

LAW Quadrangle

NOTES FROM MICHIGAN LAW

Law Quadrangle Notes from Michigan Law



Guilty
until proven Innocent

53.1 Spring 2010

5 Things About Arguing a Case Before the U.S. Supreme Court

Richard Friedman, the Alene and Allen F. Smith Professor of Law, argued his second case before the U.S. Supreme Court on January 11. An expert on the Confrontation Clause of the Sixth Amendment, Friedman represented the petitioners in *Briscoe, et al., v. Virginia*. The case could help define the limits of a criminal defendant's right to be confronted with the government's witnesses against him. The Court sent the case back to a lower court shortly after hearing it, in large part due to its similarities to another recently decided case. Here are some thoughts from Friedman and colleagues about preparing for and arguing a case before the highest court in the land.

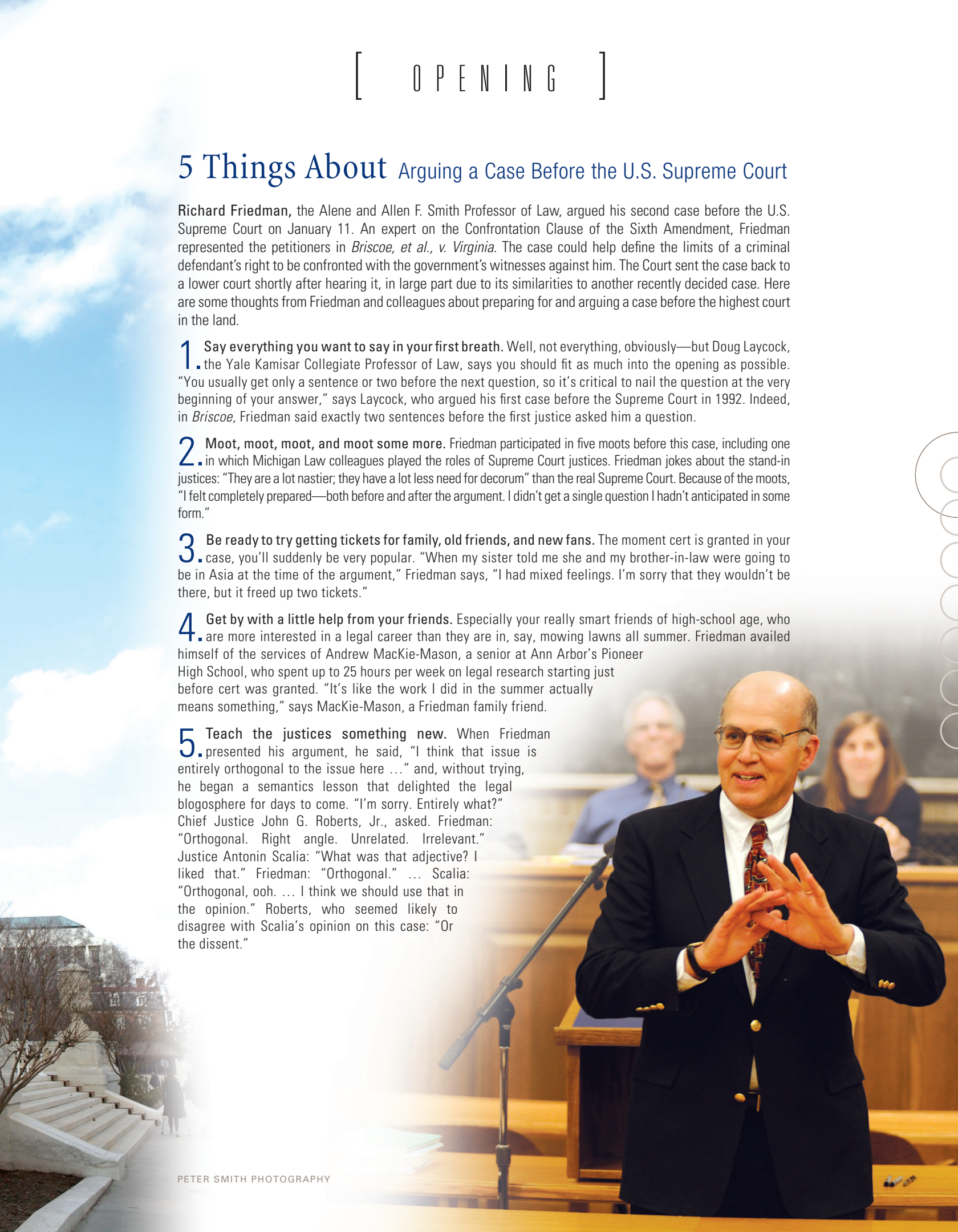
1. Say everything you want to say in your first breath. Well, not everything, obviously—but Doug Laycock, the Yale Kamisar Collegiate Professor of Law, says you should fit as much into the opening as possible. “You usually get only a sentence or two before the next question, so it’s critical to nail the question at the very beginning of your answer,” says Laycock, who argued his first case before the Supreme Court in 1992. Indeed, in *Briscoe*, Friedman said exactly two sentences before the first justice asked him a question.

2. Moot, moot, moot, and moot some more. Friedman participated in five moots before this case, including one in which Michigan Law colleagues played the roles of Supreme Court justices. Friedman jokes about the stand-in justices: “They are a lot nastier; they have a lot less need for decorum” than the real Supreme Court. Because of the moots, “I felt completely prepared—both before and after the argument. I didn’t get a single question I hadn’t anticipated in some form.”

3. Be ready to try getting tickets for family, old friends, and new fans. The moment cert is granted in your case, you’ll suddenly be very popular. “When my sister told me she and my brother-in-law were going to be in Asia at the time of the argument,” Friedman says, “I had mixed feelings. I’m sorry that they wouldn’t be there, but it freed up two tickets.”

4. Get by with a little help from your friends. Especially your really smart friends of high-school age, who are more interested in a legal career than they are in, say, mowing lawns all summer. Friedman availed himself of the services of Andrew MacKie-Mason, a senior at Ann Arbor’s Pioneer High School, who spent up to 25 hours per week on legal research starting just before cert was granted. “It’s like the work I did in the summer actually means something,” says MacKie-Mason, a Friedman family friend.

5. Teach the justices something new. When Friedman presented his argument, he said, “I think that issue is entirely orthogonal to the issue here ...” and, without trying, he began a semantics lesson that delighted the legal blogosphere for days to come. “I’m sorry. Entirely what?” Chief Justice John G. Roberts, Jr., asked. Friedman: “Orthogonal. Right angle. Unrelated. Irrelevant.” Justice Antonin Scalia: “What was that adjective? I liked that.” Friedman: “Orthogonal.” ... Scalia: “Orthogonal, ooh. ... I think we should use that in the opinion.” Roberts, who seemed likely to disagree with Scalia’s opinion on this case: “Or the dissent.”



CONTRIBUTORS



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J.J. White, '62



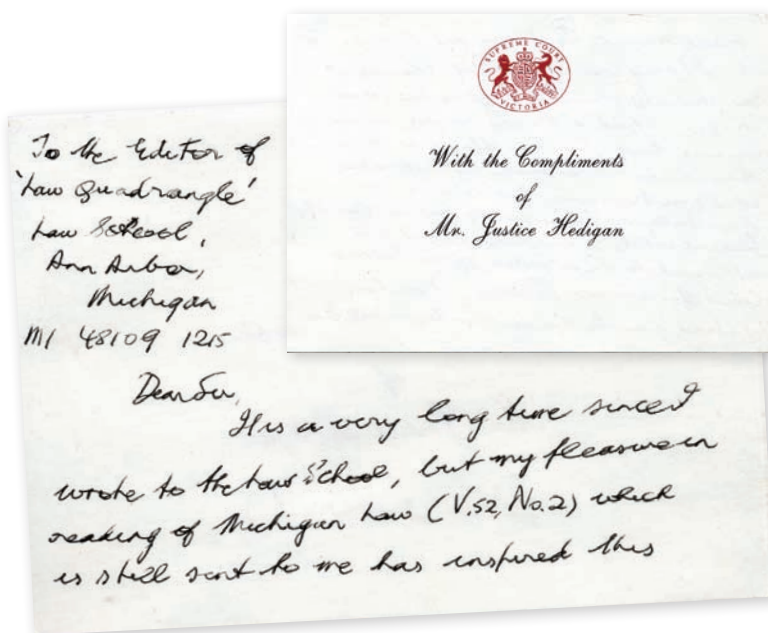
Lara Zielin

John A. E. Pottow, professor of law, is an internationally recognized expert in the field of bankruptcy and commercial law, and he brings this expertise to “Government Involvement in Chrysler Bankruptcy: The Least-Worst Alternative?” on p. 66. His award-winning scholarship concentrates on the issues involved in the regulation of cross-border insolvencies as well as consumer financial distress. He joined the faculty in 2003.

Leisa Thompson and **Katie Vloet** collaborated on “Guilty Until Proven Innocent,” p. 10. Thompson is an award-winning photographer who captured images for the *Ann Arbor News* for 12 years. When the newspaper closed in 2009, she started her own business, and she continues to blend a keen eye for portraiture with strong photojournalistic instincts. Vloet is editor of the *Law Quadrangle*.

J.J. White, '62, the Robert A. Sullivan Professor of Law, has never shied away from controversial subjects. Read an example of this in “Chrysler’s Bankruptcy: Money Laundering on a Grand Scale” on p. 64. A book he coauthored, *Uniform Commercial Code*, is considered to be the most widely recognized treatise on the subject. He is also the author of several casebooks on commercial, bankruptcy, and contracts law. White began his academic career at U-M in 1964.

Lara Zielin was the obvious choice to write about Nicole Burnham and Cynthia Leitich Smith (p. 40). The two long-time friends—since they were both summer starters—are now writers who have penned well-received young-adult novels in recent years. Zielin, the editor of *LSA magazine* at U-M, knows the field well; her debut young-adult novel, *Donut Days* (Putnam Juvenile), was published last year, and her sophomore effort, *Promgate*, is due out in 2011.



‘I have never forgotten. . . the joys of studying in Ann Arbor’

To the Editor:

It’s a very long time since I wrote to the Law School, but my pleasure in reading of Michigan Law (Vol. 52, No. 2), which is still sent to me, has inspired this belated missive, in honor and pleasure of it. I (along with a number of “foreign” law students) studied law at the Law School in 1955. I had a master’s degree, and after working briefly in law offices in two or three states, I returned to Australia where (in Melbourne) I practiced law principally as Counsel in the Supreme Court (VIC) to about 1957, in which year I was appointed to be a justice of the Supreme Court of Victoria. However, I am long retired from the Court now but still am interested in the law.

For many years, I corresponded with dear friends from Ann Arbor, and on some occasions got to visit the USA and see them. It is many moons since I have seen the great number of friends I made

in those happy years. I met them from many states as well as Michigan and visited them.

I have never forgotten them, or the joys of living and studying at Ann Arbor, so long ago. It altered my life and perspectives. Best wishes to all at Ann Arbor.

The Hon. John J. Hedigan, QC, LL.M. '56, former justice of the Supreme Court of Victoria, Australia

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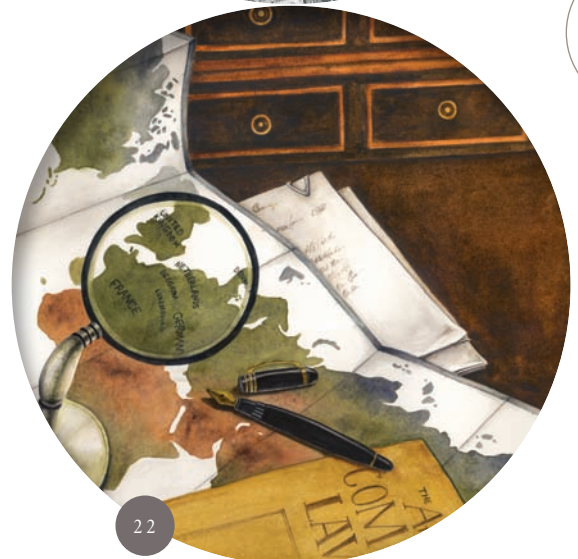
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Clinical Education: Real-World Experience with Real Impact

There are many compelling real-life stories with real-world impact around the Law School these days. Three recent examples: Courtroom dramas in which our students play a central role, international deal-making, and the fight against human trafficking in the United States and all over the world.

This is what Michigan Law's clinical education looks like today.

Consider the cover story in this issue of *Law Quadrangle*. The Law School's Innocence Clinic is making headlines with exonerations in its first three major cases. Beginning on page 10, you can learn more about the dramatic story of Dwayne Provience. After nearly 10 years in prison, his murder conviction was overturned based on the legal efforts of Professors Bridget McCormack and David Moran, '91, and their students. "What we had amassed over the year that we worked on this case was overwhelming evidence that police had prosecuted the wrong man," said Professor Moran the day the prosecutor dropped the charges. The new U-M Law School Innocence Clinic is the first of any law school to work exclusively on erroneous convictions with non-DNA-based cases.

Another first of its kind is the International Transactions Clinic, which focuses on teaching students the art and science of cross-border business deals. The clinic works in emerging global markets representing a wide range of clients such as socially responsible investors and microfinance providers—those who want to, as Professor Deborah Burand says, "do well and do good." This year the clinic introduced a seven-week "deal boot camp" to prepare law students to handle the wide array of business transactions necessary not only for their work in the clinic but soon, their work as lawyers in an international marketplace.

Just as ground-breaking is the work of Professor Bridgette Carr, '02, and her students in the Law School's Human Trafficking Clinic as they represent foreign nationals trafficked in the United States and advocate passionately to educate the public about the ugly reality of modern day slavery. One of Professor Carr's first clients was Katya, a university student from Ukraine, who was forced into the sex trade by traffickers who kept her against her will for more



than a year. Now the clinic works to bring legal penalties in cases of those forced into labor or prostitution, and to track cases in the United States since trafficking legislation was enacted in 2000.

These three new clinics, all the first of their kind nationally, join Michigan Law's distinguished family of clinical offerings from child advocacy to urban community transactions. Our clinics have grown substantially over the past few years, both in the variety of offerings and numbers of enrolled students. In fact, the number of Michigan Law students taking advantage of clinical offerings has increased about 50 percent in the past five years.

Clinical education provides a unique path to training students how to think critically and strategically about legal issues, supplementing the more familiar case-focused education using lectures and the traditional Socratic method. Clinics provide experiential learning opportunities so students can develop other lawyering skills, including, first and foremost, a proclivity for client understanding and service. Today we push way beyond the tried-and-true domain of landlord-tenant disputes to provide a much broader range of pedagogically sound experiences. The growth of our clinics and the important pedagogical role of clinical education are reflected in our plans for the Law School's new academic building: The building will feature suites for the clinical programs, enabling faculty and students to meet with clients in a professional, business-styled setting.

When combined with our legal practice curriculum, students have a second-to-none portfolio of skill-building opportunities available as they not only study the law from top scholars but hone the lawyering skills that make Michigan graduates so valuable to employers. The Princeton Review and Vault.com have ranked Michigan graduates in the top three in employability, and the 2010 Super Lawyer U.S. Law School rankings places Michigan Law second in its tally of the number of alumni to attain that moniker.

Skill-building is a topic of much discussion across the country as the ABA considers modification of its accreditation standards to include assessment of skill development. The ABA wants law

schools to demonstrate that they effectively prepare students for practice, including working effectively with clients as well as skills in area such as negotiating, legal writing, and interpersonal communication. In part stimulated by this possibility and in part based on their own assessment of desirable pedagogic reforms, law schools (including ours) and practitioners are considering different models for assessment at this time—whether as a matter of best practices for each school, or as a matter of potential common standards across legal education.

In today's challenging legal employment market, it is more important than ever for new graduates to hit the ground running in the practice of law. At Michigan, the balance of academic rigor and skill-building opportunities help them do just that. And while they're at it, Michigan students just may change people's lives forever.

Sincerely,

Evan Caminker

Evan Caminker
Dean and Branch Rickey Collegiate Professor of Law



Above: 2L Philip Smith meets with a client in the Human Trafficking Clinic.

Below: Student clinicians Nicole Lonsway, '09 (left) and 3L Luis Avila meet with International Transactions Clinic client Kate McKee of the Consultative Group to Assist the Poor (CGAP).



First Challenge for New U.S. Attorney McQuade: Terrorism Case

While it's almost certain that nobody told Barbara McQuade, '91, the U.S. Attorney's job was going to be easy, chances are the job got a little more difficult after a would-be terrorist allegedly tried to blow up a plane over her district less than a day after she was confirmed by the Senate.



McQuade took charge as U.S. Attorney for the Eastern District of Michigan—the first woman ever to hold the post—on January 4. She was nominated by President Barack Obama on November 30 and confirmed by the Senate on Christmas Eve.

She took office just as media from around the

world were descending on Detroit for the arraignment of accused would-be underwear bomber Umar Farouk Abdulmutallab, who faces life in prison if he's convicted of several charges—including attempted use of a weapon of mass destruction—in the botched Christmas Day attack on Northwest Airlines 253.

The self-proclaimed Al Qaeda operative is accused of trying to blow up the Amsterdam-to-Detroit flight using about 80 grams of pentaerythritol tetranitrate concealed in his underwear. After setting himself and a section of the airliner's wall ablaze, the would-be bomber was subdued by his fellow passengers.

The case certainly isn't McQuade's first exposure to people bent on harming the United States, even if it may be the highest-profile. She has 11 years' experience in the Eastern District of Michigan, and since 2005 has been the deputy chief of the district's National Security Unit. After graduating from Michigan Law, she clerked for U.S. District Court Judge Bernard Friedman, then spent five years as an associate at Butzel Long.

"I am deeply honored to receive the opportunity to serve the people of this district," McQuade told the *Detroit Free Press*. "We face many significant challenges, and I look forward to tackling them with urgency."—John Masson

Rounding Out the Ranking Picture

Remember when *U.S. News & World Report* was practically the only source for law school rankings? No more. Now, an array of rankings offers a broader view of the strengths of law schools. As in the *U.S. News* designations, Michigan Law also fares extremely well in the newer lists.

In a recent ranking of American law schools by the publisher of *Super Lawyers*, U-M sits comfortably among the upper echelon with a number 2 ranking. The new rankings received a lot of media attention, including a story on the well-read *Wall Street Journal* Law Blog.

Vault—a site for people searching for information about careers—in 2008 added to its well-known rankings of law firms with a listing of the best law schools. Based on interviews with nearly 400 hiring partners, interviewers, and recruiters, U-M Law School was ranked number 2.

In *Princeton Review*, Michigan Law is cited as the third best in the country for career prospects, and in the top 10 among the schools that are toughest to get into. On the popular website of University of Chicago law professor Brian Leiter, Michigan Law is in the top 10 based on student quality, faculty quality, where current law faculty went to school, and the schools from which the most prestigious law firms hire new lawyers. The latest *U.S. News* rankings are scheduled to be released this spring and were not available at press time.



The Gargoyle and Its Avatar

If you've ever looked up while passing through the Quad's stone archways, chances are you've seen little men. Little concrete men, in cramped poses, who seem to be carrying the weight of the Law Quad on their shoulders. Casually referred to as "gargoyles," these are, in fact, properly called "corbels," or—as their supportive stance would corroborate—"Atlas figures," or "atlantes."

These stone mascots are Law School icons, and were incorporated into the original design of the Quad in the 1920s. As a way to pay homage to the Quad's remarkable architecture, and link it to the new buildings to come, this Henry Hutchins avatar, complete with hardhat, has become the logo for the School's new construction.

If you study the vaulted ceiling marking the central passage of the Lawyers Club, you'll see Hutchins (who was dean of the Law School before becoming a University president) and five other former U-M presidents represented: Angell, Burton, Tappan, Haven, and Frieze. In the east and west passageways are slightly smaller figures, representing the seasons, sports, and various professions.—CS



New Construction Projects, in 3-D

A new feature on the Law School's website allows you to fly through the air with the greatest of ease as you survey the two structures currently under construction on and near the Law Quad. Through 3-D animation, you can get a bird's-eye view of the Robert B. Aikens Commons next to Hutchins Hall and the academic building on the opposite side of Monroe Street.

To view the animation, visit www.law.umich.edu/buildingproject and go to "Construction Multimedia" on the left side of the page. The Building Project site also provides regular construction updates, illustrations, and a webcam.

The soaring animation takes the viewer over the four-story academic building, designed in a modified Collegiate Gothic style. Next, you'll go through the entrance of the Aikens Commons, a two-story space with a glass roof. Once inside, you'll see the well-lit seating area on the first floor, the café, and study areas. Back to the academic building, you'll go inside to see a lounge on the main floor, a large classroom, a seminar room, and clinic suites.

The new facilities are scheduled for completion in 2012. The project architect is Hartman-Cox Architects of Washington, D.C., working in association with Michigan-based Integrated Design Solutions. Total cost of the expansion and renovation project is \$102 million. It is being funded through a partnership between the University and the Law School, with private donors giving \$70 million of the total. To date, more than 400 law alumni and friends have made gifts to the building project, ranging from \$10 to \$10 million.



BRIEFS

Honoring Vining's 'Path-Breaking' Work

Longtime Michigan Law Professor Joseph Vining was honored in the fall by the Villanova University School of Law for leaving his "signature contribution" on a variety of areas of the legal field.

Villanova's fourth annual John F. Scarpa Conference on Law, Politics, and Culture in October was "a celebration of the path-breaking work of Joseph Vining," according to the university's announcement of the event. "Over four decades, Vining has changed the way we think about law by challenging us to resist the reductions and totalizing impulses that are so common in legal and other theory. Where others find in law cause for cynicism or despair, Vining discovers cause for hope and aspiration, even evidence of the transcendent."

Vining, the Harry Burns Hutchins Collegiate Professor Emeritus of Law, gave the keynote address. The conference began with an appreciation from Columbia University President Lee Bollinger, who was dean of the U-M Law School midway through the 40 years Vining has taught here.

"One of the affecting aspects of it for me was that six of our graduates and my old students made the effort to attend," Vining noted. They were Joshua Brook, '02, Gregory Kalscheur, '88, Jeffrey Kovar, '85, Michael Moreland, '02, Eric Orts, '88, and Larry Thompson, '74.

