March 23, 2012
9:00 a.m. to 3:30 p.m.
Room 101
Villanova Law School

VILLANOVA UNIVERSITY
SCHOOL OF LAW

Joseph T. McCullen, Jr. Symposium on
Catholic Social Thought and the Law

The Moral Foundations of Private Law

The topic of this year's annual Joseph T. McCullen, Jr. Symposium on Catholic Social Thought and the Law is *The Moral Foundations of Private Law*. Speakers will address a range of topics related to the moral foundations of private law (torts, contracts, property, and remedies), with a particular focus on the ways in which the renaissance of private law theory is shaping a range of areas of legal scholarship. The keynote speaker will be one of the leading comparative law scholars in the United States, James Gordley, the W.R. Irby Chair in Law, Tulane University Law School and Professor of Law Emeritus at Boalt Hall, University of California-Berkeley. Professor Gordley is the author of *Foundations of Private Law* (Oxford University Press, 2006), *An Introduction to the Comparative Study of Private Law* (with Arthur von Mehren) (Cambridge University Press, 2006), and *The Philosophical Origins of Modern Contract Doctrine* (Oxford University Press, 1991).

SCHEDULE

9:00 **Panel I**
Jody Kraus, *David E. Kaufman & Leopold C. Glass Professor of Law and Professor of Philosophy, University of Pennsylvania Law School*
"Virtue Ethics and Pluralism in Contract Law"

Eric Claeys, *Professor of Law,*
George Mason University School of Law
"Locke Unlocked: Productive Use in Trespass, Adverse Possession, and Labor Theory"

Andrew Gold, *Professor of Law, DePaul University College of Law*
"A Theory of Redressive Justice"

10:45 **Panel II**
Chapin Cimino, *Associate Professor of Law*
Earle Mack School of Law, Drexel University
"The Aristotelian Underpinnings of Relational Contract Norms"

Chaim Saiman, *Associate Professor of Law*
Villanova University School of Law
"The Moral Foundations of Private Law: A Jewish Law Perspective"

Nate Oman, *Associate Professor of Law*
William & Mary Law School
"Markets as a Moral Foundation for Contract Law"

12:15 **Lunch**

1:15 **Panel III**
Michael Moreland, *Associate Professor of Law*
Villanova University School of Law
"Preemption as Inverse Negligence Per Se"

Jeffrey Pojanowski, *Associate Professor of Law,*
Notre Dame Law School
"Statutory Interpretation, Legislative Supremacy, and the Autonomy of Private Law"

2:30 **Keynote and Concluding Discussion**
James Gordley, *W.R. Irby Chair in Law*
Tulane University Law School
"Foundations of Private Law Revisited"

SPEAKERS

CHAPIN CIMINO. Professor Cimino is an Associate Professor of Law at the Earle Mack School of Law at Drexel University. She earned her B.A. from Dennison University and her J.D. from the University of Chicago Law School, where she was a member of the Law Review. After law school, she clerked for Judge Edmund V. Ludwig of the U.S. District Court for the Eastern District of Pennsylvania and went on to practice law in the Philadelphia office of Pepper Hamilton, LLP. There, she handled contracts, higher education, white-collar defense and antitrust cases, including a stint as lead associate in a multi-million dollar antitrust prosecution that resulted in a victory for the plaintiff. In her research, Professor Cimino examines the roles of virtue, sincerity and objectivity in legal transactions and litigation. She previously taught at Villanova University School of Law and within the Government and Politics Department of Widener University. In 2003, she co-founded the Philadelphia Lawyer Chapter of ACS, of which she is an active member, and has served on the board of directors for New Directions for Women in Philadelphia.

ERIC CLAEYS. Professor Claeys is a Professor of Law at the George Mason University School of Law. He earned his A.B. in Molecular Biology from Princeton University and his J.D. from the University of Southern California, where he served as editor of The Southern California Law Review. After law school, he clerked for Judge Melvin J. Brunetti of the U.S. Court of Appeals for the Ninth Circuit, and later, for Chief Justice William H. Rehnquist of the Supreme Court of the United States. He went on to practice law in the Washington D.C. office of Kirkland & Ellis, where he practiced product-liability litigation and appellate litigation. He has also taught at Saint Louis University School of Law and at the University of Chicago Law School as Bigelow Teaching Fellow and Lecturer in Law. Professor Claeys' scholarship focuses on American property and constitutional law, and particularly on the influence of American natural-law/natural-rights theory on the law.

