOMAS LAW REVIEW 157 (2006) [Symposium] [42 pages].

*Coercion and Terrorism Prosecutions in the Shadow of Military Detention*, 2006 BRIGHAM YOUNG UNIVERSITY LAW REVIEW 1255 (2006) [77 pages].

*Procedural Due Process to Determine "Enemy Combatant" Status in the War on Terrorism*, 73 TENNESSEE LAW REVIEW 351 (2006) [64 pages].

*Dodging the Jose Padilla Case*, vol. 28, no. 2, at 6, NATIONAL SECURITY LAW REPORT (ABA Standing Committee on Law and National Security) (July 2006) [3 pages].

*Legal Blogs and the Supreme Court Nomination Process*, 11 NEXUS: A JOURNAL OF OPINION 79 (2006) [10 pages] [Symposium].

*Ending the War on Terrorism One Terrorist At a Time: A Non-Criminal Detention Model for Holding and Releasing Guantanamo Bay Detainees*, 29 HARVARD JOURNAL OF LAW & PUBLIC POLICY 149 (2005) [64 pages].

*The Role of Article III Courts in the War on Terrorism*, 13 WILLIAM & MARY BILL OF RIGHTS JOURNAL 1061 (2005) [67 pages].

*A Government's Trustworthiness: Beyond the USA PATRIOT Act*, 8 CHICAGO POLICY REVIEW 1 (2004) [10 pages].

*Disposable Deontology: The Death Penalty and Nuclear Deterrence*, 55 ALABAMA LAW REVIEW 111 (2003) [48 pages].

*How the Americans with Disabilities Act's Prohibition on Pre-Offer Disability-Related Questions Violates the First Amendment*, 17 LABOR LAWYER 107 (2001) [36 pages].

*The Probative Values and Pitfalls of Drug Courier Profiles as Probabilistic Evidence*, 5 TEXAS FORUM ON CIVIL LIBERTIES-CIVIL RIGHTS 163 (2000) [50 pages].

- adapted for SEARCH AND SEIZURE LAW REPORT, vol. 28, no. 4 (2001).

*Really, Who is Uncle Zeb?*, 3 GREEN BAG 2d 115 (1999) [humor] [3 pages].

*State Taxation and the Dormant Commerce Clause: The Object-Measure Approach*, 1998 SUPREME COURT REVIEW 193 [with Jesse H. Choper] [53 pages].

*A Better Mousetrap: Procedural Default as a Retroactivity Alternative to Teague v. Lane and the Antiterrorism and Effective Death Penalty Act of 1996*, 25 AMERICAN JOURNAL OF CRIMINAL LAW 203 (1998) [105 pages].

*Reviving Fallen Copyrights: A Constitutional Analysis of Section 514 of the Uruguay Round Agreements Act*, 17 LOYOLA OF LOS ANGELES ENTERTAINMENT LAW JOURNAL 383 (1997) [29 pages].

- reprinted in 1998 INTELLECTUAL PROPERTY LAW REVIEW 421.
- First Place in 1995 Nathan Burkan Memorial Copyright Competition at Boalt Hall.

*Nailing Jello to a Wall: A Uniform Approach for Adjudicating Insurance Coverage Disputes Involving Delayed Manifestation Damages*, 81 CALIFORNIA LAW REVIEW 1243 (1995) [comment] [65 pages].

- reprinted in 8 NATIONAL INSURANCE LAW REVIEW 383 (1996).

*Not a Rotten Carrot: Using Charges Dismissed Pursuant to a Plea Agreement in Sentencing Under the Federal Guidelines*, 81 CALIFORNIA LAW REVIEW 419 (1995) [comment] [51 pages].

*Post-Modern Printing Presses: Extending Freedom of the Press to Electronic Online Services*, 8 HIGH TECHNOLOGY LAW JOURNAL 311 (1993) [comment] [39 pages].

### **Chapters in Books**

*U.S. National Security Agency is revealed to have been spying on the United Nations*, in GREAT EVENTS FROM HISTORY: MODERN SCANDALS (encyclopedia entry) (forthcoming 2008) [2 pages].

*New York Governor Eliot Spitzer resigns after admitting to using a call-girl service*, in GREAT EVENTS FROM HISTORY: MODERN SCANDALS (encyclopedia entry) (forthcoming 2008) [2 pages].

*Martha Stewart is convicted of making false statements to the government, obstruction of justice, and conspiracy*, in GREAT EVENTS FROM HISTORY: MODERN SCANDALS (encyclopedia entry) (forthcoming 2008) [2 pages].

*Radical author and professor Ward Churchill is fired from the University of Colorado at Boulder for plagiarism and falsification of research data*, in GREAT EVENTS FROM HISTORY: MODERN SCANDALS (encyclopedia entry) (forthcoming 2008) [2 pages].