The Scarpa Conference was part of Vining's busy year, which included many talks, notably his presentation of the 2009 Lecture in Law, Philosophy & Religious Traditions at The Center for Law, Philosophy, and Culture at The Catholic University of America. He gave that lecture, "The Consequence of Human Differences," in November.



U-M PHOTO SERVICES, LIN JONES



Improving U.S.-China Relations

Nico Howson, assistant professor of law, presented a paper on financial regulation and the possible demise of the Washington Consensus at the Tsinghua University 21st Century Commercial Law Forum in Beijing in October (above). He later reprised the presentation at the annual meeting of The China Finance Association in November in New York City. In December he was back in China—at Nantong City near Shanghai—to participate in the Inaugural Sino-American Dialogue on the Rule of Law and Human Rights convened by the PRC State Council's China Human Rights Foundation and the National Committee on U.S.-China Relations. Howson is shown below with Judge John M. Walker Jr., '66, of the U.S. Second Circuit Court of Appeals (and a cousin of President George H.W. Bush), and Judge Sidney Stein of the Southern District of New York.



PHOTOS COURTESY OF NICO HOWSON



A2Z: New Admissions Blog from Dean Z

Why were you admitted to Michigan Law? Does it still make sense to go to law school in the current economy? And what the heck is an apples-to-pawpaws comparison?

You'll find answers to those questions, plus lots of information delivered with a sharp wit, at A2Z, the new blog by Assistant Dean and Director of Admissions Sarah C. Zearfoss, '92.

"There's a lot of gray" in the admissions process, Zearfoss writes in one blog post. "All that gray is why some schools choose to adopt holistic admissions policies in the first place, and to employ humans to implement them in a very time-consuming process, rather than just constructing algorithms and going about the process blind to any factor that doesn't fit in a database."

In other entries, she writes about topics ranging from Val-O-Grams delivered by the Headnotes, the Mr. Wolverine competition, and work-life balance (complete with a recipe for weapons-grade garlic pasta).

Check out the blog by going to www.law.umich.edu and clicking on the A2Z link on the left side of the page.

Senior Obama Advisor Jarrett, '81, to Deliver Senior Day Address

Michigan Law alumna and senior White House advisor Valerie B. Jarrett will deliver the May 8 commencement address at Michigan Law.

"I am very excited to return to the Michigan Law campus and congratulate this year's graduating class," said Jarrett. "Some of the best times of my life were spent in Ann Arbor, and this is an incredible honor, not just as an alumna, but as somebody who's very familiar with how much we need these smart, talented, and committed scholars to help us confront the many challenges facing our country."

Jarrett is the senior advisor to the president and head of four departments in the White House: Intergovernmental Affairs; Public Engagement; Olympic, Paralympic, and Youth Sports; and Urban Affairs. She chairs the White House Council on Women and Girls and leads the White House's business outreach efforts.

Prior to joining the administration, Jarrett was the president and CEO of the Habitat Company. She was a leader in the civic and business communities of Chicago and served on several corporate and not-for-profit boards, including serving as chairman of the University of Chicago Medical Center Board of Trustees, chairman of the Board of the Chicago Stock Exchange, chairman of the Chicago Transit Board, and director of the Federal Reserve Bank of Chicago.

Jarrett served as finance chair for President Obama's 2004 run for the U.S. Senate. She also served as a senior advisor to his presidential campaign and as co-chair of President Obama and Vice President Biden's Transition Committee.

Additionally, Jarrett served for eight years in several positions in Chicago city government, including deputy chief of staff for Mayor Richard M. Daley and commissioner of the Department of Planning and Development. Prior to that, she practiced law at two Chicago firms.

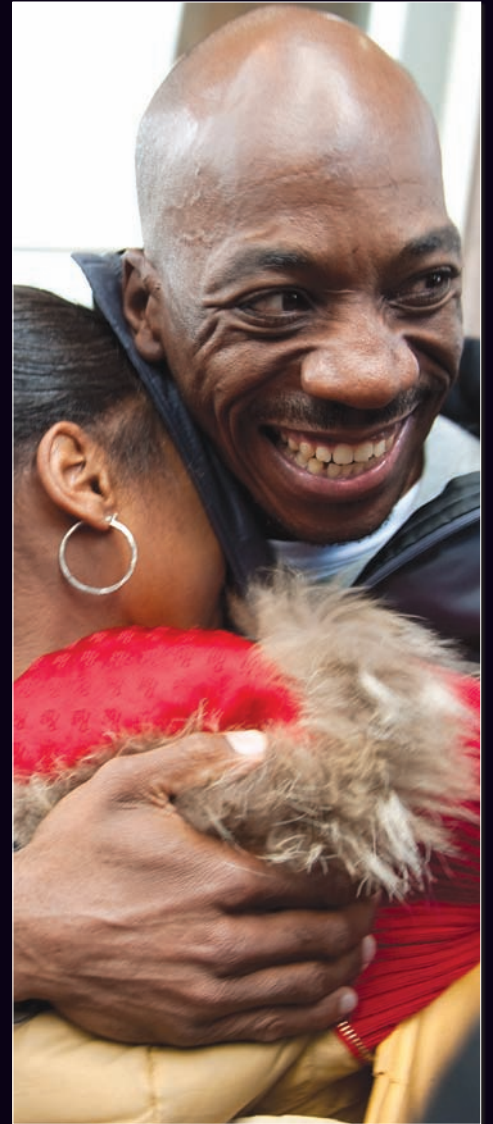
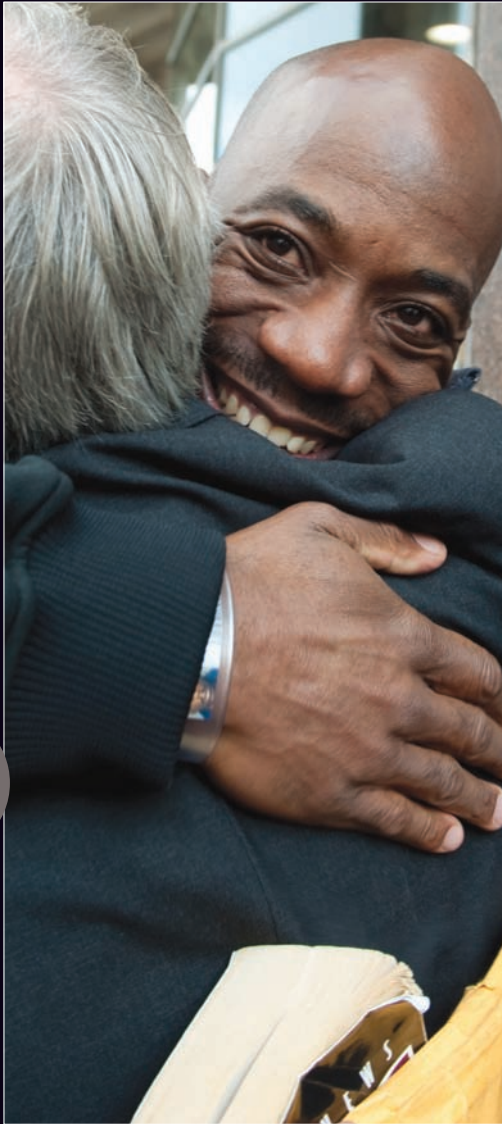
Jarrett, who earned a B.A. at Stanford before graduating with a Michigan J.D. in 1981, is slated to visit Ann Arbor just one week after President Obama—the fourth sitting president to visit U-M—delivers the commencement address for the University as a whole.

"Selection of Jarrett as the Law School commencement speaker continues the School's tradition of inviting accomplished, high-profile Law School graduates to Ann Arbor to help usher new graduates into the professional world," Dean Evan Caminker said.

"We're absolutely delighted to invite Valerie Jarrett back to Michigan Law to address our graduating students," Caminker said. "In so many ways she personifies the many avenues open to our graduates as they enter the legal world, the business world, the political world—or, in Ms. Jarrett's case, a progression including all three. We know our graduates will benefit from her remarkable breadth of experience, and we look forward to hearing what she has to say."—JM



OFFICIAL WHITE HOUSE PHOTO BY PETE SOUZA



Guilty until proven Innocent

By Katie Vloet

Photos by Leisa Thompson

Clinic codirector McCormack brings non-prison attire to Provience on the day of his release.



It's like a scene from a Hollywood movie. After nearly a decade in prison, a man's conviction has been overturned, thanks to the efforts of a determined group of law students and their professors. He's being released soon, and the crowd of family, friends, and news reporters straightens up every time the door opens. Is he coming? Not yet, but any minute now. How about now? Soon, soon.

It is November 3, 2009, the day Dwayne Provience's conviction for a 2000 murder has been overturned, the day a Wayne County judge has decided he should get a new trial, the day that the Michigan Law School's new Innocence Clinic has fought for. This is the day when Provience will go to his mother's house and eat her legendary spaghetti and start to reconnect with the two teenage children he barely knows because they've grown up while he was locked away. This is freedom day.

Hours pass outside the Wayne County Jail. It takes some time for bond to be collected and posted, for Provience's paperwork to be processed, for him to get the clothes—regular clothes, no more drab prison blues—that he will wear home.

And then, finally, the attorneys and students of the Innocence Clinic walk purposefully toward the doors, toward the awaiting TV cameras and open arms. With them is the man of the hour. Provience, 36, is mobbed by people who want to embrace him. He hugs them all: family members, the professors who lead the Innocence Clinic, and “my angels that were sent to me, my legal students.”

“This day,” he says with a mile-wide smile, “is a godsend.”

Dwayne Provience's Long Journey Begins

If this really were Hollywood, the movie would end here. But nothing in the adult life of Dwayne Provience has been as easy, or as straightforward, as a fictional screenplay, a soaring soundtrack, and the cinematic version of good and evil, of right and wrong.

The saga started in 2000, when a man named Rene Hunter was murdered at the intersection of Greenfield Road and Pembroke Avenue in northwest Detroit. Six eyewitnesses told police that day that the shooters were in a gray Chevy—some said a gray Chevy Caprice Classic—or an older-model gray car. A seventh witness could not identify the type of car, but she described it as gray and with a partial license plate that included the numbers 7, 3, and 4. Several of the witnesses said the car went north on Greenfield after the shooting.

No arrests were made for three months, when Larry Wiley, a panhandler and admitted crack addict who was being questioned in a burglary, offered information on the shooting. He told police he had seen Dwayne Provience and his brother, De-Al, shoot Hunter. Contrary to the information provided by eye witnesses on the day of the shooting, he said they were in a beige Buick Regal, and that they went west on Pembroke after the shooting.

Provience—whose only previous brush with the law had resulted in probation for possessing a small amount of cocaine—was charged with murder (De-Al was acquitted, in a 2001 bench trial, of driving the car from which Hunter was shot). At Dwayne Provience's 2001 trial, prosecutors called Wiley and one of the eye witnesses—the one who had reported seeing 734 in the license plate but who could not identify the type of car. Prosecutors hypothesized that Provience killed Hunter for invading his drug turf.

Provience's attorney at the time, Reginald Hamilton, did not call any of the witnesses who saw a gray Chevy Caprice that headed northbound after the shooting. Much of the information that was needed to adequately defend Provience was not turned over to the defense at the time of the trial, the Innocence Clinic says. (For mishandling money and misleading clients in other cases—including the abandonment of representation of two clients—Hamilton had his law license revoked in 2003.)

Sentenced to 32 to 62 years, Provience began years of appeals, many of which he handled himself, to no avail.

Then, in 2009, his luck turned when the new U-M Law School Innocence Clinic took on his case, which stood out among many of the others that the Clinic was asked to review. As the first innocence clinic at any law school in the country to deal exclusively with non-DNA-based cases, it has received more than 3,000

requests from inmates and families in just its first year of existence. One of the things that intrigued them was that Wiley, once the star witness, now appeared to be recanting the story he told during the 2001 trial.

“Mr. Provience’s case raised several red flags for us from the get-go,” says clinic codirector Bridget McCormack. “First, he was convicted solely on the evidence of one witness, who came forward three months after the shooting: a man named Larry Wiley, who was by his own admission a crack addict who offered his story implicating Mr. Provience only when he was in custody and wanted to get out.”

Students from the Clinic brought Wiley in for a videotaped interview. He said police fed him the information about Provience, and that he wasn’t really at the scene. He further threatened his own believability when he said he had come forward because he was dying of cancer, a claim that later turned out to be false, and when he told police that he recanted the videotaped statement he had made to the Innocence Clinic.

Help from a Hit Man’s Mom

The more McCormack and Clinic codirector David Moran, ‘91, learned about the case from the students who investigated it, the more incredulous they became. Students hit the streets of Provience’s neighborhood in northwest Detroit, and they started to piece together some fascinating details.

This is where the case becomes complicated. The students visiting the neighborhood heard that the Hunter killing was linked to a murder that occurred a month later. In April 2000, a man named Courtney Irving was killed about a mile from the Hunter murder site, and Eric Woods confessed to the killing. Woods said that he shot Irving to avoid being murdered himself by the Mosleys, a

neighborhood drug gang. He was the hit man for the Mosleys, he said. And the Mosleys wanted Irving dead, according to Woods, because they thought Irving would snitch on them to the police that they were responsible for the Hunter murder.

Innocence Clinic students met with Woods’ mother, who gave them the police progress notes from her son’s case. That’s where student Maria Jhai, then a 2L, found the link to Hunter’s murder. The progress notes referred to alternate suspects in the Hunter case, including the Mosleys. The notes said that multiple witnesses saw the Mosleys arguing with Hunter and then following him to the scene of his murder in a gray Chevy Caprice Classic.

Provience was not mentioned in the notes.

During the 2003 trial in the Irving case, prosecutors told jurors that it was the Mosley brothers who had killed Hunter. “We found out that the prosecutor had argued that the two murders were connected and that someone else was responsible for both of them,” Jhai recalls. “The prosecutors presented in court an entirely different theory of the case. In other words, the prosecutor’s own account of the murder indicated that our client was innocent.”

The students and the Clinic directors were stunned. How could two prosecutors from the same office claim in court that different people were responsible for the same murder? Keep in mind that the charge about the Mosleys having killed Hunter occurred in 2003, two years after Provience had begun his sentence for that murder but more than six years before he would win his initial freedom.

They weren’t the only people who were surprised. When the Clinic tracked down the officer who had provided the content for the progress notes—the ones that mentioned the Mosleys but not Provience—he also couldn’t believe his ears.

Clinic codirector McCormack argues a motion in a Wayne County courtroom.



Meet Dwayne Proviencé's Legal Team

The Professors

Bridget McCormack: associate dean for clinical affairs, clinical professor of law, and codirector of the Michigan Innocence Clinic; a former staff attorney with the Office of the Appellate Defender and senior trial attorney with the Criminal Defense Division of the Legal Aid Society, both in New York City.

David Moran, '91: clinical professor of law and codirector of the Michigan Innocence Clinic; former assistant defender at the State Appellate Defender Office in Detroit and law professor at Wayne State University. In the Clinic's first 10 months, the work by McCormack, Moran, and students resulted in the release of three men and one woman after a total of more than 34 years of wrongful incarceration.



David Moran and Bridget McCormack

The Students

Latoya Antonio: a 3L, one of the first two students to work on the Proviencé case, she helped to locate Larry Wiley, a witness who once implicated Proviencé but more recently recanted (see story, p. 15).

Nick Cheolas: a 3L, tracked down key details that bolstered the team's defense of Proviencé, including information about the automobiles registered to another family (see story, p. 17). Also argued motions in court.

Brett DeGross: a 3L, tracked down key details that bolstered the team's defense of Proviencé, including information about the automobiles registered to another family (see story, p. 17). Also argued motions in court.

Robyn Goldberg: a 3L, interviewed several key witnesses, including a man who saw the victim arguing with other men just before he was shot; presented motions in court; successfully argued that Proviencé should be released on bond.

Judd Grutman: a 3L, one of the first two students to work on the Proviencé case, he helped to locate Larry Wiley, a witness who once implicated Proviencé but more recently recanted (see story, p. 15).

Maria Jhai: a 3L, worked on the Proviencé case as a summer intern in 2009. She helped to find a connection with another murder case in a police officer's progress notes, which led to the discovery that prosecutors in the other murder case presented someone other than Proviencé as the murderer of Rene Hunter.



Brett DeGross and Robyn Goldberg



Dwayne Proviencé and Latoya Antonio



Judd Grutman and Maria Jhai



Nick Cheolas and Dwayne Proviencé



Dwayne Proviencé became accustomed to sitting in this courtroom—both before his release (above) and during the hearings that followed.

"When I called him, Officer William Ashford asked me who I represented," Clinic codirector Moran recalls. "I said Dwayne Proviencé, who'd been convicted of the murder of Rene Hunter. Officer Ashford said, 'How on earth did that happen?'"

It's a good question. Much of the puzzle has been put together in the past year, but most of the puzzle pieces have been available for the better part of a decade. "There are two things that bother me about this case. One is obviously that an innocent man has been incarcerated for nine years," says Innocence Clinic student Nick Cheolas, a 3L. "The other thing that bothers me is the fact that the actual perpetrators of this crime, and the people we know are the perpetrators based on the evidence the police collected, are free."

One Step Forward, One Step Back

Three weeks after Proviencé's release. The Innocence Clinic is ready with its motions, and Proviencé and his family are ready for his absolute freedom. He sits in the hallway outside Wayne County Circuit Judge Timothy Kenny's courtroom—he got here at 8 a.m., even though the hearing is scheduled to start an hour later, because he didn't want to risk being late—with his mom and stepdad. Out here, in a cream-and-brown-striped shirt instead of his prison blues, Proviencé looks at least 10 years younger than he did on the day of his release.

Once inside the courtroom, it quickly becomes clear that the day will be filled with more frustration than celebration. Assistant Wayne County Prosecutor Robert Stevens pulls McCormack into a side room, and she reappears moments later with a wry smile and a shake of her head. Stevens then tells the judge what he just shared with McCormack: He only received the case file four days earlier, even though the previous hearing—handled by a colleague in the prosecutor's office—was a full three weeks before. He needs more time.

The attorneys and judge discuss a few details about Officer Ashford's notes, Wiley's testimony, and the next hearing date. Three more weeks, and then Proviencé will have the hearing he thought would happen today.

One more thing, Your Honor, McCormack says. Proviencé still has to wear an electronic tether that keeps him at home. She asks for the tether to be removed "so he can start to look for a job and take care of his kids." Stevens says the tether should remain. Judge Kenny amends the order, allowing Proviencé to wear a GPS tether that will let him be away from home until his new 6 p.m. curfew.

Proviencé flashes a broad smile. It's not the outcome he had hoped for today, but at least he'll still be home with his family for Thanksgiving, now just two days away. At least he can look for a job with the custodial and blood-borne pathogen certifications he earned while in jail. And at least he can take his kids to a movie, or maybe even Greenfield Village. Back when they were little, before he was sent to jail in the first place, "that was my favorite thing to do with them."

'Déjà Vu All Over Again'

Three more weeks later. Proviencé, his mom, and his stepdad wait for the courtroom to open. They can't wait to go inside, for the hearing to begin, to hear that the prosecutor has decided to drop the case.

That's not what happens. Stevens, the prosecutor, tells the judge, "We're going forward with trial, Your Honor." Proviencé sits stoically in front of his attorneys' table. After nearly a decade in prison, he is good at coming across as stoic, at concealing his emotions.

After a series of motions, most of which Kenny decides in favor of the Innocence Clinic, the only motion yet to be decided involves Wiley, the witness who helped to put Proviencé away in the first trial. Wiley is in the courtroom, at the request of the Innocence Clinic. They asked him to be here in case he wanted to announce his decision not to testify again. The judge wants Wiley to talk with an appointed attorney about whether he should assert his Fifth Amendment right not to testify in the new trial. For now, Kenny will wait to decide on a defense motion regarding the submission of Wiley's original testimony; the Clinic has argued that the cross-examination of Wiley in the first trial should be deemed inadequate.

Kenny is well aware of the frequent changes in Wiley's account of what happened the night Rene Hunter was killed. He refers to Wiley's series of changes as the "recantation of his recantation of his recantation." *The Detroit Free Press* describes it this way in an article the next day: *As a key murder witness, Larry Wiley's recollection continued to waft Tuesday like a wayward summer breeze.*



The Search for Larry

Around the time they were circling through interstate off-ramps in Detroit, searching for a man who was . . . well, the kind of guy who frequented interstate off-ramps, Latoya Antonio and Judd Grutman had the same thought: This is what law school should be like.

No, really. Both of them had learned a lot in their other classes, but they also longed to work on cases in the real world. As the first two student attorneys from the Innocence Clinic on the Dwayne Proviencence case, they had plenty of opportunities.

There was the time they were talking with a witness to the murder Proviencence had been convicted of committing, and everyone turned eerily silent when the students mentioned some of the names of people involved with the case. The time they visited the only livable house on a street where every other structure was condemned, and a car parked directly behind theirs. "Don't make eye contact," Antonio said at the time, "just walk to the car."

And, of course, the off-ramps. This was an element of their search for Larry Wiley, an admitted crack addict and panhandler who initially implicated Proviencence in the murder. Now, Wiley had signed an affidavit saying that he was not at the scene of the murder, and that he had made up his account. Great news for their client, if only they could find Wiley and interview him about his recantation on video.

They had heard he often could be found at off-ramps, so they set out with map printouts and an assist from one of U-M's Knight-Wallace journalism fellows. An experienced investigative reporter, Peggy Lowe was able to help the students in their quest for information on the case. She was bold enough to go into backyards, open doors, peer through windows, and ask at off-ramps if anyone had seen Larry Wiley.

Time after time, everyone knew Wiley, a somewhat likable character in spite of his very apparent flaws. He's on the east side today, they were told. Or: No, we saw him last week, but not today. They got a tip that he may be at a relative's house, where a man roughly Wiley's age answered the door; he said he was Larry's brother Jerome, but that he would let Larry know they were looking for him.