ANDREW GOLD. Professor Gold is Professor of Law at DePaul University School of Law. He earned his B.A. from Dartmouth College and his J.D. from Duke University. After law school, he clerked with Judge Daniel Manion of the U.S. Court of Appeals for the Seventh Circuit, and with the Judge Loren Smith of the U.S. Court of Federal Claims. After his clerkships, he joined Skadden, Arps, Slate, Meagher & Flom in their Wilmington, Delaware office, where he practiced corporate litigation. During the 2011 to 2012 academic year, Professor Gold will be a Visiting Scholar at Harvard Law School and in addition, during the Fall term, he will be an HLA Hart Visiting Fellow at the University of Oxford, University College.

Professor Gold's primary research interests address legal theory and the law of corporations. His article, "A Property Theory of Contract," was lead article in the 2009 volume of the Northwestern University Law Review. Professor Gold received the College of Law's Award for Excellence in Scholarship, and, in 2010, he received the Award for Excellence in Teaching. Additional areas of his scholarship have focused on contract theory; private law theory; fiduciary duties in corporate law; and Section 10(b) of the Securities Exchange Act.

JAMES GORDLEY. Professor Gordley came to Tulane Law School in 2007 from the University of California, Berkeley, where he served on the faculty beginning in 1978. He earned his B.A. from the University of Chicago and his M.B.A. from the Chicago Graduate School of Business. He earned his J.D. from Harvard Law school, where he was later an Ezra Ripley Thayer Fellow in Comparative Law. Also before beginning his teaching career, Professor Gordley was a fellow at the Institute of Comparative Law at the University of Florence, and practiced law as an associate with the Boston firm of Foley Hoag & Eliot. In his career as an academic he has been a Guggenheim Fellow, a Fulbright Fellow, a Senior NATO Fellow and a fellow of the Deutsche Forschungsgemeinschaft. He has also been a visiting professor at the Universities of Fribourg, Regensburg, Munich, Milan, and Universita Commerciale Luigi Bocconi; a visiting scholar at the Max Planck Institute for Comparative Law in Hamburg, the European University Institute in Fiesole, and the University of Cologne; and the Jean Monnet Distinguished Professor in Comparative Law at the University of Trent. He was awarded the UC Berkeley Distinguished Teaching Award, the Rutter Award for Teaching Distinction and the Felix Frankfurter Distinguished Teaching Award. Professor Gordley is currently a fellow of the American Academy of Arts and Sciences, a titulary member of the International Academy of Comparative Law, and a Corresponding Fellow of the British Academy. He is also the author of several books, including Foundations of Private Law, An Introduction to the Comparative Study of Private Law (with Arthur von Mehren); The Enforceability of Promises in European Contract Law; Gratian, The Treatise on Laws with the Ordinary Gloss (with Augustine Thompson); and The Philosophical Origins of Modern Contract Doctrine.

JODY KRAUS. Professor Jody Kraus serves as David E. Kaufman & Leopold C. Glass Professor of Law and Professor of Philosophy at the University of Pennsylvania Law School. He earned his BA from Ohio State University and his M.A. from the University of Arizona, where he was a Woodrow Wilson/Charlotte W. Newcombe doctoral fellow and earned a Ph.D. in philosophy. Professor Kraus earned his J.D. from Yale Law School, where he was a John M. Olin Scholar in Law and Economics and served as senior editor of The Yale Law Journal.

After law school Professor Kraus joined the faculty of the University of Virginia Law School where he was Robert E. Scott Distinguished Professor of Law and Albert Clark Tate, Jr., Research Professor of Law. He has also served as a visiting professor at Columbia, the University of Michigan Law School and Tel Aviv. His scholarship focuses on the relationship between moral and economic theories of law in general and contract law in particular. He is the co-author of a leading contracts casebook, *Contract Law and Theory*, and served as the area organizer for the contracts and commercial law section of the American Law and Economics Association. Professor Kraus has published in both law reviews and peer reviewed journals, and testified as an expert in both U.S. and foreign disputes.