*Can "Death Row Phenomenon" Be Confined to Death Row Inmates?*, in DEATH PENALTY: NEW DIMENSIONS 92-121 (Areti Krishna Kumari ed. 2007) [30 pages].

*Butler v. McKellar*, in the ENCYCLOPEDIA OF AMERICAN CIVIL LIBERTIES, at 208 (encyclopedia entry) (2006) [2 pages].

*United States v. United States District Court*, in the ENCYCLOPEDIA OF AMERICAN CIVIL LIBERTIES, at 1695 (encyclopedia entry) (2006) [2 pages].

*Terrorism and Civil Liberties*, in the ENCYCLOPEDIA OF AMERICAN CIVIL LIBERTIES, at 1622 (encyclopedia entry) (2006) [5 pages].

*Indefinite Detention*, in the ENCYCLOPEDIA OF AMERICAN CIVIL LIBERTIES, at 804 (encyclopedia entry) (2006) [2 pages].

*U.S. v. The Progressive*, in the ENCYCLOPEDIA OF AMERICAN CIVIL LIBERTIES, at 1694 (encyclopedia entry) (2006) [2 pages].

*National security and sovereignty*, in ETHICS, at 1003 (Rev. Ed. 2004) (encyclopedia entry) [3 pages].

### **Book Reviews**

Review of BEN SAUL, *DEFINING TERRORISM IN INTERNATIONAL LAW*, in 101 AMERICAN JOURNAL OF INTERNATIONAL LAW 938 (2007) [4 pages].

*A Carbohc Smoke Ball for the Nineties: Class-Based Affirmative Action*, 31 LOYOLA OF LOS ANGELES LAW REVIEW 213 (1997) [Review of RICHARD D. KAHLBERG, *THE REMEDY*] [48 pages].

Review of JANET LOWE, *THE SECRET EMPIRE: HOW 25 MULTATIONALS RULE THE WORLD*, 11 INTERNATIONAL TAX & BUSINESS LAWYER 241 (1993) [6 pages].

### **Newspaper Editorials**

*When war model gets applied to non-state actors*, IOWA CITY PRESS-CITIZEN, July 21, 2007, at 17A (reviewing *POEMS FROM GUANTANAMO: THE DETAINEES SPEAK*)

*Military recruiting on campus and the Solomon Amendment*, HARVARD RECORD, Feb. 9, 2006, at 8.

*The case of Roberts v. Clinton*, IOWA CITY PRESS-CITIZEN, Sept. 29, 2005, at 9A.

*Enemy of the People?*, IOWA CITY PRESS-CITIZEN, Sept. 18, 2005, at 11A.

*If rules had been followed, Hamm still topples Yang*, IOWA CITY PRESS-CITIZEN, Aug. 29, 2004, at 11B.

*A justice's contempt for rule of law*, IOWA CITY PRESS-CITIZEN, Aug. 20, 2003, at 11A.

*What Will We Do If Saddam Is Captured?*, IOWA CITY PRESS-CITIZEN, Mar. 21, 2003, at 9A.

### **Other Publications**

*A Government's Trustworthiness: Beyond the PATRIOT Act*, IOWA ADVOCATE, vol. 42, at 10 (Fall/Winter 2004).

*The Law of War*, IOWA ADVOCATE, vol. 41, no. 2, at 6 (Fall/Winter 2003).

*Perhaps They'll Let the Insultee Demand a Charity Boxing Match*, WALL STREET JOURNAL, July 29, 1992, at B1.

*Collectible Cards Sport an Eclectic Look*, WALL STREET JOURNAL, July 16, 1992, at B1.

*Sears Is Accused Of Billing Fraud At Auto Centers*, WALL STREET JOURNAL, June 12, 1992, at B1.

*Hawaiian Airlines Struggles to Win Back Local Fliers*, WALL STREET JOURNAL, June 10, 1992, at B4.

*The 1990 Census: The changing texture of California*, CALIFORNIA JOURNAL, Apr. 1991, at 189.

Numerous other by-lines in THE SAN FRANCISCO DAILY JOURNAL (Fall 1991), THE SAN JOSE MERCURY NEWS (Summer 1991), THE WEST (CONTRA-COSTA) COUNTY TIMES (Spring 1991), THE BERKELEY VOICE (Winter-Spring 1991).

## **PANELS/PRESENTATIONS**

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Detention of Suspected Terrorists, Allen Chair Symposium, University of Richmond School of Law, Richmond, VA, Apr. 2009 (planned) [panel].

Lewis & Clark School of Law, Faculty Workshop, "Independent Appellate Review of Knowledge of Falsity in Defamation and False Statements Cases," Portland, OR, Jan. 2009.

University of Illinois College of Law, Faculty Workshop, "Distinguishing Soldiers and Non-State Actors: Clarifying the Geneva Convention's Regulation of Interrogation of Captured Combatants Through Positive Inducements," Champaign-Urbana, IL, Sept. 2008.