Finally, they caught a break. Proviencence's brother called the student attorneys to say he'd tracked down Wiley, and they agreed to meet at Proviencence's mother's house. Grutman and Antonio walked in and saw . . . Jerome. "I fooled you, didn't I?" said Jerome/Larry.

Yes, he had, but now they had located the person who was most vital to their appeal in Proviencence's case. Grutman and Antonio brought Wiley to the Law School and recorded an interview with him.

"I was scared, and I was coached" to give testimony in the original trial that implicated Proviencence, Wiley said in the video interview. "They had me for a B&E that I didn't commit, and they said if I'd testify, they'd help me out."

Mission accomplished.



STOCK PHOTO BY GETTY IMAGES

After the hearing, the wafting recollection goes something like this: The police “squeezed me” and made me say that Provience was the killer, Wiley said. “I wasn’t even there.”

Provience, meanwhile, has secured a job as a salesman at Mr. Shoe, part of the Central Bazaar in Highland Park. Kenny agrees that his curfew can be extended, as long as he receives a letter from Provience’s boss.

“It is what it is,” Provience says quietly to McCormack in the hallway after the hearing. Then, to a reporter, he says: “It’s like déjà vu all over again.”

Hollywood Ending?

Some good news: At a January hearing, Judge Kenny grants the Innocence Clinic’s motion to prevent Wiley’s testimony from the first trial from being submitted at his new trial, citing inadequate cross-examination. Since Wiley was the only witness to point to Provience as the killer, and since he has opted to take the Fifth in the new trial, this is a huge victory.

At this hearing and subsequent ones during the next two months, the prosecutor repeatedly asks for more time before various court hearings and the April 5 trial, to no avail. “We all operate best with deadlines,” Kenny says. “I do think [Provience] is due at long last to get his day in court.”

Student attorney Nick Cheolas celebrates his client’s release with Provience’s mother, Vonzella Battle, and Provience’s children’s mother, Toya Robinson (right).

Another issue that becomes a growing concern: missing case files. In particular, the Clinic asserts, case files for two possibly related murders are still missing, and key documents appear to be missing from the file in the Hunter murder. “There needs to be a sense of urgency on the part of the police department to find these files,” Judge Kenny says. “The Detroit Police Department needs to recognize the court is not just going to say, ‘Oh, well.’”

In another unusual development, the Clinic’s student attorneys are all listed on the prosecution’s witness list. The Clinic decides to fight back with a motion and a brief, but the issue is not decided.

Why not? Well, a funny thing happened on the way to the trial. Though all along the Wayne County Prosecutor’s Office was adamant about its plans to retry Provience, on March 24 the office dropped the murder charge, citing insufficient evidence and a lack of time to track down further information. Stevens maintained that Provience was “the right guy,” and dismissed the charges without prejudice, meaning that Provience could be retried in the future.

Provience was working at his second job, cleaning a Powerhouse Gym while learning to become a personal trainer, when McCormack called him with the news. She then picked him up and drove him to have his tether removed. Without the tether, “I feel like I can move 100 percent forward with my life,” Provience





Provience walks away from jail with his children, Dwayne and Alexis.

said. "It felt like I still had one foot in prison and one in society. Now I have both feet in society."

Moran noted that it was the correct outcome in this case, even if it took longer than the Clinic initially anticipated. "What we had amassed over the year that we worked on this case was overwhelming evidence [that police had prosecuted the wrong man]. We hope that, having found that overwhelming evidence of who the real killers are, the prosecution will consider bringing to justice the killer who is still out there walking the streets."

For the students, the experience will be tough to match. Said 3L Judd Grutman, one of the students who first worked on the case: "Obviously we've changed Dwayne's life, but he's changed us, too."

And that hypothetical Hollywood movie? Script writers now have their final scene, and casting agents can get started. They'll need actors to portray two conscientious professors, six earnest and industrious law students, and a protagonist with a sense of calm in the face of disappointment and a smile that lights up a courtroom when things go his way. If they follow that script, it could be the feel-good movie of the year.

Or maybe it isn't a movie after all. Here's the way Dwayne Provience sees it: "It feels like a storybook ending. And this is the best storybook ever." 📖

Editor's note: See video of clinic students and other multimedia at the Law School's website, law.umich.edu

Behind the Scenes: The Gray Car

Without all of the legwork of the students in the Innocence Clinic, many aspects that became part of their defense of Dwayne Provience never would have come to light. Here's one example:

Two students from the Innocence Clinic, Brett DeGroff and Nick Cheolas, discovered a significant document at the Wayne County Prosecutor's Office shortly before Christmas. The document, it turned out, had been in Provience's file for more than seven years. That means that prosecutors had access to it during the time of Provience's early appeals.

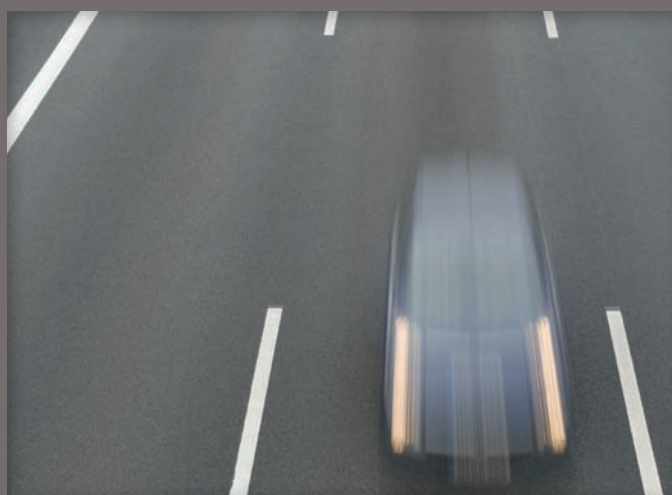
The paperwork, dated April 26, 2002, listed all of the vehicles registered to the Mosley family—the family that prosecutors in another murder case had linked to the murder of Rene Hunter, whom Provience was convicted of killing. Lo and behold, one vehicle on the list was a 1985 Chevrolet Caprice Classic, the same kind of car that several eyewitnesses in the Hunter murder described seeing at the scene.

The records did not indicate the color of the car, so the Clinic worked with a private investigator to find that out. It was gray, the same color that several eyewitnesses reported in their accounts to police the day of the shooting.

And the license plate number. One eyewitness in the case had recalled a 7, 3, and 4 in the plate number. The license plate number on this gray 1985 Chevrolet Caprice Classic, registered to Antrimone Mosley: 7CXM34.

A smoking gun? Maybe not on its own, but paired with the other evidence, the team felt confident that it had gathered more than enough evidence to justify Provience's exoneration. In the end, the court didn't decide on the motion before the dismissal of the case. Nonetheless, it's a solid example of the kind of success the Clinic students have had at tracking down buried information—and of the challenges facing people who were wrongly convicted of crimes.

After DeGroff and Cheolas found the document in December, David Moran, the codirector of the Innocence Clinic, called Provience to tell him the document "had sat in their files for seven-and-a-half years while Dwayne rotted away in prison." Provience, Moran recounts, kept his cool and "managed to not fly into what I would have considered a totally justifiable rage."





Misshepezhieu—Spirit of the Great Lakes, by Zoey Wood-Salomon, painted in the traditional Woodland style that reflects her Odawa-Ojibwe heritage. Her work can be seen at www.noaa.ca/members/userview.php?Member=200

Alumni Become a Force in Native American Law

By Sheryl James

John Wildhorse called his daughter over and over again by her Indian name, Waboose, which means rabbit in Odawa; but she didn't turn her head and look at him until he spoke the name given to her by the foster family, Jane. How would the Creator hear his daughter's prayers if she couldn't tell the Creator that it was her, Waboose, praying?

How, indeed? This is the life mission—call it her own prayer—of Allie Greenleaf Maldonado, '00, an American Indian attorney who lives in Petoskey, Michigan. A member of the Little Traverse Bay Band of Odawa Indians and the tribe's assistant general counsel, Maldonado is an advocate for Native American children everywhere. She devotes a great deal of her time on bringing the State of Michigan, and other governmental entities around the country, into compliance with the Indian Child Welfare Act (ICWA).

The excerpt above is from a book chapter Maldonado penned recently on the subject. The ICWA was passed in 1978 to prevent the kind of problems John Wildhorse faced—and far worse abuses. But, she says, too many legal exceptions have undermined the law and allowed the separation of Indian children from their homes and culture, and other abuses.



PHOTO COURTESY OF THE LITTLE TRAVERSE BAY BAND OF ODAWA INDIANS

Maldonado's passion for this work has a personal genesis, she says.

"My mother was a victim of pre-Indian Child Welfare Act. When her mother died, there were lots of family members she could have been placed with. But it was a common practice at that time to pull Indian children out of their home, strip them of their culture—to 'beat the Indian out of the Indian.' My mother went to be a house slave for a Mennonite minister. She was only 4. She still talks about it. They beat her if she spoke her language. She couldn't practice her religion. They cut her hair. When she was 18, they married her off to get her out of the house. The abuses that happened to those kids were horrendous.

"That's why I went to law school. That was the purpose."

Maldonado, chair emeritus of the Federal Bar Association Indian Law Section, is among a vital group of Michigan Law alumni who

The history of her tribe spurred Allie Greenleaf Maldonado, '00, to go to law school. "It was common practice . . . to pull Indian children out of their home, strip them of their culture—to 'beat the Indian out of the Indian,'" she says. This tintype (above) depicts an Odawa family in the late 1800s.

are making an impact on the complicated, diverse, and at times legally challenging lives of Native Americans and Indian tribal issues. The national profile of U-M alumni is becoming more prominent at the same time that activities at the Law School also are increasingly visible, with an active chapter of the Native American Law Students Association (NALSA); the hosting of American Indian Law Day, when the Navajo Supreme Court heard oral arguments at U-M; and the election of 3L Josh Clause as president of the National NALSA.

The work of alumni with tribes throughout the country reveals a world most Americans rarely think about. It's a world of melodic names, disparate tribes, ancient customs, and modern-day adaptations.



It takes just one look at the office of Matthew L.M. Fletcher, '97, to get a sense of this world. Fletcher, director of Michigan State University's Indigenous Law Center, has abundant evidence of his native culture. One wall bears a map of northwest lower Michigan with all Indian names, such as "Mshii Gum," the Indian name for "Michigan." Another poster is labeled "Anishinaabek: Heritage Language Map of the Three Fires People," referring to the Ottawa, Ojibwe, and Pottawatomie; Fletcher belongs to the Grand Traverse Band of Ottawa and Chippewa Indians.

Perhaps most interesting in the Native American history lessons offered in the office is the large "Map of Indian Country," showing reservations, tribes, and historical perspectives of Indians. It also briefly narrates important eras: "1492: the Arrival of Columbus; 1790: Indians Forced Inland; 1830: 'Indian Country'; 1860: Immigrant Stampede; 1890: The Vanquished Indian."

The final date reads, "2090: Indian Land?"

That may sound improbable; Fletcher's work is much more practical. He serves several functions. He works with the Center, along with his wife, Wenona, the Center's assistant director and member of the Little Traverse Bay Bands of Odawa Indians; he also works as a tribal appellate judge. But most of his time is spent on teaching and scholarship, he says.

After earning his law degree, he says, "I went back to work for my tribe for four years. It was the best working experience I had as a lawyer." But, he says, he had not studied Indian law at all because such courses were not plentiful, even at U-M. "It's really, really hard to graduate from law school and go practice Indian law. I did that and struggled."

As a result, "I went into teaching because every time I had an interesting legal case, there were no cases or scholarship on it. So the first articles I wrote were research questions I had to answer as a lawyer, because nobody else had written about these things before. That's why I became a professor."

Fletcher says there are 12 federally recognized Indian tribes in Michigan, and that, legally speaking, things are going well. "The ability of the various tribal governments in Michigan to govern has expanded exponentially in the last few decades, partly because tribal governments are



PHOTO COURTESY OF THE LITTLE TRAVERSE BAY BAND OF ODAWA INDIANS

A tintype from the late 1800s shows a group of Waganakising Odawa women. Today, several Michigan Law alumni are working on issues of importance to Native Americans, including efforts to ensure that Native American families are kept together.



Allie Greenleaf Maldonado, '00



Matthew L.M. Fletcher, '97



Elizabeth Kronk, '03

more accountable to their people. Some have gaming money, so they can afford to become better.”

Michigan state governmental authorities also, he says, “have been very supportive of working with tribes as opposed to fighting with tribes.” Because so many Michigan tribes have little actual land, they are entering into new, promising cooperative agreements with local and state jurisdictions—a leader in the United States in this approach.

Fletcher also is continually involved with the ICWA, and recently edited the book *Facing the Future, The Indian Child Welfare Act at 30*. Maldonado’s chapter cited at the beginning of this article is included in the book.

Outside of Michigan, Elizabeth Kronk, '03, assistant professor of law at the University of Montana School of Law, focuses on tribal court development and energy development in Indian Country. She is chief judge of the Sault Ste. Marie Tribe of Chippewa Indians Court of Appeals. She also is chair of the Federal Bar Association’s Indian Law Section.

She recently has written about the Indian Civil Rights Act, “and its limitations, specifically that it limits tribal courts’ sentences to \$5,000 and/or a year in prison,” Kronk says. “My position in the paper is that that has a significant effect on crime and lawlessness in Indian country. We’re seeing criminals come in and deliberately

“I went into teaching because every time I had an interesting legal case, there were no cases or scholarship on it. So the first articles I wrote were research questions I had to answer as a lawyer, because nobody else had written about these things before. That’s why I became a professor.”


— Matthew L.M. Fletcher, '97

develop their criminal enterprise in Indian country thinking they can get away with it. It’s not necessarily true, but there’s that perception in the criminal world.”

Calling her appellate judgeship “my dream job,” Kronk most often sees child welfare and criminal cases.

All three of the alumni—Maldonado, Fletcher, and Kronk—say their Law School days were positive, and that the School itself was especially supportive. Kronk says the School was generous in providing opportunities to attend National Native American Law Students Association moot court competitions every year, and also the Federal Bar Association Indian Law Section’s annual conferences. “There were wonderful learning and networking opportunities.”

Fletcher, whose family has 10 U-M graduates stretching back to the 1890s, says he had the chance to be in the founding generation of the *Michigan Journal of Race and Law*, which helped lead him eventually into scholarship.

Maldonado calls her U-M years “one of the best experiences of my life. I felt like they wanted me to succeed as badly as I wanted to succeed.” 

Sheryl James is a Pulitzer Prize-winning journalist who lives in Brighton, Michigan.





BORDER-CROSSER, BRIDGE-BUILDER

By James Tobin

ILLUSTRATION BY CAROLYN REED BARRITT

Editor's note: This is the second in a series of articles about the intellectual history of the Law School, and the impact our scholars have had, from the classroom to the Supreme Court.

On February 21, 1966, Professor Hessel E. Yntema died in Ann Arbor of injuries suffered in an automobile accident. He was 75, four years past retirement, still active in his beloved field of comparative law but eclipsed by younger scholars. So the memorials in European and U.S. law journals, though respectful, carried a whiff of condescension toward a crusty figure seen by the young as out of date:

"He expected of others the same standard of courtesy and sincerity that he himself constantly gave, and when at times he failed to find it he was shocked and a little lost in an unfamiliar atmosphere."

"...his courtesy, which was all his own ... endeared him to all who had the pleasure and sometimes the difficulty of working with him."

Photographs reinforced the impression that Yntema (pronounced INE-te-ma) was an antique. Severe high forehead, clipped gray mustache, jug ears, deep frown lines—it was the face of a scowling Dutch burgher, formal and disapproving, hardly the image of the fast-reforming American law establishment of the 1960s.

Now, at a distance of nearly 50 years, we can see how misleading that impression was. In fact, Yntema's view of the law—as a discipline that must transcend international and cultural boundaries—foretold the future we now live in. Michigan Law's reputation as a center of global legal studies was built on the foundation that he helped to lay.





Hessel E. Yntema teaches a Conflict of Laws class in the 1930s.

COURTESY OF JOHN C. MCCARTHY, '39

Yntema grew up in a Dutch-American family that nurtured a thirst for learning. Eventually he would feel as much at home in Vienna or Utrecht as in the small towns of western Michigan where he came of age. After two years as a Rhodes Scholar, he earned a law degree at Harvard and a Ph.D. in political science at Michigan. He learned to read in French, Italian, German, and Spanish. He taught law at Columbia and Johns Hopkins before Dean Henry Bates, perceiving a need for more international expertise at Michigan as the world crisis of the interwar years deepened, lured Yntema to the Law School in 1933.

After early work in jurisprudence and conflict of laws, Yntema shifted to comparative law, which enjoyed a resurgence at mid-century thanks to emigrant scholars fleeing Europe and the growth of international cooperation after World War II. Here he made his major mark. He did not write a “big book” or think of a big new idea. He brought people together, publicized comparative law, and launched endeavors to promote it.

In the late 1930s, for example, Yntema learned that the German legal philosopher Ernst Rabel, deposed by the Nazis from the directorship of the

prestigious Kaiser Wilhelm Institute in Berlin, was penniless and out of work. Yntema persuaded the Law School to offer Rabel a home. The appointment of this thinker of global renown put Michigan Law on the European map. When it became known that Rabel’s four-volume masterwork, *The Conflict of Laws: A Comparative Study* (1945–58), had been written in Ann Arbor, the impression spread in Europe that this distant town in the American Midwest “was a happening place” in international and comparative law—a status it retains today, said Mathias W.

Reimann, LL.M. '83, Hessel E. Yntema Professor of Law at Michigan.

Rabel had been appointed as a research associate, not a teaching professor. Nonetheless, ambitious young Europeans were soon crossing the Atlantic to study comparative and international law under Yntema and his colleagues, William Warner Bishop and Eric Stein. Thus Yntema’s gesture of aid to Rabel turned out to be not only generous but canny. “It sustained us, in a way,” Reimann said. “It paid off hugely.”

Mathias W. Reimann, LL.M. '83



U-M PHOTO SERVICES; LIN JONES

Meanwhile, Yntema was writing letters and talking with colleagues in pursuit of what a friend called his “lifelong dream”—the founding of the *American Journal of Comparative Law*. In 1952 he was named the *Journal’s* first editor-in-chief (and staff of one), a post he held until his death. Around Hutchins Hall he was known as crotchety and slightly eccentric, a curmudgeon who talked too much. But in his office, and through extensive contacts in foreign centers of learning, he built the *Journal* into an international force, a home for cosmopolitan scholars who helped to break down the isolation of American law from the rest of the world. “His main significance was in teaching, documenting, stimulating, organizing,” a European colleague wrote.

“In the United States he was famous in this little circle of comparative law academicians and lawyers, but not a big name,”

Reimann noted. “He was much more famous in Europe. He made most of his contribution to comparative law by making connections with Europe, by building bridges. Michigan, at the time, together with a couple of other schools—Columbia, mainly, and Chicago and Berkeley—was probably the leading place for a world view of law. Yale and Harvard at the time really weren’t all that interested. The others were still way behind. So Michigan, Chicago, Berkeley—that’s where people went. And Yntema laid a 15-year foundation block for that.”

Building further on that foundation, the American Journal of Comparative Law is again published at Michigan Law after a three decade exodus to Berkeley. Reimann is editor-in-chief. 

James Tobin is an award-winning historian and author.

More Memories of Hessel Yntema

From Eric Stein, ’42, Hessel E. Yntema Professor Emeritus of Law: “Hessel helped me greatly in the transition from civil to common law system, particularly with his realist theory of law, so different from the traditional civil law tradition. He and (late Professor) Bill Bishop were my main mentors.”

From “Hessel E. Yntema: Memorial Resolution by Law School Faculty concerning Hessel Yntema,” *Michigan Law Review*, Vol. 64, No. 6 (April 1966): “Professor Yntema was a stimulating and demanding teacher, proving particularly successful in seminars and small classes, and in direct supervision of legal research. . . . The high standards to which he adhered in his teaching bore their fruits as attested by the numerous letters and visits of his former students, many of whom occupy high places in the bench and bar of the United States and abroad.”

From *Law Quadrangle Notes*, Vol. 10, No. 3 (Spring 1966): “We heartily endorse the statement of Acting Dean Charles Joiner, that: . . . [Yntema’s] distinction has circled the globe. His passing is a loss that will be felt in many countries with the keenness that is felt in Ann Arbor.”

From Stein: “I was honored to receive a Law School Chair named after Yntema. Every time I sign my name with affiliation, I think of him with affection and respect.”

From a volume of essays presented to Yntema on his 70th birthday by the editors of *The American Journal of Comparative Law*: “The volume honors Hessel Yntema for his untiring dedication to the *Journal* and that for which it stands: better understanding of the law, its problems and function through increased knowledge about the legal systems of the world.”

Eric Stein, ’42



Home Schooled

By Katie Vloet



It's dinner time at Professor Beth Wilensky's house, and all of the food is spread out on her dining room table. Wrap sandwiches are identifiable by color-coded toothpicks, and a nearby sheet of paper lists all the ingredients. Given the discussion that's about to take place, the food labels are very important—almost as important as the food itself.

This is no ordinary dinner party. Wilensky is hosting an in-home mini-seminar at her house on Ann Arbor's north side; the topic is food and the law. This is one of several mini-seminars that 2Ls, 3Ls, and LL.M. students can take for one credit and a pass/fail grade. The popular courses allow professors to step outside of the boundaries of their normal course offerings, and for students to

learn about everything from medical ethics to legal issues in Bollywood films to legal practice during the Civil War.

And, of course, food. More than a dozen students take their wrap sandwiches to the comfy green sofa and the dining room chairs circling Wilensky's living room. They dive into the discussion about food labeling between bites. Italian prosciutto laws—let's start there. European Union law protects the name of a specific type of the meat, so that something sold as *prosciutto di Parma* must in fact come from the Parma region of Italy.

"Can you make the argument that it's for the protection of the consumer, and not just the manufacturer?" asks Wilensky,



Professor Beth Wilensky, lower right, hosts an in-home mini-seminar at her house on Ann Arbor's north side.

Above: Wilensky's 5-year-old daughter, Josephine, makes an appearance.

clinical assistant professor in the Legal Practice Program.