MICHAEL P. MORELAND. Professor Michael Moreland joined the Villanova faculty in 2006. Professor Moreland received his B.A. in philosophy from the University of Notre Dame, his M.A. and Ph.D. in theological ethics from Boston College, and his J.D. from the University of Michigan Law School. His scholarly interests focus on torts, bioethics, and law and religion. At Villanova, he teaches Torts, Evidence, Bioethics and the Law, Advanced Torts, Justice and Rights (1L elective), and seminars in bioethics and in Catholic social thought. Following law school, Professor Moreland clerked for the Honorable Paul J. Kelly, Jr., of the United States Court of Appeals for the Tenth Circuit and was an associate at Williams & Connolly in Washington, D.C., where he represented clients in First Amendment, professional liability, and products liability matters. Before coming to Villanova, he served as Associate Director for Domestic Policy at the White House, where he worked on a range of legal policy issues, including criminal justice, immigration, civil rights, and liability reform.

NATE OMAN. Professor Nate Oman is an Associate Professor at the Marshall-Wythe School of Law at the College of William & Mary. Professor Oman attended Brigham Young University, where he was a Benson scholar and earned a BA in political science. He earned his JD from Harvard Law School, where he served as an editor of the Harvard Journal of Public Policy, and a member of the Articles Committee of The Harvard Law Review. Prior to law school he worked on the staff of Senator Mitch McConnell of Kentucky. After law school, he clerked for the Honorable Morris Sheppard Arnold on the U.S. Court of Appeals for the 8th Circuit and went on to practice law in the Washington, DC office of Sidley Austin LLP. His primary research areas are contract law and the philosophy of private law; as well as the intersection between law and religion, specifically the role of religion in developing the intellectual tradition of the west. Professor Oman routinely contributes to popular legal and ethics blogs and has been widely published as a writer in economic and moral theories of contract law.

JEFFREY POJANOWSKI. Professor Jeffrey Pojanowski joined the faculty of Notre Dame Law School in 2010. Professor Pojanowski earned his A.B. in Public Policy with highest honors from Princeton University and his J.D. from Harvard Law School in 2004, where he was Articles Co-Chair for The Harvard Law Review. After law school, he served as a law clerk to then-Judge John Roberts on the United States Court of Appeals for the D.C. Circuit and went on to clerk for Justice Anthony Kennedy on the Supreme Court of the United States. He practiced law with Latham & Watkins in Washington, D.C., where he specialized in appellate litigation and administrative law matters. Professor Pojanowksi teaches and writes in the areas of administrative law, jurisprudence, and torts. At present, his scholarship focuses on the legal theory of administrative action, as well as the philosophy and intellectual history of legal reasoning.

CHAIM SAIMAN. Professor Saiman is an Associate Professor at Villanova University School of Law where he is a scholar in Jewish law and comparative private law. He received his B.S. from Georgia State University, and his J.D. from Columbia University School of Law, where he was a Harlan Fiske Stone Scholar. Professor Saiman has also completed graduate Talmudic and Biblical studies at Yeshivat Har Etzion and undergraduate Talmudic and Biblical studies at Yeshivat Kerem B'Yavne in Israel. He joined Villanova in 2006 after serving as a John M. Olin Fellow in Law at Harvard Law School and a Samuel I. Golieb Fellow in Legal History at New York University School of Law. Professor Saiman teaches Contracts I and II, a seminar on Jewish law and a course titled "The Uses of Tradition in Law and Religion" which explores the intersection of law and religion, legal theory and legal history. Currently, Professor Saiman is working on "The Distribution of Doctrinal Complexity in Common Law Systems" and "Form and Substance in the Translation of Jewish Law"

Villanova University School of Law is a Catholic and Augustinian institution that seeks to reflect the spirit of St. Augustine by the cultivation of knowledge, by respect for individual differences and by adherence to the principle that mutual love and respect should animate every aspect of the Law School's life.