Center for Law and Government, "Presidential Power in the 21st Century," Willamette University, Salem, OR, Sept. 2008 [panel].

National Security Law Junior Faculty Workshop, "Carrots and Sticks: Updating and Clarifying the Geneva Convention's Regulation of Interrogation of Captured Combatants," Winston-Salem, NC, May 2008.

Iowa Law Review Symposium, Procedural Justice, "Issues Facing the Federal Judiciary Today," Iowa City, IA, Feb. 2008 (moderated panel of federal judges).

University of Iowa College of Law, "New York Times Co. v. United States: A Re-enactment," Iowa City, IA, Jan. 2008 (played Justice Harlan and participated in subsequent panel discussion with Sandy Unger and Daniel Ellsberg).

University of Iowa Osher Lifelong Learning Institute, "The Battle for the Pentagon Papers: Pre-Performance Discussion," Jan. 2008.

American Association of Law Schools, Annual Meeting, Section of Law and Humanities, "Law and Order: SVU – Sexuality, Videos, and You," New York, NY, Jan. 2008 [panel].

National Security Retreat, William Mitchell College of Law, St. Paul, MN, Sept. 2007 [panel].

Northeastern People of Color Conference, "Law Enforcement and the Dangers of Discretion," Southern New England School of Law, MA, Sept. 2007 [panel].

Southeastern Association of Law Schools Annual Meeting, "The Military Commissions Act of 2006, Access to Courts, and the Latest Round of Detainee Litigation," Amelia Island, FL, Aug. 2007 [panel].

Linn County Bar Association, Summer Outing CLE, "Enemies of the State: Rational Classification in the War on Terrorism," Cedar Rapids, IA, July 2007 [CLE presentation].

Crimes, War Crimes, and the War on Terrorism Symposium, Lewis & Clark University School of Law, Portland, OR, Apr. 2007 [panel].

Executive Power: Exploring the Limits of Article II Symposium, "*Hamdan* and Detention of Enemy Combatants," Temple University (Beasley School of Law), Philadelphia, PA, Mar. 2007 [panel].

Wake Forest University School of Law, Faculty Workshop, "Carrots and Sticks: Updating and Clarifying the Geneva Convention's Regulation of Interrogation of Captured Combatants," Winston-Salem, NC, Feb. 2007.

"*Hamdan v. Rumsfeld*: The War on Terror and the Rule of Law," University of Iowa College of Law, Iowa City, IA, Oct. 2006 (CLE).

"Governing and Living in a Time of Terrorism" Conference, University of California, Berkeley (Boalt Hall), Berkeley, CA, Sept. 2006 (invited workshop participant).

First Annual Big Ten UnTENured Conference, Workshop, "Carrots and Sticks: Updating and Clarifying the Geneva Convention's Regulation of Interrogation of Captured Combatants," Bloomington, IN, Aug. 2006.

Southern Eastern Association of Law Schools Annual Meeting, "The Changing Paradigm of Article II," Palm Beach, FL, July 2006 [panel].

University of Iowa College of Law, 29th Annual Bridging the Gap Minority Pre-Law Conference, Minority Lawyers Panel, Iowa City, IA, Mar. 2006.

William Mitchell College of Law, Faculty Workshop, "Carrots and Sticks: Updating and Clarifying the Geneva Convention's Regulation of Interrogation of Captured Combatants," St. Paul, MN, Mar. 2006.

University of Iowa Alumni Association, Lifelong Learning Series, "The War on Terrorism: National Security vs. Civil Liberties," Cedar Rapids, IA, Jan. 2006.

Loyola of Los Angeles Law School, Faculty Workshop, "Coercion and Terrorism Prosecutions in the Shadow of Military Detentions," Los Angeles, CA, Oct. 2005.

Southwestern University School of Law, Faculty Workshop, "Coercion and Terrorism

Prosecutions in the Shadow of Military Detentions," Los Angeles, CA, Oct. 2005.

University of Iowa College of Law, "Law in the Aftermath of Hurricane Katrina," Iowa City, IA, Sept. 2005 [panel].

University of Iowa College of Law, International Law Society, "The Legality of Detaining Persons Captured in the War on Terror," Iowa City, IA, Apr. 2005 [panel].

University of Iowa College of Law, 28th Annual Bridging the Gap Minority Pre-Law Conference, "Preparing for the Law School Admission Test," Iowa City, IA, Mar. 2005.

University of Georgia School of Law, American Constitutional Society, "The Role of Article III Courts in the War on Terrorism," Athens, GA, Feb. 2005.

University of Georgia School of Law, Faculty Workshop, "Ending the War on Terrorism One Terrorist at a Time," Athens, GA, Feb. 2005.