The conversation soon turns to the labeling of food allergens, organic products, kosher food, Kobe beef, and—a topic close to many college students’ hearts—beer purity. Should the government be in charge of these labels, or should private organizations? How much faith should consumers place in the labels, and how much should they rely on their own research?

“If you’re really passionate about buying organic or buying kosher,” says 3L Joseph Jones, “shouldn’t you do your own research?” Asks 3L Joseph Wang: When does the government’s labeling become shorthand for people who would rather not take the time to do their own food research?

In the middle of the discussion, Wilensky’s 5-year-old daughter, Josephine, makes an appearance. With wet hair and Dora pajamas, she’s not the typical visitor to a law class—but she is a welcome one, it is clear, when the students gush over the paper bracelets she has made for them.

That kind of personal touch is common at the mini-seminars, which Dean Evan Caminker asked faculty to teach. “We already have close relations between students and faculty with lots of out-of-class interaction, but given that so many students and faculty live near campus, I thought we could improve even on a strong base and really take advantage of our geography,” Caminker notes.

“We also have so many faculty from whom students should really take a class, but that often doesn’t work because of scheduling conflicts or lack of interest in the particular courses that faculty teach. I thought this was a way to enable students to spend a little time getting to know various faculty in an informal, personal way without having to take a substantial course with them.”

Not all the classes occur at professors’ homes. Professor Vikramaditya Khanna taught “Hollywood, Bollywood, and the Law:



Wilensky’s dining room sets the stage for the class’s meal.

The Globalization of the Entertainment Industry” in classrooms at the Law School because he needed access to the technology and big screens to show movies. But these courses, too, had a personal touch. Khanna brought in Indian food for the lectures, including chai that was redolent of cardamom, samosas, and fried vegetable pakoras with chutneys on the side.

Sound good? It did to the students, who returned for second and sometimes third helpings during the discussion about the way Bollywood movies are distributed. Khanna explained that the amount spent on marketing is a small part of the system for movies in India, comprising only about 10 percent of a film’s budget compared with as much as half the budget of a Hollywood film.

He also described 800-seat movie houses once common throughout India, in which rickshaw drivers would take the front rows—the cheap seats—and proposition the heroine as soon as she appeared on screen. Families and ladies, meanwhile, would sit in the balcony. All of that is changing now with the prevalence of cinema halls at shopping malls, complete with sit-down food service and reclining chairs.

Hutchins Hall 138 didn’t have quite the same amenities, but the students didn’t

seem to mind. They intently listened to Khanna, then settled in for the night’s film, *A Wednesday*, a suspenseful story set in Mumbai. Khanna had to teach two make-up Enterprise Organization classes the next day, but at this moment, the fun class was his top priority.

“It’s a guilty pleasure,” he says. “How often do you get to do this in law school?”



Professor Vikramaditya Khanna

Private Support: More Important Than Ever



From beginning to end, 2009 was an historic year for Michigan Law. In November, the Law School received the largest gift in its history from a living donor: a commitment of \$10 million from Robert and Ann Aikens, whose story appears on the next page. We're deeply grateful to Bob and Ann, and in appreciation, we're proud to name our beautiful new Commons the Robert B. Aikens Commons.

We continue to raise funds for the new academic building and the Aikens Commons during construction. It's exciting to know that when the project is completed, many Michigan Law alumni and friends will be permanently recognized for their support, whether in named spaces in our new facilities or on a wall display in the new building.

As always, and particularly in response to recent economic challenges, the University and the Law School are engaged in responsible fiscal planning and belt-tightening. Private support is more important than ever, especially for current students (through gifts for scholarships based on merit, need, or both) and for graduates who take lower-

paying legal jobs that make it difficult to repay their law-school loans (through gifts for our Debt Management Program).

Of course, we continue to seek private support for all other aspects of our mission, including our stellar faculty and our innovative programs, and for the Law School Fund, which provides welcome assistance School-wide.

Our fiscal year ends June 30, so if you haven't made a gift during this fiscal year, I hope you'll consider making one. And have you remembered the Law School in your estate plan? We'd be pleased to talk with you about a number of vehicles for doing so.

Sincerely,

Todd M. Baily
Assistant Dean for Development and Alumni Relations

Background: A watercolor depicts the new Robert B. Aikens Commons.

*Building support***Ann and Robert Aikens, '54**

Robert and Ann Aikens have made a \$10 million gift to the University of Michigan Law School for the School's ongoing building expansion and renovation project. Robert Aikens, of Bloomfield Hills, Michigan, is chairman of Robert B. Aikens & Associates L.L.C., a commercial real estate development and management firm based in suburban Detroit, and a 1954 alumnus of the Law School. The gift is the largest ever made to the Law School by a living donor.

In recognition of the Aikens' extraordinary generosity, the Law School will name the new Commons the Robert B. Aikens Commons. Blending contemporary and traditional architecture, the two-story, 16,000-square-foot space will have a glass roof that affords views of the surrounding stone walls. The Aikens Commons, which will include group study spaces, gathering spots for faculty and students, a café, and student organizational space, is destined to become the heart of Law School community life.

"Bob Aikens is one of the nation's most respected developers of commercial real estate, and we are so pleased that his name will be associated in perpetuity with the Law Quadrangle, the architectural jewel in the University's crown," said University President Mary Sue Coleman. "We are deeply grateful that Bob and Ann have chosen to invest in the University and the Law School at this critical time."

The couple previously has provided generous support to the Law School, the School of Art & Design, and the Department of Intercollegiate Athletics. In 2002, Ann Aikens earned a Bachelor of Fine Arts from the University's School of Art & Design, where she is a member of the Dean's Advisory Council.

"When I was in law school, there were few places for the off-campus students to have lunch or work other than the Law Library," Robert Aikens said. "When I was appointed to the Building Committee, we found that most leading law schools had a gathering place. I am pleased to help our School join other leading law schools with such a wonderful facility."

Law School Dean Evan Caminker said the Robert B. Aikens Commons will have a dramatic impact on the student experience, making a school already known for its collegiality an even warmer and more welcoming place.

"By helping build the new Commons, this splendid gift will enable generations of students to enjoy the soaring architecture of the

Law Quad in an entirely new way," Caminker said. "The Robert B. Aikens Commons is sure to become a new nucleus for the intellectual and social life of the Law School and will help nurture the bonds students form here, both among themselves and with the faculty. We're extremely grateful to Ann and Bob Aikens for their generosity."

A native of South Bend, Indiana, Robert Aikens earned a B.A. at Brown University before coming to Michigan to study law. He was a senior partner with the law firm of Wunsch, Aikens & Lungershausen before forming a company in his name in 1973 in Troy, Michigan. His portfolio of projects has included regional shopping centers, main-street lifestyle centers, community centers, commercial office buildings, and resort communities.

Editor's note: Read more about the Commons and other construction information on p. 7.



Ann and Robert Aikens

GIVING

Building support

Cindy and Kenneth McClain, '82

Ken McClain, '82, vividly recalls the late tax Professor L. Hart Wright saying (usually in reference to some convoluted IRS regulation), "If you could get on top of the world and look down . . ."

The saying later became a touchstone for McClain at times when he felt he needed a little more perspective. In gratitude for what he calls the "many lessons, including life lessons" learned at Michigan Law, McClain and his wife, Cindy, of Independence, Missouri, have made a gift of \$500,000 to the building project.

Even as a second-grader in Brighton, Michigan, McClain knew he wanted to be a trial lawyer. After graduating from Michigan Law, he joined the litigation department of what is now Stinson, Morrison & Hecker, then Kansas City's largest firm. A business connection led to McClain's joining a small firm in Independence, where in 1986 he handled and won one of the first asbestos-related property damage cases in the nation.

The experience transformed his career and brought in high-profile tort cases nationwide for Humphrey, Farrington & McClain. Today the firm specializes in toxic torts and all types of complex litigation. A recent unique set of cases seeks relief for workers who suffered lung damage while working in plants that manufacture microwave popcorn.

"We learned how to develop a team that could try complex litigation anywhere," says McClain. "It was a great training ground."

Enthusiastic community boosters, Ken and Cindy McClain also became real estate developers "by default," he explains. "Our town needed somebody who was willing to invest in it. And we wanted to make it not only a place with a history, but a place with a future." The couple has restored—and Cindy runs—several businesses around the historic square in Harry Truman's birthplace, including an inn, a theater, shops, and restaurants.

The McClains have six children aged 16–27; the eldest is a lawyer, and the next two are in law school. Grateful for his success, McClain feels he has a responsibility to help others as well—a life lesson he's passing on to the next generation.

"I have tried to impart to my kids that none of the things we have matter if others around you are impoverished," he notes. "The things you achieve should benefit as many people as possible."



Kenneth and Cindy McClain

International program support

Jon Henry Kouba, '65

As a youth growing up in Belleville, Michigan, Jon Kouba was captivated by world affairs. His world view was definitively shaped by the post–World War II era of international cooperation for conflict resolution marked by the formation of organizations like the United Nations and alliances like NATO.

“It was an exciting time to be growing up, seeing how the U.S. responded to international challenges,” says Kouba, '65, of San Francisco. His early fascination with the role of law on the global stage became a lifetime passion, formed the basis of his legal career, and drew him back to the University of Michigan Law School so he could encourage new generations of students to explore the role of law in the pursuit of world peace.

Kouba earned a B.A. in political science with high honors at the University of Michigan. He traveled around the globe in his 1L summer, returning to study international law with Professor Emeritus Eric Stein, '42, and the late Professor Emeritus William Bishop, '31. After graduation, with the help of a post-graduate fellowship from the Law School, he studied law in Mexico City at the National University of Mexico and became fluent in Spanish.

A recommendation from Bishop helped Kouba land a job with a firm in San Francisco; later he struck out on his own, specializing in international business transactions, real estate investment, and corporate work. Now largely retired from law practice, he still owns a real estate investment company.

In 2003, after decades of annual giving to the Law School, Kouba was inspired to do more. “I was so upset by the unilateral aggression of the Bush administration and the attack on Iraq that I was determined to do something about it,” he says.

That “something” became an endowment by Kouba to support the study of public international law and helping to fund conferences, the Eric Stein Collegiate Professorship, student internships at the AIRE Centre in London, and two Kouba Prizes for the best student papers in international peace and security and in European integration studies.

Recently Kouba signed a new commitment benefiting his endowment, which received a 50 percent match from President Coleman’s Student Global Experience Challenge and brought his total giving to more than \$350,000. Kouba also plans to leave half his estate to the Law School, ensuring that the work he has begun will go on after him.

Besides the personal gratification derived from the immediate results of his endowment, he has also enjoyed the opportunity to extend his worldwide network of friends. “One of the best benefits was that when I visited the AIRE Centre in London, they welcomed me like an old family member.”



Jon Kouba, '65, and Virginia Gordan, assistant dean for international affairs, share a moment at last fall's Sesquicentennial Celebration.

PETER SMITH PHOTOGRAPHY

Young alumni giving/Law School Fund

Students Rise to the Nannes Challenge

Each fall, a committee of third-year law students conducts the Nannes 3L Challenge. John Nannes, '73, makes a contribution to the Law School, and students signing up for the Challenge can designate \$250 of his contribution to the student organization(s) of their choice. In exchange, the students agree to make a contribution to the Law School Fund in each of the first four years after they graduate.

The Challenge is open to the first 200 3L students who sign up, and there is friendly rivalry among students to get their friends to sign up and designate their favorite organizations to receive the money so that it will be available to students during their last year of Law School.



*Teresa Lin, Nannes
Third-Year Challenge co-chair*

Teresa Lin and Spencer Walters, this year's Nannes Third-Year Challenge co-chairs, thought they knew what they were getting into.

They had an enthusiastic board of fellow 3L fundraisers. The drive would end in one short month. How hard could it be to garner 200 pledges?

They hadn't reckoned with the most uncertain legal job market in decades. Many classmates hadn't yet landed jobs at the time of the fund drive, and many more were skeptical about why they should contribute.

"It was definitely a challenge to get people to see that tuition doesn't cover all the good things we've experienced at law school, and that alumni giving does matter," says Walters.



*Spencer Walters, Nannes
Third-Year Challenge co-chair*

After an eleventh-hour rally, the class of 2010 came through. The challenge that ended October 16 was the most successful yet, with 217 3Ls pledging to give back to the Law School during the first four years after graduation—even students overseas like Katie Conlin, on an externship in South Africa.

On the fulfillment end, recent graduate participation in giving is higher than ever, with the combined average of the classes of 2006, 2007, and 2008 nearly 20 percent higher than the combined alumni average (*see graph, p. 34*). The class of 2006 was the first to use a student fundraising committee for the challenge.

In recognition of the successful format and of the Law School's continued need for the student-led initiative, John Nannes, '73, and his wife, Carole, have made an endowment gift so that the challenge will be a permanent fixture of the School.

Students are grateful. "It's an amazing thing that Mr. Nannes does," says Ryan Particka, 3L, who chairs the student organization Legal Advocates for Children and Youth.

Employed or not, pledging students are united on the huge value of being able to each direct \$250 of Nannes' matching gift to any number of the Law School's more than 50 student organizations, in exchange for their pledges. "We do a lot of fundraising," says Lara Bueso, 3L, chair of the Latino Law Students Association, "but bake sales will take you only so far."

Since funds were awarded right after the challenge, the 3Ls got to see how the money is used, and, if they're organization leaders, to have a hand in how it's spent.

"Especially in a year like this, when other funding sources are cutting back, to know there's a source like the Nannes money makes budgeting a lot easier," says Austin Ownbey, 3L, president of the Michigan chapter of the American Constitution Society (ACS).



Kathrina Szymborski, 3L, managing editor of the Michigan Law Review



Sarah Bullard, 3L, Environmental Law Society liaison to the Nannes Challenge



Lara Bueso, 3L, chair of the Latino Law Students Association



Ryan Particka, 3L, chair of Legal Advocates for Children and Youth

"Nannes funds" have a pronounced impact on every organization that receives them, as these examples show:

- ▶ The ACS took Chapter of the Year honors at their national conference, and "the Nannes funds helped make that possible," says Ownbey.
- ▶ The Michigan chapter of the Native American Law Students Association used challenge funds to send two students to its national conference, and one, Josh Clause, 3L, sought and won the presidency of the national student association.
- ▶ The Food Stamp Advocacy Program bought a laptop computer to file online applications on behalf of low-income clients, whose wait for relief is months longer with paper applications. "If we can switch over [to electronic filing], we'll be able to help a lot more people," says Tripp Adams, 3L, co-chair and volunteer coordinator.
- ▶ The Environmental Law Society uses Nannes money to help fund "everything we do," says Sarah Bullard, 3L, the group's liaison to the challenge.
- ▶ Even the venerable *Michigan Law Review*, this year facing cuts in law-firm sponsorships, welcomed the additional support for activities like author talks, faculty research talks, and maintaining a stock of morale-boosting treats. "We're just like any other group that wants to produce something of quality," says managing editor Kathrina Szymborski, 3L. "People do a better job if they feel appreciated."

For some 3Ls, the decision to pledge was easy. "The Law School has done so much for me, and the student organizations are a lot of what the Law School has to offer," says Raj Bandla, 3L, managing editor of the *Michigan Journal of International Law*. "I want future students to benefit in the way I was able to do."

For those who needed convincing, Nannes board member Rebecca Oyama, a December graduate, wrote and e-mailed "Top Ten Nannes Myths Debunked" to all 3Ls, pointing out, among other arguments, that a four-year, \$250 pledge amounted to \$5.21 a month, "the equivalent of foregoing one beer, venti latte, or Sunday paper once a month."

When the dust had settled and the co-chairs had time to catch their breaths, they said the experience had taught them a lot about philanthropy and their classmates.

"I definitely learned how important it is to give back," says Lin. "And it made me realize how, under the surface, so many of us are really committed to our school."

"Against powerful economic odds, these 3Ls chose to show their support for Michigan and for their classmates," says Nannes. "If students can make that kind of commitment, how can we as alumni do less?"

Dean Evan Caminker says, "By educating our newest alumni about the importance of giving back, the Nannes Challenge is integral to the long-term financial health of the Law School."

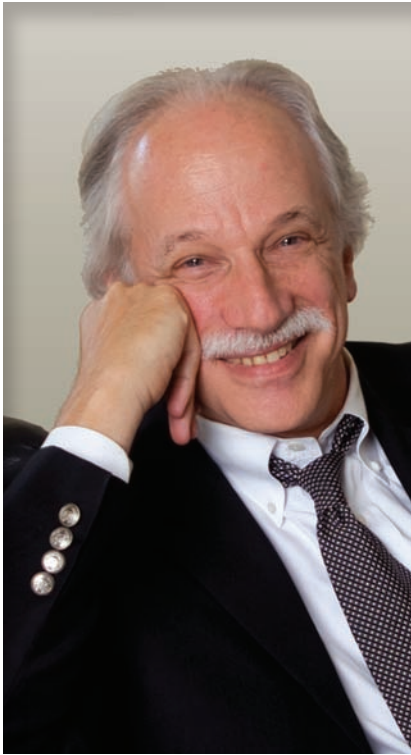
PHOTOS BY U-M PHOTO SERVICES, SCOTT SODERBERG



GIVING

Endowing the Challenge

The 3L Challenge was developed by John Nannes, '73, a partner in the D.C. office of Skadden, Arps, who, with his wife, Carole, recently made a gift to endow the program and provided this background:



How did the 3L Challenge come about?

In the 1990s, we noticed a big decline in the percentage of recent graduates who were giving annually to the Law School Fund. With declining state aid, we knew that a drop in alumni giving posed a significant long-term threat to the Law School.

We wanted to come up with a way to let students see the role that alumni support plays in enriching the life of the Law School. We thought that letting students designate dollars from alumni to their favorite activities could be effective in doing that.

Is the Challenge turning out as you had hoped?

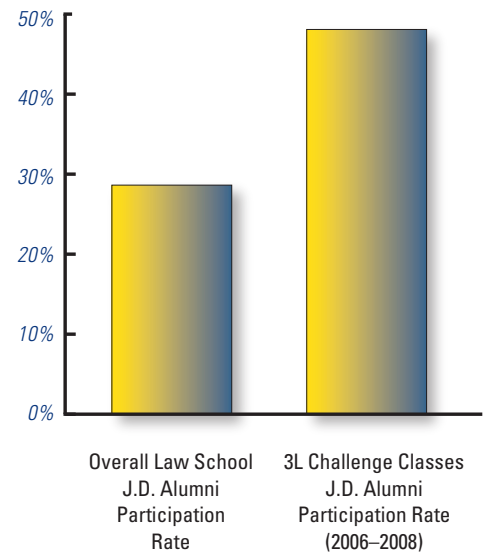
Actually, it has worked out better than I think anyone anticipated. Giving rates for recent classes are way up, and that's due entirely to the enthusiasm of each year's student committee. They understand why alumni giving matters. They want to be part of the Law School's future. And they really care.

But beyond that, we've seen a camaraderie and collegiality that may be unique to Michigan. The 3L Committee comprises

students from every student club and activity under the sun, some with quite different agendas, as you can imagine. But they put aside those differences to work together for the common good of the Law School. That was really an unanticipated dividend.

And that's why Carole and I decided to make a gift that would fund the program permanently.

Michigan Law Alumni Giving



How to make a gift to Michigan Law

Online credit card gifts: Visit www.law.umich.edu and click on Giving to Michigan Law on the left side of the page.

Gifts of securities: Call toll free 877.647.9090 or e-mail umgiftsec@umich.edu

For assistance: Call the Office of Development and Alumni Relations, 734.615.4500.

Have you remembered the Law School in your estate plan?

Building support

Dinsmore & Shohl



Tory Weigle, '71, Mark Vander Laan, '72, and George Vincent, '82.

Michigan Law alumni at Dinsmore & Shohl have a history of outstanding support for the Law School, annually achieving high participation in giving back to the Law School Fund.

But last summer's e-mail from managing partner George Vincent, '82, sought to raise the stakes: Would the Wolverines in the firm come together, he asked, to support the Law School's building project?

Overwhelmingly, the answer was yes. Led by Vincent's \$50,000 contribution, Michigan colleagues at Dinsmore raised \$250,000 for the building, of which \$50,000 was a matching gift from the firm. The drive concluded just in time for the firm to be recognized as a major contributor at the groundbreaking ceremony in September.

"We're all proud of the Law School," said Vincent, of Cincinnati. "We're all thankful for the great education we received and the relationships we developed while we were there."

Headquartered in its hometown of Cincinnati, Dinsmore & Shohl has 460 lawyers in 10 cities and has added 170 attorneys since January 1, 2008.

Vincent, a dyed-in-the-wool Wolverine—he was born in University Hospital in Ann Arbor and grew up in Detroit—interviewed with firms in four Midwestern cities, liked what he saw at Dinsmore for a summer clerkship, and has spent his entire career with the firm.

"Losing to Ohio State six of the last seven years, it's been tough," jokes the Michigan transplant, whose daughter, Laura, is currently a junior at U-M. "We need (former OSU coach) John Cooper back."

Joining Vincent in making the building gift are partners Richard Broock, '71, J. Michael Cooney, '75, Martiné Dunn, '84, Michael Eagen, '74, Charles Hertlein, '80, Jeffrey Hinebaugh, '92, Jerome Kearns, '65, Paul Ose, '77, Sadhna True, '91, Mark Vander Laan, '72, Gerald Weigle, '71; associates Trevor Gillette, '07, and Kurt Hunt, '07; and James Schwab, '68, president of US Bank for the Cincinnati region.

Building support

Faegre & Benson

What inspired several Faegre & Benson attorneys, and their foundation, to make a \$250,000 gift to the Law School's building project in Ann Arbor?

Just glance at Faegre's professional roster, which shows that 25 of the firm's 500 lawyers hold diplomas from Michigan Law, including Tom Morgan, '72, who chairs Faegre's management committee.

"Our Michigan grads have a track record of both success and enthusiasm," says Charlie Ferrell, '77. "Individual giving led the charge, and that made it easy to obtain further support from the firm's foundation."

In recognition of the gift from a dozen of the firm's attorneys and the Faegre & Benson Foundation, the Law School has named the jury room the Faegre & Benson Jury Room, with the naming ceremony held during the Law School's Sesquicentennial Celebration last fall.

On hand for the occasion were Faegre partners and campaign leaders Brian O'Neill, '74, and Jim Spaanstra, '77, as well as Russell Stewart, '84, and Laura Ferrell, '09, an associate with Skadden's Chicago office, representing her father, Charlie.

"Michigan Law is proud of its relationship with Faegre, and proud that so many of our graduates have gone on to be partners and leaders in the firm," said Dean Evan Caminker, in dedicating the Faegre & Benson Jury Room.

The jury room, adjacent to the Halliday Moot Court Room on the second floor of Hutchins Hall, is used for all the Law School's litigation-based clinics, trial advocacy classes, and other educational experiences involving mock juries.

Michigan alumni at Faegre who contributed to the collective gift are partners Mark Carpenter, '94, Michael Coddington, '96, Ferrell, Christin Garcia, '92, David Miller, '77, Morgan, O'Neill, Walter Pickhardt, '79, Spaanstra, and Stewart; and associates Shella Neba, '07, and Matthew Rojas, '06.



Russell Stewart, '84, Jim Spaanstra, '77, Dean Evan Caminker, and Brian O'Neill, '74, at the dedication for the Faegre & Benson Jury Room.

GIVING

Building support

The Bergstrom Foundation

The Bergstrom family's relationship with Michigan Law began in 1932, when the late Henry A. Bergstrom entered the Law School after receiving his B.A. from Michigan.

Bergstrom, '35, witnessed milestones in Law School history: the completion of Hutchins Hall and the School's move from the old Law Building into the Quad. He was later fascinated by the building of the underground Smith Library Addition.

Bergstrom gave generously of his time and resources to the Law School until his death in 1993. Upon receiving the University's Presidential Societies Leadership Medal in 1989, he said he had "had a love affair with the University of Michigan for years."

In 1997 the foundation Bergstrom established in Pittsburgh, where he lived, made an endowment gift creating the Henry A. Bergstrom Child Welfare Law Summer Fellowship Program at Michigan Law. The program has provided training in child advocacy to law students nationwide, helping to seal the School's reputation as the preeminent center for training lawyers in child welfare law.

Recently the Bergstrom Foundation, now 50 years old and headed by Larry Phillips, '67, gave \$250,000 to the building fund, ensuring that Henry Bergstrom's name will live on at Michigan Law. His son, Henry A. (Hank) Bergstrom Jr., who comprises the Foundation board with daughter Ashley and with Phillips, said the gift is a perfect way to celebrate both the Foundation's anniversary and his father's centenary in 2011.

"The University of Michigan changed his life," says Hank Bergstrom. "He would have wholeheartedly supported the building project if he had been alive, with money, time, and advocacy."

Ashley Bergstrom added, "The Law School provided my grandfather an opportunity for success. With this donation, he would have been thrilled by the prospect of countless opportunities afforded to future generations of students."

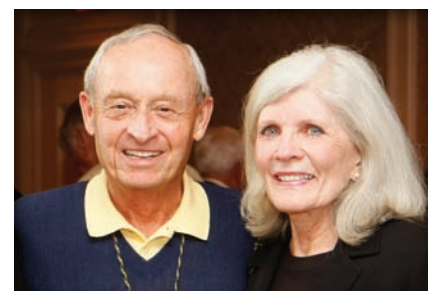


Recent Gifts

Sara and James Adler, '61, of Los Angeles, have made a gift of \$50,000 to the building project. Since 2005 Jim has been the principal of adleradr.com in Los Angeles, specializing in arbitration and mediation. After clerking for Mr. Justice Whittaker and Chief Justice Earl Warren and stints at the Departments of Labor and Commerce, Jim practiced labor and employment law in Los Angeles for more than 40 years.



Barbara and Martin Bienenstock, '77, of Katonah, New York, have made a gift of \$125,000 to the building project, bringing their total building commitment to \$250,000. Martin, a partner in Dewey & LeBoeuf's New York office, chairs the firm's Business Solutions and Governance Department and is also a member of its executive committee. He is an adjunct faculty member at Michigan Law.



Janet Gatherer Boyles, BSN '58, and John Boyles, BBA '56, J.D. '59, of Grand Rapids, Michigan, have made a gift of \$50,000 to the building project in honor of John's 50th class reunion, for which he

served as co-chair. John is retired from practice with the Grand Rapids firm of Verspoor, Wallkes, Lalley, Slotsema & Talen PC, and Janet is the retired principal of Boyles, Curtain & Associates.



Terri Abruzzo and David Callahan, '91, of Chicago, have made a gift of \$50,000 for the building project and an additional gift of \$12,500 to the Law School Fund for recognition at the Cavaedium Society level. David is a partner with Kirkland & Ellis in Chicago.

Antonina and James D'Agostini, BBA '77, J.D. '80, of Rochester Hills, Michigan, have made a gift of \$50,000 for the building project in honor of James' 30th class reunion. He is secretary and treasurer of L. D'Agostini & Sons Inc. in Macomb, Michigan.

The Honorable Jessie Dalman, MA '58, and Ronald Dalman Sr., '58, of Holland, Michigan, have made a gift of \$50,000 to the building project. Ron is of counsel to the Holland-based firm of Cunningham Dalman PC.

Dr. Marla Matz Feldman, BS '78, DDS '82, and Stewart A. Feldman, '80, of Houston, have made a gift of \$100,000 to the building project. Stewart is the chief executive officer of Capstone Associated Services, Ltd., and RSL Funding, LLC. They are the proud parents of Adam (Mich. Eng., expected to earn BBA in 2013) and Amy (Mich. LSA, expected to earn degree in 2014).

Bernadette and Peter Garam, '69, of Irvington, New York, have made a gift of \$50,000 to the Law School Fund in honor of Peter's 40th class reunion. He is associate general counsel with Consolidated Edison Company in New York City.

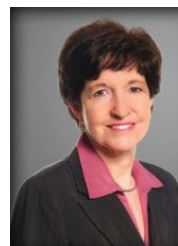


Linda and Andy Jacob, BBA '74, MBA '76, J.D. '78, of Bloomfield Hills, Michigan, have made an additional gift of \$200,000 for the building project, bringing their total giving for the building to \$250,000. Andy is principal of ATMF Realty & Equity Corporation, headquartered in Bloomfield Hills, Michigan.



Stephanie and Charles Jarrett, '84, of Pepper Pike, Ohio, have made a gift of \$50,000 to the building project in honor of Chuck's 25th class reunion. He is vice president, secretary, and chief legal officer of Progressive Corporation in Mayfield Village, Ohio.

Diane Dreyfuss Jensen, BA '69, J.D. '72, of Fort Myers, Florida, has made a gift of \$50,000 for the building project. She is a partner with the Pavese Law Firm in Fort Myers.



The Molenkamps: Gregory, Sarah, '08, Sally, AMLS '84, and Jack, '79.

Sally Molenkamp, AMLS '84, and Jack Molenkamp, '79, of Washington, D.C., and their daughter, Sarah Molenkamp, '08, of Wauwatosa, Wisconsin, have made a gift of \$50,000 to the building project in honor of Jack's 30th class reunion and the family's relationship to the Law School. Jack is a partner in the Washington office of Hunton & Williams.



Siri and Hans Quitmeyer, '79, of Minneapolis, have made a gift of \$50,000 to the building project and an additional \$12,500 to the Law School Fund, for recognition at the Cavaedium Society level, both in honor of Hans's 30th class reunion. He is vice president and general counsel of Honeywell Automation and Control Solutions.

Stephen Tomlinson, '84, of Rowayton, Connecticut, has made a gift of \$75,000 to the building project in honor of his 25th class reunion, which he co-chaired. He is the senior partner in Kirkland & Ellis's real estate practice group and resident in the firm's New York office.



GIVING

Reunion Giving

By making gifts in honor of their reunions, Michigan Law alumni celebrate their class and their relationship with the Law School. Reunion giving helps keep Michigan strong and helps the newest members of the Law School community—today's outstanding groups of students—meet the cost of a first-rate legal education. Here are the giving totals for reunions held during the fall of 2009, including gifts and pledges to the Law School Fund.

Class of 1954

Committee: Lawrence Bullen, chair; Nola Allen, Chris Christ, Granger Cook, Norman Gottlieb, Hugh Harness, George Mack, John Shantz, Ted St. Antoine, William Van't Hof, and Richard Young

LSF total: \$99,260
Total all gifts: **\$120,160**

*Read about a significant gift from a 1954 alumnus on p. 29.

Class of 1959

Committee: Stanley Bergman and John Boyles, co-chairs; Gerald Bader, Edward Bransilver, Leonard Schwartz, Herbert Solomon, Ronald St. Onge, Joel Tauber, and Robert Weinbaum

LSF total: \$153,912
Total all gifts: **\$1,782,579**

Class of 1964

Committee: Michael Marston, chair; Robert Battista, Carl Bernstein, James Copeland, Judd Johnson, Allyn Kantor, Alan Kravets, John Mogk, Thomas Palmer, Lloyd Semple, Marvin Shwedel, Walter Urick, Stephen Wittenberg, and James Zirin

LSF total: \$67,675
Total all gifts: **\$159,075**

Class of 1969

Committee: Robert Gooding and Stanley Stroup, co-chairs; Barry Adelman, Peter Garam, Robert Meisner, Donald Shelton, and Alan Sternberg

LSF total: \$140,468
Total all gifts: **\$519,018**

Class of 1974

Committee: Rich Gray, Patrick Hindert, Bill Jordan, Brian O'Neill, Dan Reidy, and Christina Whitman

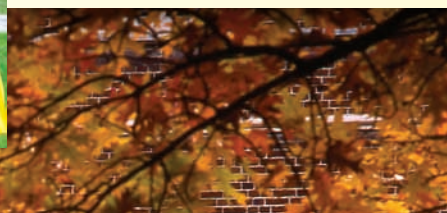
LSF total: \$273,730
Total all gifts: **\$585,330**

Class of 1979

Committee: John Hoyns and Don Parshall, co-chairs; Tom Connop, Tim Dickinson, Ethan Falk, Dave Kern, Bill Klein, Rob Knauss, Chick Lane, Barrie Lawson Loeks, Debra Minott, Jack Molenkamp, Hans Quitmeyer, and Scott Smith

LSF total: \$349,085
Total all gifts: **\$1,200,570**

Alumni and their family members reconnected at class reunions in September and October.



Class of 1984

Committee: Meg Waite Clayton and Stephen Tomlinson, co-chairs; Marjorie Adams, Daniel Bronson, John Bulgozdy, Jim Davidson, Helen Haynes, Michael Hernandez, David Laverty, Teri Rasmussen, Joan Snyder, Russell Stewart, Mark Sunshine, Philip VanDerWeele, and Barry Wolf

LSF total: \$119,158
 Total all gifts: \$1,301,108

Class of 1994

Committee: Ann-Marie Anderson and Cheryl Hipp, co-chairs; Otto Beatty, Janene Collins, Kate Drakos, Julia Ernst, Armando Irizarry, Lauren Krasnow, Lance Lankford, Liam Lavery, Leslie Overton, Elaine Rice, Gregory Ritts, Diane Smason, Gregory Teufel, Donica Varner, David Williams, and Andrew Winograd

LSF total: \$34,155
 Total all gifts: \$39,155

Class of 2004

Committee: Maren Norton, chair; Selia Acevedo, Kavitha Babu, Elizabeth Fine, Nathan Kavlie, Harpreet Khera, Allison Levy, Dan Loeffler, Kristin Meister, Seth Oppenheim, Salumeh Loesch, Jean Rhee, Julia Sutherland, Stefanie Von Hoff, and Jesse Wald

LSF total: \$26,921
 Total all gifts: \$28,907

Class of 1989

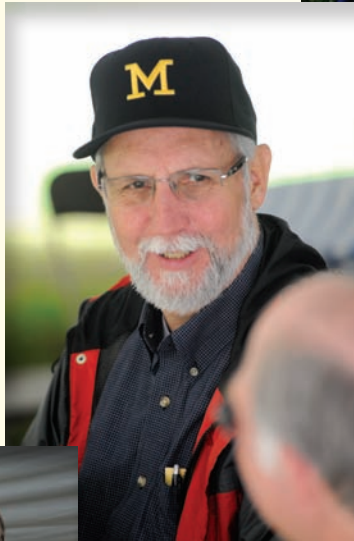
Committee: Lydia Kelley, May Liang, Rebecca McDade, and Michael Parham, co-chairs; Earl Barnes, David Baum, Charles Browning, Michael Cox, Grant Gilezan, Elizabeth Jolliffe, Stephen Kelley, John Knappmann, Creighton Meland, Robert Stefanski, Paul Thompson, Bruce Tuchman, Barron Wallace, and Jack Williams

LSF total: \$72,968
 Total all gifts: \$99,993

Class of 1999

Committee: Gregory Cooksey and David Grand, co-chairs; Jim Birge, Rocky Dhir, Jenny Floyd, David Kirk, Emily Paster, Jasmine Powers, Elliot Regenstein, Katharine Saunders, and Jeffrey Silver

LSF total: \$57,350
 Total all gifts: \$57,820



ALL PHOTOS BY PETER SMITH PHOTOGRAPHY, UNLESS NOTED

Change of Plans

Two Law School grads bolster their friendship by changing their careers and finding their calling in books.

By Lara Zielin

On a summer day in 1991, **Nicole Burnham** was moving into the Lawyers Club when she met **Cynthia Leitich Smith**, another summer starter. At that moment, they began a friendship and parallel journeys that one day would take them far from the legal world.

The women were largely opposites: Smith was the first in her family to go to college and had never lived far from home; Burnham's parents had post-secondary educations and, as an Army brat, she'd lived in a number of U.S. states, as well as Germany, before coming to Ann Arbor.

Yet they hit it off immediately.

Burnham and Smith, both '94, spent copious amounts of time studying and eating together. They also lived near one another for the duration of their legal education, at one point in the same house, and Smith says they often discussed the future together. "We'd talk about what firms we were interviewing with," Smith says, "and what our plans were."

Neither of them could imagine that their dream jobs would put their career paths on a crash course in the literary world 10 years down the road.

After graduation and a clerkship, Burnham headed to Boston, hoping to utilize her legal degree in a publishing house; Smith landed in Chicago, clerking with Health and Human Services while stringing for the *Chicago Tribune* to build clips for a journalism career.



SUSAN WILSON



Nicole Burnham, '94

With hiring freezes at publishing houses, Burnham started working at *Boston Magazine*, her first foray into professional writing. "I knew Cynthia's long-term goal [after graduation] was writing, whereas for me it was an evolution."



Cynthia Leitich Smith, '94

Burnham racked up articles, working with *Inc.* and various bridal magazines, while Smith, now in Austin, Texas, had scrapped her journalism goals to write novels full-time. "I realized that what I wanted to do more than anything was write children's fiction," Smith recalls.

The pair found the writing life suited them and both had published novels under their belts within the same year.

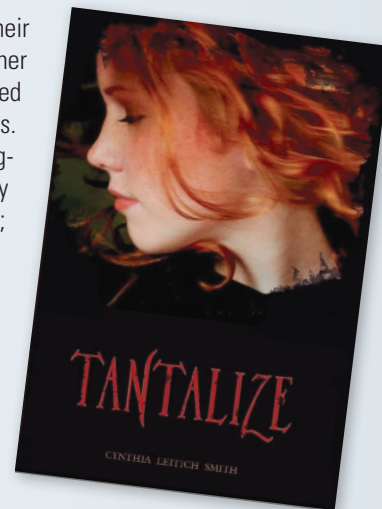
In 2001, Smith published her middle-grade book, *Rain is Not My Indian Name* (HarperCollins), and Burnham published her romance, *Going to the Castle* (Silhouette Romance).

The books are vastly different, but it didn't stop the friends from cheering each other on, even from halfway across the country. Burnham e-mailed Smith right away when *Going to the Castle* sold, and Smith "rushed out and bought multiple copies" when it landed on bookshelves.

Then, the two friends took their writing careers in yet another direction: They each started writing young-adult novels. Burnham published her young-adult romantic comedy *Royally Jacked* in 2004; Smith published *Tantalize*, a gothic fantasy novel, in 2007.

Now the pair, who were bridesmaids in each other's weddings but haven't seen each other since 1998, are talking about upcoming young-adult book conferences through which they might connect. They're delighted their friendship has the added common element of writing and industry discussions, and Burnham acknowledges a collaboration could be in the cards down the road. "It's certainly a possibility," she says.

Smith agrees, though she adds it would have to be the right project in order to allow their characters to mesh. "My characters are more bloodthirsty," she says, "and Nicole's are more charming." **Q**



1955

The North Carolina Tennis Foundation has selected **Tom Willson** of Cashiers, North Carolina, as one of the newest members of the Hall of Fame. After moving to North Carolina, Willson began building an accomplished playing record in age division tournament play. In 1979, he held the #1 year-end ranking in the Men's 45s Doubles and he would continue to stay in the upper-echelon of his age divisions as he played into his 70s.

1957

Richard F. Kohn received the Pro Bono Attorney of the Month award for June 2009 from Illinois Legal Aid Online.

1960

The Class of 1960 reunion will be October 15–17, 2010.

1961

Charles A. DeGrandpre, of Portsmouth, New Hampshire, was presented with the state Bar Association Distinguished Service to the Profession Award for 40 years of commentary on the decisions of the state Supreme Court in the *New Hampshire Bar Journal*. His practice is concentrated in the area of wills and trust administration, and he currently serves as trustee of several private family trusts.

The Honorable **Lou Frey** of Florida was chosen as the recipient of the U.S. Association of Former Members of Congress' 2009 Distinguished Service Award. The award recognizes his dedication to the youth of America and to teaching about public service. While in the U.S. House of Representatives, Frey was instrumental in involving young Americans in their government.

1963

Gary R. Frink is president-elect of Belle Grove Plantation Inc., which manages the Middletown, Virginia, 1797 limestone manor house and acreage.



Butzel Long attorney **Allan Nachman** was named chair of the Friends of Modern and Contemporary Art of the Detroit Institute of Arts.

Based in the firm's Bloomfield Hills, Michigan, office, he practices real property law.

1965

The Class of 1965 reunion will be October 15–17, 2010.

Terrence Lee Croft, a trial lawyer with more than 40 years of courtroom experience and more than 25 years of experience as a neutral in mediation, arbitration, and other procedures, has joined JAMS, The Resolution Experts. He will be based in the JAMS Atlanta Resolution Center.

Neil R. Mitchell of Salt Lake City, was a visiting professor at the University of Belgrade Faculty of Law in Serbia in the 2009 autumn semester. The title of his course was Comparative Environmental Law—The United States and the European Union. More than 100 American lawyers, all with 25 or more years of experience, participate in the program organized by the Center for International Legal Studies.

David Roll, the founder of the Lex Mundi Pro Bono Foundation, has been named a 2009 Purpose Prize Fellow for creating and managing a unique organization that calls upon the Lex Mundi global network of top-tier commercial law firms to provide pro bono legal services to social entrepreneurs.

1969



The shareholders at the law firm of Dean & Fulkerson of Troy, Michigan, have elected **John Bryant** as president of the firm, where he also chairs the executive committee.

Bryant has more than 30 years of experience as a business litigator and adviser to corporations engaged in transportation, manufacturing, and international trade.

1970

The Class of 1970 reunion will be October 15–17, 2010.



Richard J. Erickson has been elected 2010 president of the General Richard Montgomery Chapter of the Sons of the American Revolution. He also has been

elected to a two-year term as Alabama State Council of Chapters treasurer, Military Officers Association of America, a director of the Alabama Blue Star Salute Foundation, and a director of the Alabama National Cemetery Support Committee.

Robert B. Nelson, of counsel with Fraser, Trebilcock, Davis and Dunlap in Lansing, Michigan, and adjunct professor at the Michigan State University College of Law, finished second in the *Michigan Bar Journal's* second short story contest for lawyers in 2009 for "The Shadow from the Wall."

Donald P. Ubell, a partner in Parker Poe Adams & Bernstein's Charlotte, North Carolina, office, has been named a fellow of the American College of Bond Counsel.



Alumni Argue for Serbia in Kosovo Independence Case

Two Michigan Law alumni played important roles in a case before the International Court of Justice (ICJ) regarding the independence of Serbia's Kosovo province. **Vladimir Djeric**, LL.M. '95 (pictured below), was part of the four-member lead counsel team for Serbia, and **Marko Milanovic**, LL.M. '06, was an adviser to the Serbian legal team.

Oral arguments in the high-profile case were presented in December before the 15-judge ICJ. The United Nations General Assembly has asked the ICJ, the principal judicial organ of the United Nations, to provide its legal opinion on Kosovo's independence declaration, made in 2008.

Serbia has argued that the declaration was contrary to international law and

UN Security Resolution 1244 (1244), while Kosovo has said declarations of independence are not regulated by international law and the move is irreversible. An advisory opinion from the Court is expected sometime in 2010.

Djeric is an attorney with Mikijelj, Jankovic & Bogdanovic of Belgrade, Serbia. Milanovic is pursuing his Ph.D. at Cambridge University.

The case had other Michigan Law ties as well. Andreas Zimmermann, a visiting professor at Michigan Law in 1995, was another lead counsel for Serbia. Bruno Simma, a William W. Cook Global Law Professor, is a judge on the ICJ.—KV

1971

Joseph Kimble was the principal drafter of the restyled Federal Rules of Evidence, which were published for comment in August. He previously led the work of redrafting the Federal Rules of Civil Procedure. Kimble, who teaches at Thomas Cooley Law School, won the 2010 award for a lifetime contribution to legal writing from the Section of Legal Writing, Reasoning, and Research of the Association of American Law Schools.



Charles M. Lax, a shareholder at the Southfield, Michigan-based firm of Maddin, Hauser, Wartell, Roth & Heller, P.C., has been selected by the American Society

of Pension Professionals & Actuaries to co-chair its annual conference for the 2010 and 2011 events.

1972



Murray A. Gorchow has been appointed by Michigan Governor Jennifer Granholm to serve as chairperson of the Michigan Workers Compensation Appellate Commission.