St. Ambrose University, 2d Annual Folwell Lecture, "The War on Terrorism: Constitutional Perspectives on the Guantanamo Bay Detainee Case," Davenport, IA, Sept. 2004.

University of Iowa Graduate School of Education, Panel on the Impact of the USA PATRIOT Act on International Students and Civil Liberties, Iowa City, IA, Apr. 2004.

University of Iowa College of Law, 27th Annual Bridging the Gap Minority Pre-Law Conference, Minority Lawyers Panel, Iowa City, IA, Mar. 2004.

University of Iowa College of Law, Faculty Workshop, "More Than Number Theory: Reasonable Doubt and Emerging Technologies," Iowa City, IA, Mar. 2004.

University of Kansas School of Law, Faculty Workshop, "More Than Number Theory: Reasonable Doubt and Emerging Technologies," Lawrence, KS, Mar. 2004.

Cornell College, "The War on Terror: Are We Losing Civil Liberties to Gain National Security?," Mount Vernon, IA, Feb. 2004 [debate with United States Attorney Charles Larson, Sr.].

University of Iowa College of Law, Faculty Workshop, "Nuclear Deterrence and the Death Penalty," Iowa City, IA, Apr. 2003.

University of Iowa College of Law, 26th Annual Bridging the Gap Minority Pre-Law Conference, "From *Plessy* to *Brown*: The NAACP's Strategy to Litigate Segregation," Iowa City, IA, Mar. 2003.

University of Iowa College of Law, International and Comparative Law Program, "War with Iraq," Iowa City, IA, Feb. 2003.

Munger Tolles & Olson LLP, "Dealing Successfully with an SEC Investigation," Los Angeles, CA, Sept. 2001.

Munger Tolles & Olson LLP, "Liability for Killing Civilians During Antiterrorism Actions," Los Angeles, CA, May 2000.

## ACADEMIC APPOINTMENTS

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**Faculty Committee Service:** Faculty Appointments (2007-present); Student Honors and Awards (2006-07); Curriculum (2006-07); Curriculum Policy (2004-06); Academic Standards and Review (2004-05); Academic Rules (2002-04); Retention (2003-04); Student Services (2002-03)

**Other Faculty Service:** Judicial Clerkship Advisor (2005-present); *Iowa Law Review* Faculty Advisor (Spring 2007-present); University Faculty Senate (2008-present); Law School Ombudsperson (2007-08); University Awards and Recognition Committee (2008-present); Ad hoc Committee on Self-Reporting of Convictions (2009-present).

## EXTERNAL REVIEWER

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University of Michigan Press (2008)

- Reviewed academic book proposal.

Aspen Publications (2008)

- Reviewed casebook proposal.

University of Michigan APALSA 1L Summer Fellowship (2005-06)

- Reviewed applications from University of Michigan law students for summer fellowship.

Journal of Philosophy, Science, and the Law (2006)

- Reviewed article submission and made recommendation as to publication and editing.

## EDUCATION

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**University of California (Boalt Hall), Berkeley, CA**

J.D., 1995

- Order of the Coif
- Notes & Comments Editor, *California Law Review*
- Member, Moot Court Board
- American Jurisprudence or Jurisprudence awards: Federal Criminal Law; Complex Civil Litigation; Current U.S. Supreme Court Cases Seminar
- Teaching Assistant: Legal Research and Writing (Fall 1993); Law and Economics (undergraduate course) (Fall 1993 and 1994).

**University of California, Berkeley, CA**

M.J. (Journalism), 1992

**California Institute of Technology, Pasadena, CA**

B.S. (Economics), 1988

- First Place, 41st McKinley Fiction Writing Competition.

## PRIOR LEGAL EMPLOYMENT

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**Munger Tolles & Olson LLP**, Los Angeles, CA

*Associate*, Dec. 1998-May 2002.

Primary areas of concentration: white collar criminal defense; employment litigation; death penalty habeas corpus; SEC investigations.

**The Hon. J. Clifford Wallace, U.S. Court of Appeals (9th Cir.)**, San Diego, CA

*Law Clerk*, Aug. 1997-Aug. 1998.

**The Hon. William J. Holloway, Jr., U.S. Court of Appeals (10th Cir.)**, Oklahoma City, OK

*Law Clerk*, Sept. 1996-Aug. 1997.

**The Hon. Edward Rafeedie, U.S. District Court (C.D. Cal.)**, Los Angeles, CA

*Law Clerk*, Aug. 1995-Aug. 1996.

**Mitchell Silberberg & Knupp**, Los Angeles, CA

*Summer Associate*, May 1994-Aug. 1994.

## **BAR ADMISSIONS**

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- California (1996) (by exam); Iowa (2003) (by motion).
- U.S. Court of Appeals: Ninth Circuit, Tenth Circuit (1996).
- U.S. District Court: Central, Eastern, Northern, Southern Districts of California (1999).