He previously served as the chairperson of the Michigan Workers Compensation Board of Magistrates for the five years before his promotion.

1974

Michael C. Haines of Grand Rapids, Michigan, a member of the law firm of Mika Meyers Beckett & Jones PLC, was recently elected secretary of energy education for Michigan, Inc.

FRANK VAN BEEK/CAPITAL PHOTOS—COURTESY OF THE ICJ





Michael A. Holmes, who focuses his practice primarily in the areas of telecommunications, administrative, appellate, and energy law, recently joined the Business

Law Department of Plunkett Cooney in its Bloomfield Hills, Michigan, office.

1975

The Class of 1975 reunion will be October 15–17, 2010.

Richard M. Bendix Jr. has joined the law firm of Dykema Gossett in its Chicago office. He specializes in bankruptcy and creditor-debtor rights law.

1976



The United States Senate unanimously confirmed **Pamela Hyde** as administrator for the Substance Abuse and Mental Health Services Administration, an

agency within the U.S. Department of Health and Human Services.

1977



Five lawyers from Baker & Daniels LLP, including **Ralph F. Hall**, have coauthored a book entitled *Punishing Corporate Crime: Legal Penalties for Criminal and*

Regulatory Violations. Hall serves as counsel at Baker & Daniels, as well as a distinguished professor and practitioner at the University of Minnesota Law School.

1978



Larry R. Shulman has stepped down as chairman of the executive management committee at the Detroit-based law firm Bodman LLP. Shulman has success-

fully led Bodman for 10 years and will remain a partner practicing full time with the firm.

1980

The Class of 1980 reunion will be October 15–17, 2010.



Keefe A. Brooks, of Brooks Wilkins Sharkey & Turco, PLLC, with offices in Birmingham, Michigan, has been elected by the Board of Governors of the

International Society of Barristers as a fellow of the Society.

Jenner & Block Partner **David W. DeBruin** was honored as the District of Columbia Bar's Pro Bono Lawyer of the Year. The award recognizes "exemplary individual service providing direct legal representation to low-income individuals in the D.C. community."

1981

Gwen Thayer Handelman, scholar in residence at Nova Southeastern University Shepard Broad Law Center in Fort Lauderdale, Florida, has been inducted as a fellow of the American College of Employee Benefits Counsel.



Mark Lezotte has joined Hall, Render, Killian, Heath & Lyman as a shareholder in the firm's Troy, Michigan, office. He will focus on providing professional guidance to Michigan health care clients.

1982

Sharon R. Barner, chair of Foley & Lardner's Intellectual Property Department in Chicago, has been named the new deputy director of the U.S. Patent and Trademark Office.

Peter M. Lieb of Chicago has been appointed executive vice president and general counsel at Aon Corporation, a provider of risk management services, insurance and reinsurance brokerage, and human capital consulting.

1983



Michelle Hacker Gluck has been hired as senior vice president and general counsel for the Federal Reserve Bank of Richmond, Virginia. Gluck leads the legal

team in providing counsel for the bank's critical business activities.

Broderick Johnson of the Washington, D.C., office of Bryan Cave has joined the firm's executive committee. Johnson leads Bryan Cave's Public Policy & Government Affairs Practice Group and serves as a member of its Sustainable Energy and Climate Change Team.



CLASS NOTES



Michael R. Lied of Howard & Howard Attorneys PLLC has been appointed to serve as chair of the 2009–10 Illinois State Bar Association’s Labor & Employment Law

Section Council. Lied was also appointed as a member of the Federal Civil Practice Section Council and Member of the Standing Committee on Continuing Education. Lied practices out of the firm’s Peoria, Illinois, office and focuses his practice on the areas of labor and employment law and related litigation and immigration law, representing employers.

The Illinois Supreme Court has appointed **Jayne Readon** as executive director of the Supreme Court Commission on Professionalism, a body established to improve civility between and among lawyers, their clients, and judges in Illinois.

1984



Cheryl A. Bush, managing partner of Bush Seyferth & Paige PLLC in Troy, Michigan, has become a fellow of the American College of Trial Lawyers. She is a member of the

American Board of Trial Advocates, Product Liability Advisory Council, and the National Association of Minority and Women Owned Law Firms, and is an annual lecturer for the Institute of Continuing Legal Education at Michigan.

1985

The Class of 1985 reunion will be September 24–26, 2010.

Butzel Long attorney and shareholder **Robert A. Boonin** of Ann Arbor published a guest article recently that ran in four of Thompson Publishing Group’s national monthly newsletters, including the *Employer’s Guide to the Fair Labor Standards Act*, entitled “What Bills Are Pending in Congress on the Wage and Hour Front?”

Spector Gadon & Rosen attorney **Stanley Jaskiewicz** was honored by the Rotary Club of Horsham, Pennsylvania, as the first recipient of its Community Service Award. Jaskiewicz, whose son has Asperger’s Syndrome, was honored for volunteering to coach for his son’s Challenger Little League team.



Dallas attorney **Jonathan E. Smaby** has been selected to lead the Texas Center for Legal Ethics and Professionalism as its executive director.

Ohio State Bar Association President Barbara J. Howard has re-appointed **David C. Tryon**, of Porter Wright Morris and Arthur LLP, to chair the Fair and Impartial Courts Committee for 2009–10.



Steven M. Wolock, shareholder at the Southfield, Michigan-based Maddin, Hauser, Wartell, Roth & Heller P.C., has been appointed to the State Board of Accountancy by Michigan Governor Jennifer Granholm.

1989

T.J. Conley has opened his own firm in Minneapolis. He will continue to represent employers and executives with human resource issues.

Albert E. Fowerbaugh Jr. has joined the Chicago law firm Butler Rubin Saltarelli & Boyd LLP as a partner and will concentrate his practice in complex commercial litigation.

1990

The Class of 1990 reunion will be September 24–26, 2010.



Mark J. Burzych of the Okemos, Michigan-based law firm of Fahey Schultz Burzych Rhodes PLC, has been appointed to the State Bar of Michigan’s Business

Impact Committee. The committee is part of the State Bar of Michigan’s Judicial Crossroads Task Force that will focus on the future of Michigan’s court system.

Stephen P. Griebel, partner at Van Gilder & Trzynka, P.C., in Fort Wayne, Indiana, received the National Association of Pro Bono Professionals William Reece Smith Jr. Special Service to Pro Bono award at the 2009 ABA Equal Justice Conference.



Ronald Wheeler, associate director of the Georgia State University College of Law Library in Atlanta, was named one of the first honorees of the LexisNexis

Librarian Wall of Fame.

1991

Erik Belt has joined McCarter & English as a partner in the Boston office's expanding Intellectual Property/ Information Technology Group. He is a trial lawyer whose practice focuses on patent, trademark, and licensing disputes in federal and state courts, arbitrations, and the U.S. Patent and Trademark Office.

Thomas G. Pasternak, an experienced patent litigator, has joined the Intellectual Property Practice at Steptoe & Johnson LLP as a partner in the firm's Chicago office.

The Greater Dallas Hispanic Chamber of Commerce has awarded the 2009 Quality & Excellence Entrepreneur Pacesetter award to **Angel Reyes III**, founder of the Dallas-based Reyes Bartolomei Browne law firm.



Jim Stevens, a shareholder at the Troy, Michigan, law firm of Reising Ethington, has begun teaching a patent law class at the University of Detroit Mercy School of Law.



Students in Mrs. Liz Morehead's third-grade class at Emerson School in Wheaton, Illinois, enjoy their new dictionaries from Theodore Utchen.

A Few Words About the Dictionary Man

When the Dictionary Man visits third-grade classes in and around Wheaton, Illinois, he shows them a newspaper clipping headlined "Affects on Beleaguered Auto Industry." Such errors are not prevented by spell check, so to keep a young, technology-dependent generation from missteps in communication, Theodore Utchen, '58, swoops into 75 classes every fall, giving each student his or her own dictionary to keep.

Over the past eight years, the semi-retired general counsel for an asset management company has purchased and personally distributed more than 10,000 dictionaries, and visits up to eight classes in one day.

It was a 2002 *Wall Street Journal* article about Mary French (the Dictionary Lady) that piqued Utchen's interest. A South Carolina resident who began the Dictionary Project (www.dictionaryproject.org) in 1995, French wanted to provide every third-grader in her state with a dictionary. Soon, her mission grew to include all 50 states. "This is a wonderful thing for the kids," thought Utchen. So he called up Mary French, and has purchased about 1,700 dictionaries each year to give to third graders in the 22 elementary schools in his own and adjoining districts.

Close to 10 million volumes have been distributed through the Dictionary Project. Organizations such as Rotary Clubs and Elks Lodges are responsible for purchasing and donating most of the dictionaries. As an individual donor who plans to continue his task indefinitely, Utchen stands out.

What also sets Utchen apart is the knowledge he provides in addition to books. In each class, he gives a 30-minute presentation on the dictionary.

Children "aren't really *taught* how to use the dictionary," Utchen says, and "that is the problem." A third-grader is not apt to "try to find a word in a huge dictionary," or know how to handle (mentally or physically) "a big, unabridged dictionary," he adds.

With a smaller, more manageable one of their own in hand ("I tell them to write their name inside the cover," Utchen says), students are eager to dive into the dictionary. And learn its origins. A question he regularly hears is, "Mr. Utchen, did you write that dictionary?"

Utchen explains to them "why it's important to use the dictionary when we read, we write, and we talk, and to learn it well when we're still young, so it becomes a good habit." "Communication is very important in our lives," he stresses. This is at the heart of Utchen's role as the Dictionary Man: "Spelling words right is not the ultimate objective. The objective is meaningful communication." —Clarissa Sansone



PHOTO COURTESY OF LIZ MOREHEAD

Return Engagement

Alumni reconnected with classmates—and their offspring—during the fall reunions. The classes of 1964, 1969, 1974, and 1979 held their reunions in September, followed by the classes of 1984, 1989, 1994, 1999, and 2004 in October. Top right: Jenn Duchene, Shelia Johnson, and Jim Weygandt, all members of the class of 1984, get together at their 25th reunion. Other attendees enjoyed a game of football on the Quad, the sounds of the Rhythm Kings, and instilled a love of the maize and blue in the next generation.



PHOTOS BY PETER SMITH PHOTOGRAPHY



PHOTO BY PETER SMITH PHOTOGRAPHY



The Board of Directors of the University of California Hastings College of the Law named **Frank H. Wu**, professor of law at Howard University and the former dean

at Wayne State University Law School, its new chancellor and dean.

1992



Thomas L. Shaevesky has been appointed chair, Employee Benefits Committee, Oakland County Bar Association. In addition, he was recently appointed chair,

Employee Benefits Committee, Taxation Section, State Bar of Michigan. He practices in the area of employee benefits at Butzel Long's Bloomfield Hills, Michigan, office.

1993



Butzel Long attorney and shareholder **Jeffrey D. Moss** of Bloomfield Hills, Michigan, published a guest article that appeared in the January/February

2010 edition of *Probate & Property* magazine entitled "Solar Panels, Tax Incentives and Your House."

Governor Martin O'Malley of Maryland has appointed **Alex Sanchez** as the new Secretary of Labor, Licensing & Regulation.

1995

The Class of 1995 reunion will be September 24–26, 2010.

Michael Carrier of Philadelphia recently published his first book, *Innovation for the 21st Century: Harnessing the Power of Intellectual Property and Antitrust Law* (Oxford University Press). The book offers 10 proposals to improve the patent, copyright, and antitrust laws to foster innovation.



Joanne R. Lax of Dykema in Bloomfield, Michigan, has been named the chair of the State Bar of Michigan's Health Care Law Section for the 2009–10 Bar year. Previously

she served as the chair-elect and section secretary, chair of the Provider Subcommittee of the Substantive Law Committee, co-chair of the Technology Subcommittee of the Substantive Law Committee, and member of the Annual Meeting Planning Committee.



Kevin M. Zielke, of Grosse Pointe Park, Michigan, has been appointed practice group leader of Dykema's Pharmaceutical Litigation practice group.

1996

Nate Cade was appointed co-chair of the Products Liability Committee of the American Bar Association's Litigation Section. Cade is responsible for the overall direction of the committee, its budget, all of its subcommittees, newsletter, and other media. Cade is a partner in Michael Best's Litigation Practice Group, Milwaukee, where he handles products liability claims, such as lead paint, asbestos, and silicon claims, as well as complex commercial litigation.



Ross I. Romero recently was elected to serve as the minority whip in the Utah State Senate. Ross was elected to the Senate in 2006 after serving in the Utah House of

Representatives from 2004–06. Ross is a vice president for Zions Bank, an affiliate of Zions Bancorporation, which operates in 10 Western states.

1997

Chad A. Readler, an attorney focusing in appellate litigation with Jones Day in Columbus, was the recipient of the Ohio State Bar Foundation Statewide Community Service Award for Attorneys 40 and Under for his outstanding service to the community.

1998



Andrew J. Tavi was recently named vice president, legal and government affairs, and general counsel of Nissan North America Inc. at its North American headquarters in Franklin, Tennessee.



New York City resident **Michael Bobelian's** new book, *Children of Armenia: A Forgotten Genocide and the Century-Long Struggle for Justice*, was recently published by Simon & Schuster.



CLASS NOTES

1999



José Javier Bartolomei has re-joined the firm of Miller Canfield as a senior attorney in the Ann Arbor office. He specializes in troubled automotive supplier workouts, bankruptcies, and commercial finance originations and workouts.

2000

The Class of 2000 reunion will be September 24–26, 2010.

Holland & Knight has elevated **Jonathan Furr** from senior counsel to partner. Furr practices in the firm's Chicago office and focuses on real estate and sustainable developments.



Christopher McVety of Chicago has joined Silliker Group Corp. as vice president of legal affairs and secretary. McVety has broad legal experience in corporate and business law, specializing in mergers and acquisitions, venture capital start-ups, and angel financing investment transactions.



James M. Pepe has become a shareholder of West & Feinberg, P.C. in Washington, D.C. His practice includes corporate law and mergers and acquisitions.



Holy Cross College has appointed **Michael J. Willis** of Kalamazoo, Michigan, to its Board of Trustees. The managing partner and cofounder of Willis & Willis, PLC, he will bring expertise in corporate law, real estate and tax law, and business development to the Holy Cross Board.

Around the World in 36 Days

Mike Fayhee, '73, thinks "everybody ought to have goals in their life." Here are some of his: At 50, he began taking flying lessons; he was licensed at 51. He then decided, "almost as a joke," that when he was 60, he would circumnavigate the globe.

The funniest part is, he did.

After five years of planning, Fayhee—a partner at McDermott Will & Emery LLP in Chicago—and his copilot, John Habes, spent May 15 through June 20, 2009, circling the globe in a Piper Meridian turboprop aircraft. "I am told this is the first time ever a Piper Meridian has made such a flight," Fayhee wrote in the final entry of his blog about the trip.

In the same entry, Fayhee gave an overview of his views over the Earth: "We flew 22,000 miles over 100 hours of flight. We saw the ... glaciers of Greenland ... the Nile, the deserts of Saudi Arabia ... the jungles of Thailand and Vietnam, the bustle of Hong Kong harbor ... and finally, but not least, the familiar geometric patterns of Midwest farmland."

Most memorable for Fayhee was flying between Russia and the Aleutian Islands. A cancelled permit meant they "had 24 hours to get out of Russia." After contending with the "traditionally horrible weather" of the Aleutians, they had to circle Attu Island using a road atlas to find an airstrip. "I actually did" kiss the ground that day, he says.

What Fayhee learned from his circumnavigation is heartening. He realized "how helpful people were everywhere in the world. ... I had expected more difficulty," he says, but in the end, "everybody was quite excited about what we were doing. Not very many people do this."—CS

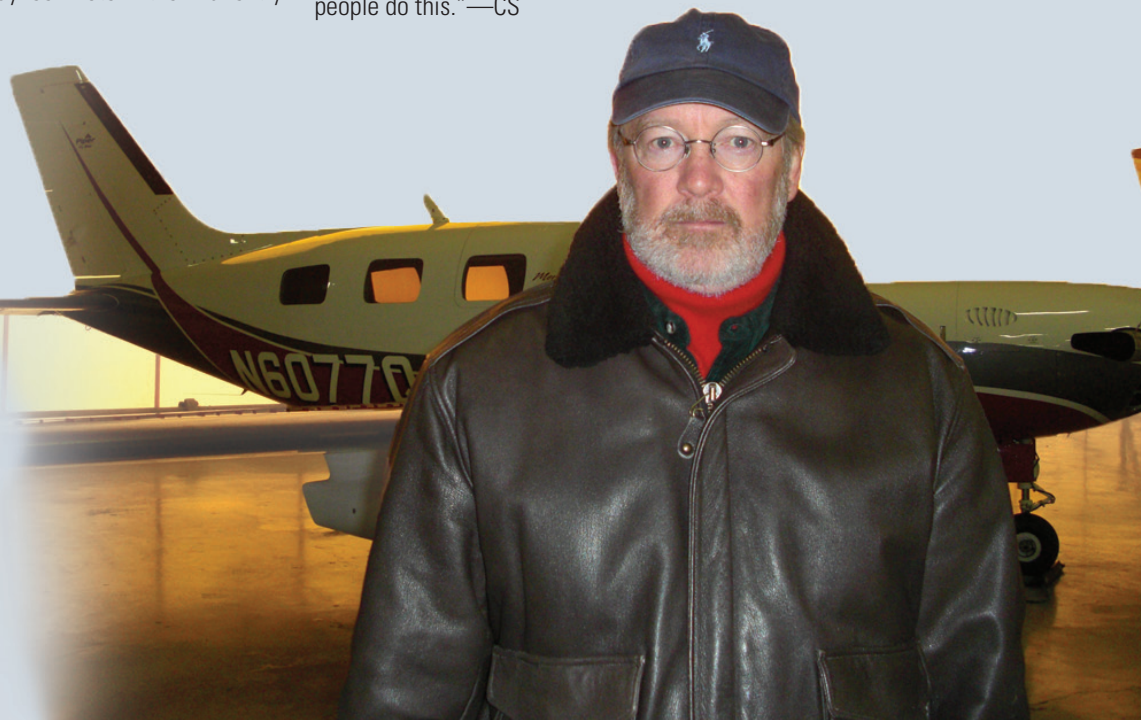


PHOTO COURTESY OF MIKE FAYHEE

2001

Brian Howard has founded Stage Equity Partners, LLC, a Chicago-based health care real estate investment and development company, where he serves as president.

Dan Lurie has been appointed senior adviser to the deputy secretary, U.S. Department of Housing and Urban Development.

Seth Weiner has been named partner in Morris, Manning & Martin, LLP, at the firm's Atlanta office.

2002



Eric R. Goodman, of Baker & Hostetler LLP's Cleveland office, has been named a partner. He is a member of the firm's business group and concentrates his

practice in bankruptcy, restructuring, and creditors' rights.

Hamid M. Khan tentatively accepted the position of postdoctoral fellow with Stanford Law School's Afghanistan Legal Education Project in association with the American University in Afghanistan.

Sara Orr, an associate in the Washington, D.C., office of Latham & Watkins and member of the firm's Environment Land & Resources Department, has been appointed to serve as a member of the American Bar Association Standing Committee on Environmental Law. She will serve a three-year term.



Lora M. Reece of Baker & Hostetler LLP's Cleveland office has been named a partner. She is a member of the litigation group and concentrates her practice in

complex commercial litigation.



Ellisen S. Turner has been elected to the partnership at Irell & Manella in Los Angeles. His practice focuses on intellectual property litigation.

2005

The Class of 2005 reunion will be September 24–26, 2010.

2006



Joshua E. Gewolb has joined the law firm of Harter Secrest & Emery LLP, Rochester, New York, in the firm's tax group as an associate attorney. He focuses his

practice on tax matters relating to mergers and acquisitions, and private equity.

Jeremy L. Hekhuis has joined the Philadelphia office of Schnader Harrison Segal & Lewis LLP as an associate.



Andrew B. Latack, Creative Artists Agency, received a Lawyers Alliance for New York's 2009 Cornerstone Award for pro bono legal services to nonprofits.

He helped a family services agency in Queens develop a solid organizational structure through in-depth governance counsel.



Eric Veenstra, an attorney in Quarles & Brady's Real Estate group in Naples, Florida, was named attorney of the month for August 2009 by the Collier County

Bar Association.

2008

Michael R. Cedillos has joined the Chicago office of Greenberg Traurig, LLP as an associate in the litigation practice.



Michelle L. Gomez has joined the law firm of Brownstein Hyatt Farber Schreck as an associate in its litigation group.



Michael J. Ruttinger has joined Tucker Ellis & West LLP as an associate in the firm's Cleveland office, where he is a member of the trial department, focusing his practice

on appellate and legal issues.

Seward & Kissel LLP associate **Sehar Siddiqi** has been selected to receive the City Bar Justice Center's inaugural Jeremy G. Epstein Award for Pro Bono Service for her work with the NYC Know Your Rights Project—Varick Street.

2009

Amanda E. Fein has joined the New York office of Baker & Hostetler LLP as an associate.

Marc R. Wezowski has joined the firm of Leydig, Voit & Mayer, Ltd. in Chicago as an associate. A 2008 summer associate with the firm, he will focus on patent litigation and prosecution in the fields of biotechnology and the chemical arts.


Serving a Purpose

Alumni came out in force on both coasts and in between for Service Day events in October. Clockwise, starting in Chicago: **Harpreet Khera**, '04, team coleader, works on the Chicago Avenue Garden, which is designed to create dialogue, community engagement, and empowerment as well as introduce a source for fresh, safe, healthy, homegrown produce to the community. **Allison Levy**, '04, working in the strawberry patch, was one of about 30 volunteers who teamed up with Growing Power Inc. on the project.

Malak Hamwi, '09, and **Mark Shubitz**, '04, are two of more than a dozen volunteers representing Michigan Law helping Publicolor, a nonprofit organization that paints at various public schools in the boroughs of New York City. Their volunteer day helps to transform JHS 292 in Brooklyn. Publicolor's mission includes improving education in youth by promoting an imaginative use of color in school buildings. Supported by volunteers, they bring fresh color to at least nine struggling schools every year.

Despite the wet weather and cold temperatures, almost 20 volunteers representing Michigan Law work with So Others May Eat, a community-based organization that provides care to homeless and extremely poor citizens in the District of Columbia. Volunteers, including **Jennifer Whitfield**, '07, and **Anna Haac**, '06, landscape at Independence Place, a community for 21 homeless and poor families, including more than 60 children.

Volunteers in Los Angeles assist Heal the Bay during its "Nothin' But Sand" beach cleanup at TOES Beach in Playa del Rey. **David Boyle**, '02, keeps a tally on collected items while his fellow alums and friends collect trash that would otherwise end up polluting the water.

Amy Lehman, '00, and **Richard Helzberg**, '65, volunteer with San Francisco's Project Open Hand, a nonprofit organization that provides food and nourishment to people with serious illnesses and to seniors in San Francisco and Alameda County. 



San Francisco, Project Open Hand



Los Angeles, Heal the Bay





Chicago, Growing Power Inc.

New York City, Publicolor



Alumni came out in force on both coasts and in between for Service Day events in October.



District of Columbia, So Others May Eat

CHICAGO PHOTOS BY GLENN CARPENTER.

NEW YORK PHOTOS BY SAM HOLLENSHEAD PHOTOGRAPHY.

WASHINGTON PHOTOS BY CLAIRE DUGGAN.

LOS ANGELES PHOTOS BY LAURA GRAY.

SAN FRANCISCO PHOTOS BY RICHARD HELZBERG, '65, AND MITOSHI FUJIO-WHITE, '07.



Fleming during a 1969 student demonstration.

Robben Fleming, 1916–2010

Robben Wright Fleming, the imperturbable president of the University of Michigan who steered the University safely through the student unrest of the late 1960s and early 1970s, died January 11, 2010, at The Care and Rehabilitation Center at Glacier Hills in Ann Arbor. The former Law School professor was 93.

Fleming served twice as U-M's leader—from 1968 to 1978, then as interim president in 1988, between the administrations of Harold Shapiro and James J. Duderstadt. His devotion to the ideals of academic freedom and civil debate amid social and political tumult led the Board of Regents to name the university's central administration building in honor of Fleming and his wife, Sally, who died in 2005.

Friendly, funny, and unpretentious, Fleming as president drew on his background in labor law—unusual training among university leaders who traditionally rise through the mainstream academic disciplines. Yet his expertise in the mediation of labor-management disputes fitted him well for the challenges of his presidency.

He was widely credited with adroit management of a series of crises, including the so-called “South University riots” of 1969 and the Black Action Movement

(BAM) strike of 1970. His calm handling of raucous demonstrations, sit-ins, and lock-ins often led to constructive reforms. He opposed provocative police behavior as firmly as he opposed the far left wing among student protesters, whom he chided for anti-intellectual intolerance. “The university must always be a world of ideas, often in conflict,” he told students. “It ceases to be a university, however, when a group which is willing to use totalitarian tactics can impose on the rest of us its views.”

Yet he also won plaudits from antiwar students and faculty alike for calling the U.S. intervention in Vietnam “a colossal mistake.” His temperate influence was seen as critical to U-M's passage through that era without the violence that marred other major campuses.


Fleming stepped down as president to serve a two-year stint, from 1979 to 1981, as chairman of the Corporation for Public Broadcasting, the federal funding source for National Public Radio and the Public Broadcasting System. After returning to Ann Arbor for semi-retirement, he taught one course each year in the Law School.

—Excerpted from a longer article in *Michigan Today*, michigantoday.umich.edu.

Memories of Robben “Bob” Fleming by Ted St. Antoine, ’54, James E. & Sarah A. Degan Professor Emeritus of Law and Dean from 1971–78:

Problem-solving, especially in high-tension, crisis situations, was Bob's *métier*. It made him exactly the right person to lead the University of Michigan through the turbulent period of the late '60s and the '70s, enabling it to avoid the worst of the turmoil that afflicted such other great institutions as Columbia, Wisconsin, and Berkeley. Bob was unflappable. One student leader of the campus rebellion loudly remonstrated, “President Fleming, you and I are simply not communicating!” Bob responded imperturbably: “Not at all. We are communicating perfectly. We simply don't agree.”

Bob also had an uncanny capacity to understand other persons' points of view. He never let his resistance to the campus protesters' disruptive methods keep him from seeing the fairness and justice of some of their demands. That led ultimately to the compromise on affirmative action, and the opening of the University to a whole generation of minority students.

In emphasizing Bob's leadership qualities, one may overlook his outstanding abilities as a classroom teacher and his very fine academic scholarship. I had the good fortune to co-chair a labor law seminar with him. “Now,” he would say, “take this case. A company runs a small concession at an airport. It has 12 employees. It is losing money because of inside thefts but it cannot discover who the thief is. It informs the union representing the employees that it is going to close. The poor union steward thinks a while and then says to the manager: ‘Let's pick out half the employees by lot and you terminate them. We won't grieve the discharges. If the thefts stop, at least we'll have saved half the jobs.’ What do you think of that, ladies and gentlemen?” And then Bob would be off, deftly leading the students to consider such questions as the union's duty of fair representation, group interests versus individual rights, and so on. He would wind up: “Does it matter if the union had a vote on its scheme ahead of time and all 12 employees approved? Or only one dissented—and she was one of those picked by lot to be let go?” 

I N M E M O R I A M

1930s

Byron P. Gallagher, '36	12/26/09
Gilbert Y. Rubenstein, '36	11/7/09
Charles T. Klein, '38	12/2/09
Richard Marlink, '39	12/25/09
Paul A. Wright, '39	12/26/09

1940s

Jerry P. Belknap, '41	9/14/09
The Hon. Maurice C. Greenbaum, '41	10/19/09
Robert G. Miller, '41	8/17/09
Samuel Langerman, '42	1/1/10
Robert B. Manley, '42	9/14/09
John Edward Morley, '46	3/13/08
Robert L. Cardon, '47	11/26/08
Richard H. Guthrie, '47	12/24/09
Alphonse Lewis Jr., '47	9/25/09
C. Rees Dean, '48	9/3/09
William F. Hanna, '48	12/18/09
Thomas V. Jardine, '48	9/12/09
W. Owen Mays, '48	8/26/09
John R. Newlin, '48	10/23/09
John Carlton Parkhurst, '48	10/17/09
Harry D. Reber Jr., '48	8/18/09
The Hon. Albert Lewis Rendlen, '48	11/23/09
John T. VanAken, '48	1/9/10
Theodore P. Duning, '49	8/22/09
Otis Wendell Myers, '49	11/28/09
Donald E. Nordlund, '49	10/13/09
John Scurlock, LL.M. '49, SJD '53	9/5/09

1950s

D. Robert Bastian, '50	10/6/09
James J. Brown, '50	9/1/08
Howard F. DeYoung, '50	9/7/09
George E. Dudley, '50	9/25/09

William Ross Harris, '50	8/22/08
Robert W. Hess, '50	9/3/09
Oma H. Hester Jr., '50	9/22/09
Hubert E. Seymour Jr., '50	11/5/09
William R. Thomas Jr., '50	1/1/07
John Henry Falsey, '51	8/29/09
Norman E. Feinberg, '51	2/21/09
Richard J. Tonkin, '51	10/17/09
Herbert M. Wolfson, '51	11/21/09
Ernest L. Bell, '52	11/6/09
Donald L. Hersh, '52	10/24/09
Warren K. Ornstein, '52	12/21/09
Francis J. Pruss, '52	9/7/09
R. Aloise Gillard, '53	9/6/09
The Hon. William T. Means, '53	10/21/09
John Byron Norton, '53	7/28/09
James S. Taylor, '53	8/22/09
George B. Berridge, '54	8/2/09
William S. Bonds, '54	11/20/09
Richard A. Entenmann, '54	10/4/09
Hugh A. Ross, LL.M. '54, SJD '59	4/27/08
Alfred M. Samberg, '54	9/14/09
James Frederick Smith, '54	12/27/09
William M. Caviston, '55	9/13/09
A. James Hampares, '55	12/27/08
Edward A. Besemer, '56	11/10/08
Frank C. Henry, '56	10/5/09
Ronald J. Bieke, '57	11/30/09
Loren J. Dykstra, '57	10/16/08
Charles B. Park III, '57	8/9/09
M. Robert Kestenbaum, '58	1/18/10
Harry M. Asch, '59	12/16/09
Newton B. Bernstein, '59	6/7/09
Richard L. Kralick, '59	11/14/07
Robert S. McGeough, '59	11/15/09
David Shute, '59	5/17/08

1960s

Paul Alfred Gruber, '60	12/26/09
William H. Harty, '60	1/26/07
Gary Corbett Hoffman, '60	9/11/09
Lawrence B. Rogers, '60	9/18/09
Richard P. Lynch, '61	11/4/09
Elliott C. Miller, '61	11/2/09
Ben Olive, '61	6/26/09
Gerald F. Ellersdorfer, '62	11/14/09
Thomas W. Godfrey, '62	7/8/08
John W. Appleford, '63	10/6/09
Nicholas G. Spicer, '63	9/4/09
Michael Onen Frazer, '64	11/12/09
John V. Donnelly, '65	1/20/10
Richard I. Stephenson, '65	12/30/09
Harley J. Daniels, '66	6/27/07
Jerrell P. Rosenbluth, '66	11/3/09
Charles D. Hackney, '67	8/3/09
Kenneth Douglas Stein, '67	10/11/09
Stanley P. Weiner, '67	10/1/09
Scott B. Crooks, '68	8/27/09
James W. Malsbury, '68	12/15/09

1970s

William L. Cathey Jr., '77	10/17/09
Edward Rubin, '77	5/28/09

1980s

Richard Patrick Murphy, '80	1/9/10
Arthur N. Gorman, '82	10/13/09
Gary W. Paquin, '82	5/19/07
Terence J. Venezia, '88	10/25/09
Juliette M. Ferguson, '89	10/1/09

1990s

Margaret R. Simkin, '99	8/4/09
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NEW FACULTY

New Faculty Members Enrich School's Global And Urban Offerings



Susanne Baer, LL.M. '93

Berlin, has served as vice president for academic and international affairs of the German university and as director of the Centre for Transdisciplinary Gender Studies. Since 2003, she has been the director of the Gender Competence Centre at Humboldt, advising the German federal government.

Baer is teaching Constitutionalism and Fundamental Rights from a Comparative Perspective at U-M, as well as Law and Inequalities. She previously taught in Bielefeld and Erfurt in Germany; Linz, Austria; Fiesole, Italy; and Toronto, and she is a visiting faculty member at CEU Budapest.

Her research areas are sociocultural legal studies, gender studies, laws against discrimination, comparative constitutional law, constitutionalism, and governance. Baer has published numerous articles and chapters in journals and books, notably as coauthor of the legal textbook *Comparative Constitutionalism, Cases and Materials*.

In a recent article published in the *University of Toronto Law Journal*, Baer wrote about the relationship among fundamental rights to equality, to liberty, and to dignity. "In several political and legal contexts, developments in equality law tend to be stalled by reference to dignity and have traditionally been limited based on an understanding that equality collides with liberty," she wrote.

"Dignity, equality, and liberty are ... the corners of a triangle rather than the ends of a scale or the top and sides of a pyramid, and thus inspire a more holistic understanding of what fundamental rights are about."

Two new faculty members—both of whom are Michigan Law School alumni—are adding to the Law School's scholarship in the areas of international law, gender studies, and community economic development. Susanne Baer and Dana Thompson both have begun teaching here this winter.


Dr. Susanne Baer, LL.M. '93, is a new William W. Cook Global Law Professor. Baer, also a professor of public law and gender studies on the law faculty at Humboldt University of

Dana Thompson, '99, is a new clinical assistant professor. She is co-teaching the Urban Community Clinic Seminar and Clinic with Professor Alicia Alvarez. Thompson (née Roach) was a visiting clinical assistant professor at U-M in the 2005–06 academic year. During that time, she also taught and supervised students in the Urban Community Clinic Seminar. Since 2006, Thompson was a clinical assistant professor at Wayne State University Law School, where she created the school's first Small Business Enterprises and Nonprofit Corporations Clinic and was director of the Damon J. Keith Law Collection of African-American Legal History.

Thompson has been quoted in publications such as *The Michigan Chronicle* and *Crain's Detroit Business*, and has presented at several conferences about topics including the formation of corporations and ethics in nonprofit corporations. In December, she received a special recognition from Community Legal Resources for legal services she provided to nonprofits through the Small Business Enterprises and Nonprofit Corporations Clinic.

An authority on small businesses and nonprofits, she is a contributing author to the American Bar Association's Forum Committee on Affordable Housing and Community Development Law book, *Building Healthy Communities: A Guide to Community Economic Development for Advocates, Lawyers and Policymakers*, published in August 2009.

In addition to her work as an academic, Thompson was an associate at Morrison & Foerster in San Francisco, and at Miller, Starr & Regalia in Walnut Creek, California, and as a regional attorney for the Nature Conservancy in San Francisco.

As a law student, Thompson was a contributing editor at the *Michigan Law Review*, a winner of the Dean's Scholarship Award, and secretary of the Black Law Students Alliance. She also had an externship in South Africa, during which she researched international sexual assault laws. 



Dana Thompson, '99

Reuven S. Avi-Yonah, the Irwin I. Cohn Professor of Law and director of the International Tax LL.M. Program, presented “Convergence and Divergence in Tax Law” at the August conference on international tax at the University of Sao Paulo, Brazil; was the keynote speaker at the Tax Officers Summit in San Antonio, Texas; taught classes on U.S. corporate and international tax in November at Bergamo University and Bocconi University, Italy; presented “Tax Issues in Cap and Trade” in Milan in November; and, in December, was elected a trustee of the American Tax Policy Institute for 2010–13, taught at Hebrew University in Jerusalem, presented on recent U.S. anti-tax evasion legislation to the Israel tax authority in Tel Aviv, and presented on convergence and divergence in tax law at the Hebrew University International Law Forum. In the first few months of 2010, he chaired a panel on the Obama tax proposals in a broad policy context at an ABA tax section meeting in San Antonio; attended an ATPI board meeting in Washington, D.C.; and presented on U.S. and EU treaty shopping at a conference on tax treaties in Vienna.

Deborah Burand, professor from practice and director of the International Transactions Clinic, was appointed to be one of five topic leaders for the Clinton Global Initiative, which took place in September. She also was the co-topic leader for finance of CGI 2009; the theme of the Finance Track was “Financing an Equitable Future.” She had an article published in *The Journal of Law and Commerce*, Vol. 2, No. 27 (Spring 2009), titled “Deleveraging Microfinance: Principles for Managing Voluntary Debt Workouts for Microfinance Institutions.” She also was appointed to the faculty of the 4th Annual Spanish Boulder Institute of Microfinance, held in March in Costa Rica, where she taught a course on “Securing and Managing Debt Financing for Microfinance Institutions.”

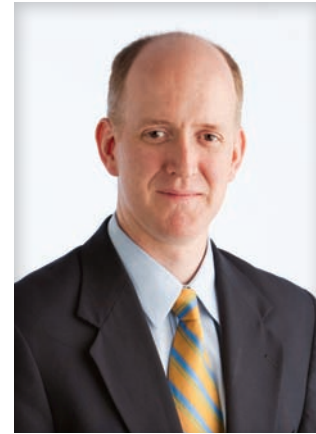
Reuven S. Avi-Yonah



Deborah Burand



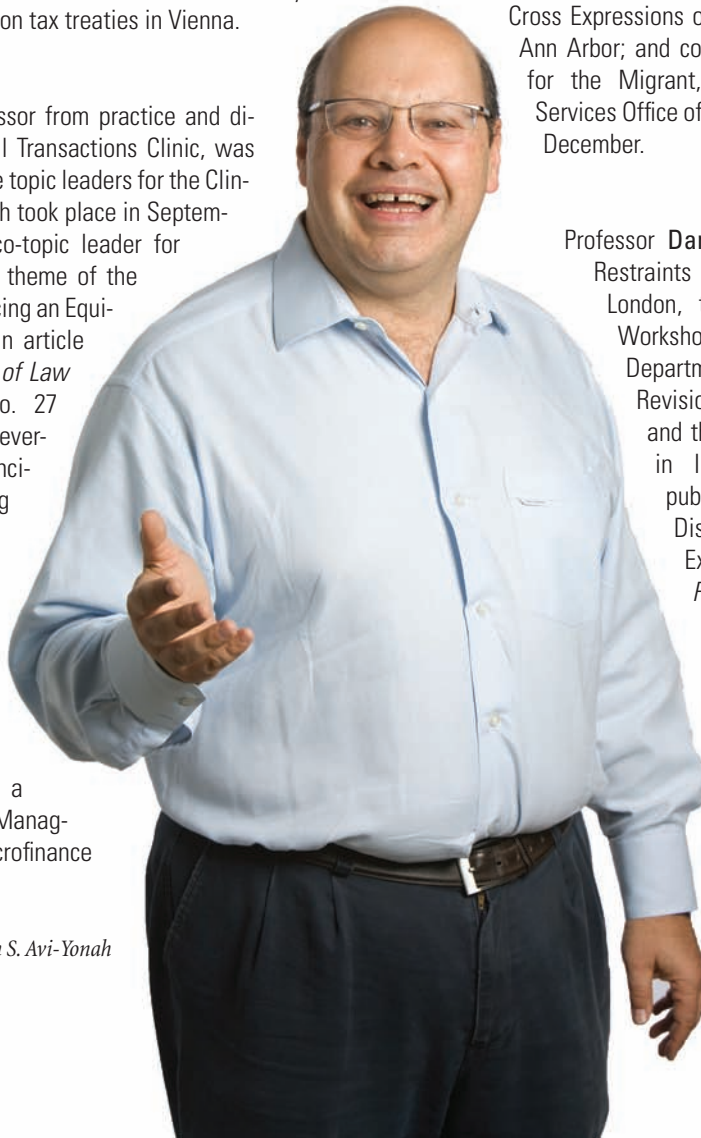
Bridgette Carr, '02



Daniel Crane

Bridgette Carr, '02, director of the Human Trafficking Clinic and public interest/public service faculty fellow, presented data from the Human Trafficking Project—State by State Analysis of the Criminalization of the Solicitation of Sex in October at the University of Toledo; presented “Lessons on Establishing a Human Trafficking Clinic” at the Protection Project Fourth Annual Symposium: Trafficking in Persons as a Form of Violence Against Women in November at the Johns Hopkins University School of Advanced International Studies in Washington, D.C.; gave a presentation on human trafficking for the American Red Cross Expressions of Humanity Month in December in Ann Arbor; and conducted human trafficking training for the Migrant, Immigrant & Seasonal Worker Services Office of the State of Michigan in Lansing in December.

Professor **Daniel Crane** spoke at the Vertical Restraints Conference at University College London, the London Law and Economics Workshop, University of Toronto, the FTC/Department of Justice Workshop on Revisions to Horizontal Merger Guidelines, and the AALS Panel on Private Ordering in Intellectual Property. His recent publications include “Can Bundled Discounts Raise Prices Without Excluding Rivals?” in *Competition Policy International* in October, “Obama’s Antitrust Ambitions” in *Regulation* in October, “Chicago, Post-Chicago, and Neo-Chicago,” a book review in the fall issue of the *Chicago Law Review*, and “Intellectual Liability” in *Texas Law Review*, Vol. 88, No. 2. Forthcoming publications include “Optimizing Private



FACULTY NEWS



Rebecca Eisenberg



Phoebe Ellsworth



Bruce Frier

Antitrust Enforcement" in the *Vanderbilt Law Review*, "Does Monopoly Broth Make Bad Soup?" in the *Antitrust Law Journal*, "linkLine's Institutional Suspicions" in the *Cato Supreme Court Review*, and the *Antitrust Global Reader*, coauthored with Eleanor Fox and published by West.

Alicia J. Davis, professor of law, presented "Are Investors' Gains and Losses from Securities Fraud Equal Over Time? Some Preliminary Evidence" at the J. Reuben Clark Law School (Brigham Young University) in September. She also provided commentary on "Does Dura Matter? Loss Causation and the Implications of *Dura Pharmaceuticals v. Broudo*" in November at the Conference on Empirical Legal Studies, Los Angeles.



Alicia J. Davis

Rebecca Eisenberg, Robert and Barbara Luciano Professor of Law, spoke on a panel in September about "Who Owns Your Genes? Intellectual Property, Innovation Policy, and the Future of Genetic Medicine" as part of a Personal Genomics Seminar Series sponsored by the Office of the Vice President for Research at U-M; wrote a review of *The Patent Crisis and How the Courts Can Solve It* by Dan L. Burk and Mark A. Lemley that appeared in *Science* magazine in September; and spoke at a conference about the book at the University of California, Irvine in January. In November, she spoke at a conference at the Wharton School of Business Administration at the University of Pennsylvania for authors of chapters in a forthcoming *Handbook on the Economics of the Pharmaceutical Industry*, Oxford University Press. Eisenberg's chapter is on patents and regulatory exclusivity for new drugs. In December, she and Professor Rosemarie Ziedonis from the Ross School of Business at U-M held a conference on "Markets for Patents," supported by a grant from Microsoft to the Program in Law, Economics & Technology. Also in December, she was a featured speaker on stem cell patents at the Directors' Forum at the National Institutes of Health, and in January, she spoke at an international conference at Bar Ilan University in Tel Aviv on "The Future of Subject Matter Eligibility *After In re Bilski*."

Phoebe Ellsworth, the Frank Murphy Distinguished University Professor of Law and Psychology, published several papers: "Evolution, emotions, and emotional disorders" (with Randolph Nesse) in the *American Psychologist*, Vol. 64, No 2; five articles in the *Oxford Companion to Emotion and the Affective Sciences*; and "An S-shaped relationship between changes in appraisals and changes in emotions" (with Eddie M.W. Tong and George Bishop) in *Emotion*, Vol. 9, No. 6.

Bruce Frier, named in 2008 as the John and Teresa D'Arms Distinguished University Professor (DUP) of Classics and Roman Law at U-M, gave his inaugural DUP lecture to the University in February.



Monica Hakimi



Daniel Halberstam

Monica Hakimi, assistant professor of law, presented the paper “State Bystander Responsibility” at Duke and Temple law schools. She was the keynote speaker for the annual Stephanie K. Seymour Lecture at the University of Tulsa College of Law, with a lecture entitled “Operationalizing the Responsibility to Protect.”

Daniel Halberstam, the Eric Stein Collegiate Professor of Law, published a critique of the German federal constitutional court’s decision on the Lisbon Treaty: “The German Constitutional Court says ‘Ja zu Deutschland!’” (with Christoph Möllers) in the *German Law Journal*, Vol. 10, No. 8. He also published “Constitutional Heterarchy: The Centrality of Conflict in the United States and Europe,” in Jeff Dunoff and Joel Trachtman, eds., *Ruling the World? Constitutionalism, International Law, and Global Government* (Cambridge University Press, 2009). Together with Christoph Möllers, Halberstam convened a post-doctoral seminar under the auspices of a consortium of Some Institutes for Advanced Study (SIAS) on “Comparative Perspectives on Federalism and Separation of Powers.” The seminar, funded by the Mellon and Humboldt Foundations, brought 20 European and U.S. postdocs and junior professors together in Berlin last summer, and the group will reconvene this summer in Ann Arbor. He gave presentations at the University of Heidelberg and Humboldt University in Berlin, and is spending this academic year as a fellow at the *Wissenschaftskolleg* (Institute for Advanced Study) in Berlin.



Jill R. Horwitz, Louis and Myrtle Moskowitz Research Professor of Business and Law and codirector of the Law and Economics Program, was elected as a member of the American Law Institute and adviser to the ALI Principles of the Law of Nonprofit Organizations project. In addition, she authored or coauthored several articles, including “Letting Good Deeds Go Unpunished: Volunteer Immunity Laws and Individual Tort Deterrence” in the August *Journal of Empirical Legal Studies*; “Hospital Ownership and Medical Services: Market Mix, Spillover Effects, and Nonprofit Objectives” in the *Journal of Health Economics* in September; “Adoption and Spread of New Imaging Technology: A Case Study” in *Health Affairs* in October; and a book review of *Reforming Medicare: Options, Tradeoffs, and Opportunities* by Henry Aaron and Jeanne Lambrew in the September *Journal of Economic Literature*. Forthcoming articles include “The Attack on Nonprofit Status: A Charitable Assessment” in *Michigan Law Review* and “Nonprofit Narratives” in the *Michigan State Law Review*. Her presentations included “Nonprofits and Health Reform” at the O’Neill Institute Colloquium on Health Reform, Georgetown Law School, in October; the keynote speech, “Nonprofit Hospital Charity: Money or Medicine” at Meriter Hospital’s November Annual Fall Ethics Conference, Community Charity Care—A Hospital’s Ethical & Financial Responsibility, in Madison, Wisconsin; and a talk in honor of Richard Epstein’s contribution to tort law at the Association of American Law Schools in January.

Jill R. Horwitz



FACULTY NEWS



Nico Howson



Ellen D. Katz



Douglas Laycock



Jessica Litman

Nico Howson, assistant professor of law, in November presented at the Law School's International Law Workshop with Professor Vic Khanna on regulation of India and China's capital markets and the global financial crisis. In fall 2009, he published a chapter on judicial independence in China in a Cambridge University Press volume, and an article in the *Michigan Law Review* on how good corporate governance can make for systemically risky financial firms. Early in 2010, he published a Chinese-language article on financial regulation in the *Tsinghua University Law Journal* and a long study of judicial autonomy in corporate litigation, 1992–2008, in the Shanghai People's Courts. In March he presented a paper on corporate derivative lawsuits in China at Columbia Law School and a separate paper on the global financial crisis and macro-regulation of the sector at New York University Law School. In early April, he gave a lecture at the Michigan Center for Chinese Studies on the long-running Danone-Wahaha dispute and litigation, and in July will give a paper that he coauthored on corporate derivative actions at the Derivative Actions in Asia conference at the National University of Singapore (which Khanna will attend to discuss India).

Professor **Ellen D. Katz** authored "From *Bush v. Gore* to NAMUDNO: A Response to Professor Amar" in the December *Florida Law Review*; "Barack Obama, Margarita Lopez Torres, and the Path to Nomination" in *Election Law Journal*, Vol. 8, No. 4; and "Withdrawal: The Roberts Court and the Retreat from Election Law" in the *Minnesota Law Review*, Vol. 93, No. 5.

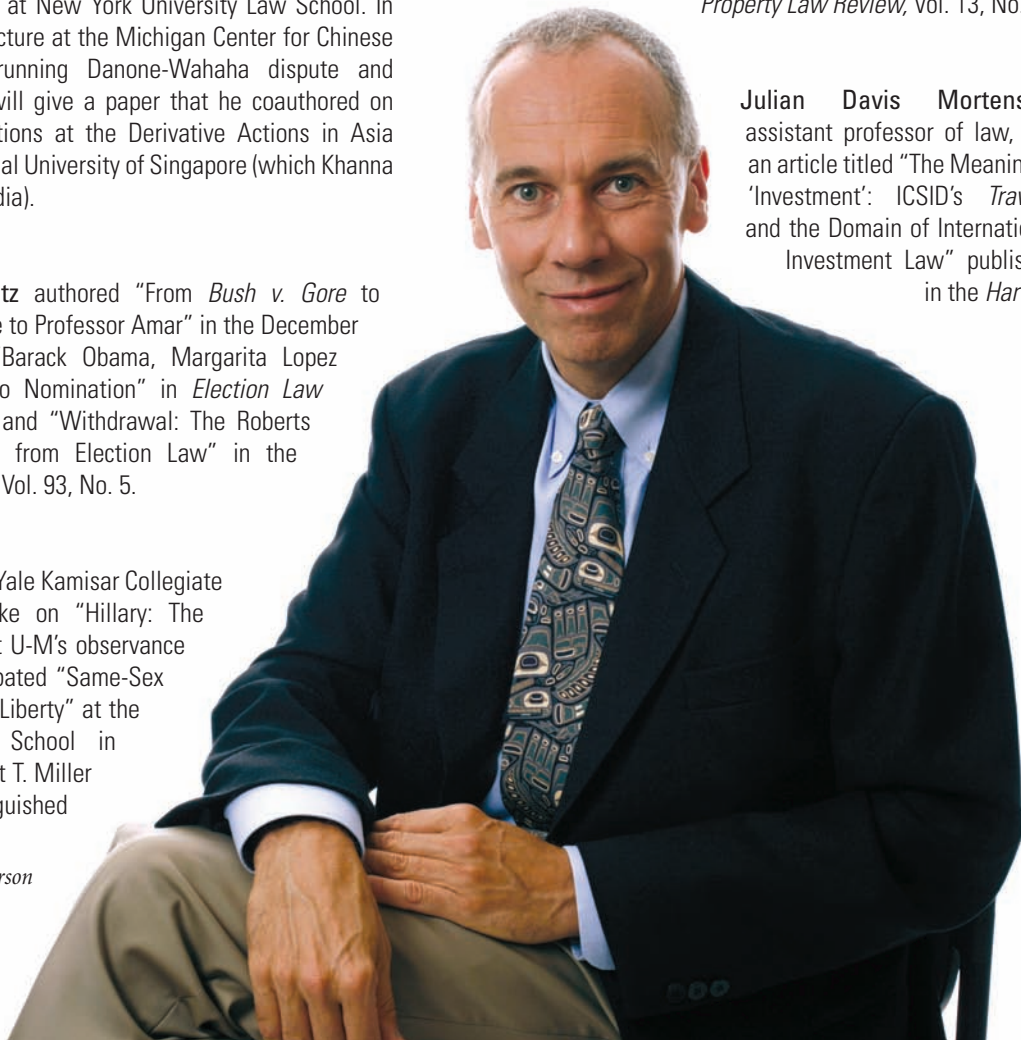
Douglas Laycock, the Yale Kamisar Collegiate Professor of Law, spoke on "Hillary: The Movie" in September at U-M's observance of Constitution Day; debated "Same-Sex Marriage and Religious Liberty" at the Boston College Law School in October; gave the Robert T. Miller Professorship Distinguished

Edward A. Parson

Lecture at Baylor University on "The Religious Exemptions Debate" in October; spoke on religious liberty to the Christian Life Academy of the First Presbyterian Church, Ann Arbor, in October; and spoke on "The Constitution and the New Court, on Remedies and the Financial Crisis" and on "Nonbelievers and the First Amendment" at the annual convention of the Association of American Law Schools in New Orleans in January.

Jessica Litman, the John F. Nickoll Professor of Law, published two papers: "The Politics of Intellectual Property" in the *Cardozo Arts & Entertainment Law Journal*, Vol. 27, No. 2; and "The Copyright Revision Act of 2026" in the *Marquette Intellectual Property Law Review*, Vol. 13, No. 1.

Julian Davis Mortenson, assistant professor of law, had an article titled "The Meaning of 'Investment': ICSID's *Travaux* and the Domain of International Investment Law" published in the *Harvard*



FACULTY NEWS



Julian Davis Mortenson



J.J. Prescott



Adam C. Pritchard

International Law Journal in February. He also made a presentation, "Subverting the Grand Bargain: Deference and Autonomy in International Investment Law," at the February Investment Treaty Law Conference at the University of Sydney.

The second edition of a book by **Edward A. Parson**, Joseph L. Sax Collegiate Professor of Law and professor of natural resources and environment, and Andrew Dessler, called *The Science and Politics of Climate Change: A Guide to the Debate*, was published by Cambridge University Press early in 2010. A paper Parson wrote with colleagues David Keith and Granger Morgan on the role of geoengineering in managing climate change, and methods of international governance for it, was published in the journal *Nature*. The National Academy of Sciences Panel on which he serves, America's Climate Choices, is scheduled to publish its report this spring.

J.J. Prescott, assistant professor of law, was on research leave during the fall semester, working on projects involving incomplete settlement in civil litigation, the effects of expungement laws on ex-offenders, and prosecutorial discretion in charging. In recent months, Prescott presented his paper on high-low agreements at the NBER Summer Institute in Cambridge, Massachusetts, at the University of Toronto Faculty of Law, and at Harvard Law School. He also discussed his work on effects of sex offender notification and registration laws at U-M's Population Studies Center. This semester, Prescott gave a talk on prosecutorial discretion at the 2010 American Economic Association Meetings in Atlanta and went to Nashville in January for the Young Faculty Criminal Justice Workshop at Vanderbilt Law School.



Margaret Jane Radin

Adam C. Pritchard, Frances and George Skestos Professor of Law, authored several articles that were published in recent months: "The Role of Independent Directors in Corporate Groups" in the *Journal of Korean Law*, Vol. 9, No. 1; "Securities Class Actions Move North: A Doctrinal and Empirical Analysis of Securities Class Actions in Canada" in the *Alberta Law Review* (with Janis Sarra); "London as Delaware?" in the *University of Cincinnati Law Review*, Vol. 78; and "Populist Retribution and International Competition in Financial Services Regulation" in the *Creighton Law Review* (Symposium). Pritchard testified before the Senate Committee on the Judiciary, Subcommittee on Crime and Drugs in September about Evaluating S. 1551: The Liability for Aiding and Abetting Securities Violations Act of 2009.

He also made presentations about the Lessons of the Financial Crisis: Implications for Regulatory Reform, Creighton University Law School, in September; at the Federalist Society, Cumberland School of Law, Samford University, and the annual meeting, Canadian Law & Economics Association, in October; at the Conference on Empirical Legal Studies, Society for Empirical Legal Studies, University of Southern California School of Law, in November; and to the Federalist Society, University of Alabama School of Law, in February.

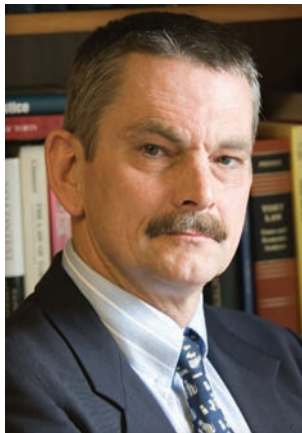
Margaret Jane Radin, Henry King Ransom Professor of Law, is a faculty cosponsor (with Ted Parson) of a new law school organization, the Classical Music Society. At the group's "Bach's Lunch" in the winter term, Radin, who plays flute, performed with three students. Radin was a panel speaker for a luncheon in October for alumni/ae seeking law school teaching positions. She spoke at the Law School's Sesquicentennial



FACULTY NEWS



Steven R. Ratner



Mathias W. Reimann, LL.M. '83



Vivek S. Sankaran, '01

Celebration in September on a panel about the past and future of IP. In November, she spoke at an Erb Institute Colloquium at the Ross School of Business about an economic approach to the common property problem. Her articles have been published in *Economics of Property Law*, as well as in casebooks on gender and law, and litigation.

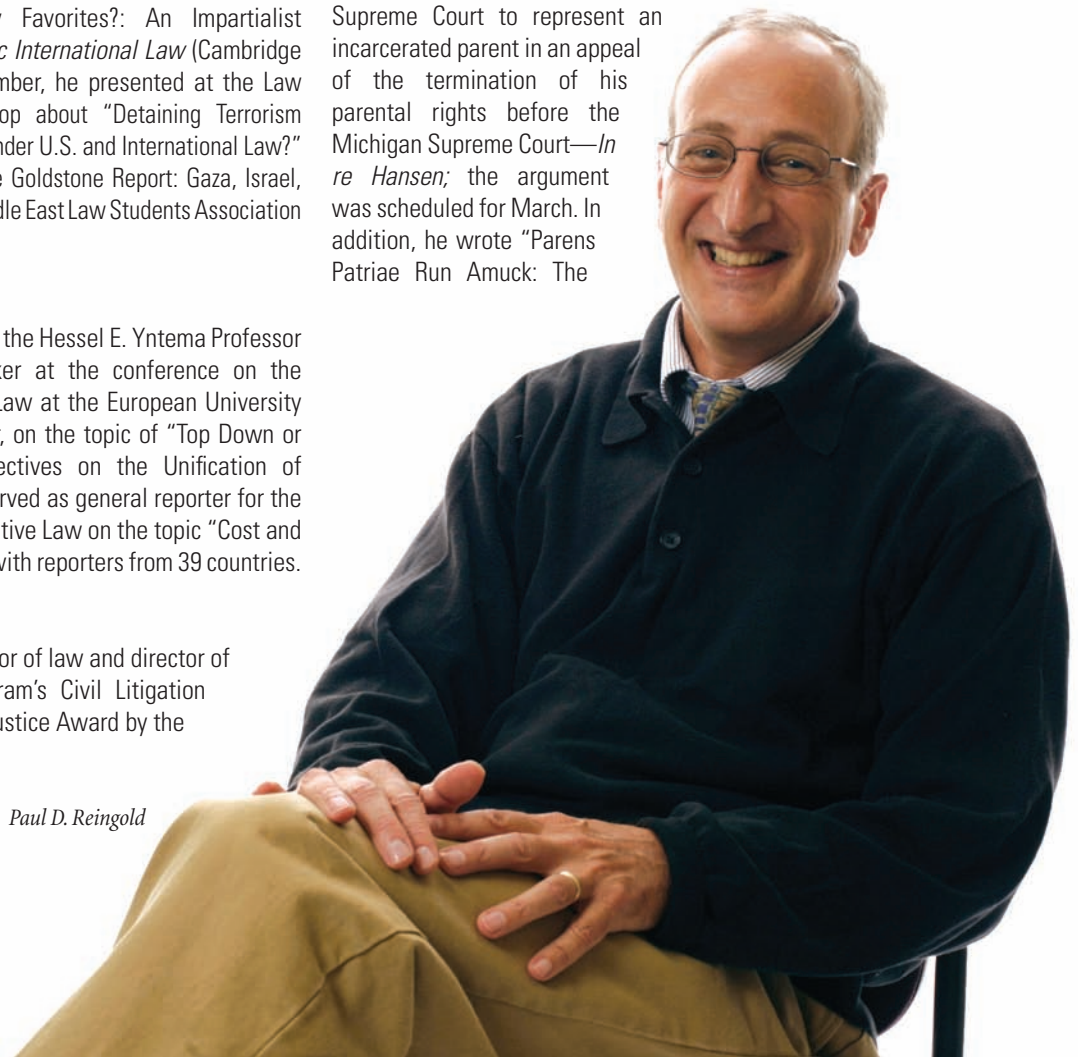
Steven R. Ratner, the Bruno Simma Collegiate Professor of Law, was invited to join the State Department's Advisory Committee on International Law, which comprises a small group of U.S. law professors and lawyers who serve as informal advisers to the legal adviser of the State Department. He was the author of "Do International Organizations Play Favorites?: An Impartialist Account" in *Legitimacy, and Public International Law* (Cambridge University Press, 2009). In September, he presented at the Law School International Law Workshop about "Detaining Terrorism Suspects Without Trial: Is it Legal Under U.S. and International Law?" In November, he presented on "The Goldstone Report: Gaza, Israel, and International Law" to a U-M Middle East Law Students Association panel.

Mathias W. Reimann, LL.M. '83, the Hessel E. Yntema Professor of Law, was the keynote speaker at the conference on the Foundations of European Private Law at the European University Institute in Florence in September, on the topic of "Top Down or Bottom Up? Comparative Perspectives on the Unification of European Private Law." He also served as general reporter for the International Academy of Comparative Law on the topic "Cost and Fee Allocation in Civil Procedure" with reporters from 39 countries.

Paul D. Reingold, clinical professor of law and director of the Michigan Clinical Law Program's Civil Litigation Clinic, was given a Champion of Justice Award by the

State Bar of Michigan. "Over the course of his 30-year career, first as a legal services attorney and currently as a professor and director of the clinical law program at the University of Michigan Law School, Paul Reingold has handled only cases that involve poverty law or the public interest," noted the press release about the award.

Vivek S. Sankaran, '01, clinical assistant professor of law, directs the new Detroit Center for Family Advocacy; stories about the CFA have appeared in the *Detroit Free Press*, the *Detroit News*, the *Detroit Legal Journal*, and on Michigan Public Radio. He was appointed by the Michigan Supreme Court to represent an incarcerated parent in an appeal of the termination of his parental rights before the Michigan Supreme Court—*In re Hansen*; the argument was scheduled for March. In addition, he wrote "Parens Patriae Run Amuck: The



Paul D. Reingold

FACULTY NEWS



Margo Schlanger



Rebecca Scott



David M. Uhlmann

Child Welfare System's Disregard for the Rights of Non-Offending Parents," *Temple Law Review* (forthcoming) and "Judicial Oversight Over the Interstate Placement of Foster Children—The Missing Element in Current Efforts to Reform the Interstate Compact on the Placement of Children," *Capital Law Review* (forthcoming). His presentations included "Parents in Court: How Quality Representation and Engagement Can Change Outcomes" in October at the Third National Judicial Summit on the Protection of Children, Austin, Texas; panelist at the University of District of Columbia Law Review Symposium, Child Welfare Panel, in February; and panelist at the Washington University Access to Equal Justice Colloquium in March.

Professor **Margo Schlanger** moved the Civil Rights Litigation Clearinghouse from its old online home at clearinghouse.wustl.edu to a new site at Michigan Law, www.clearinghouse.net. In August, a project on which she has been working for more than two years, the ABA's Criminal Justice Standards on the Treatment of Prisoners, was approved by the ABA's Criminal Justice Section Council. She gave faculty workshops at Stanford and Brooklyn in the fall on a paper in progress titled "The Equal Employment Opportunity Commission and Structural Reform of the American Workplace." She is the author of two pieces that will be published this year: "Against Secret Regulation: Why and How We Should End the Practical Obscurity of Injunctions and Consent Decrees" in the *DePaul Law Review*, and "Women Behind the Wheel: Gender and Transportation Law, 1860–1930" in *Feminist Legal History: Women and the Law in U.S. History* (NYU Press, 2010). She is taking a leave of absence from Michigan Law to serve as the civil rights and civil liberties officer of the Department of Homeland Security.

Rebecca Scott, the Charles Gibson Distinguished University Professor of History and Professor of Law, was a guest speaker at the annual meeting of the Historical Society for U.S. District Court—Eastern District of Michigan in November. At the luncheon where she spoke, awards named in honor of the late Edward H. Rakow, '25, who helped organize the Detroit Chapter of the Federal Bar Association, were given out. The other speaker at the event was Trevor Broad, '09.

David M. Uhlmann, the Jeffrey F. Liss Professor from Practice and the inaugural director of the Environmental Law and Policy Program, authored "Environmental Crime Comes of Age: The Evolution of Criminal Enforcement in the Environmental Regulatory Scheme," *Utah Law Review*, Vol. 2009, No. 4. His recent and forthcoming presentations include "Environmental Crime Comes of Age: The Evolution of Criminal Enforcement in the Environmental Regulatory Scheme" in January to the Erb Colloquium, U-M Ross School of



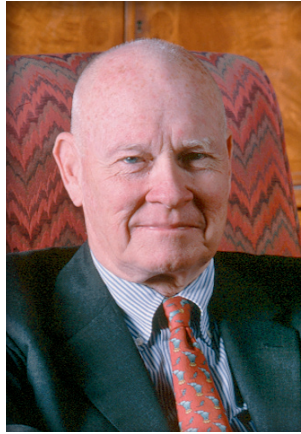
Frank Vandervort



FACULTY NEWS



Lawrence W. Waggoner, '63



J.J. White, '62

Business and School of Natural Resources & Environment; Inspiring Career Paths Speaker Series in January, Michigan Law, Office of Public Interest and Public Service; panelist, Marquette University Law School Water and People Conference in February in Milwaukee; and "Environmental Crimes and the Path to a Sustainable Future" in April, presented to the Goodwin-Niering Center for Conservation Biology and Environmental Studies, Connecticut College, New London, Connecticut. He held a conference, Environmental Law and Economics, at the Law School in April.


Frank Vandervort, clinical assistant professor of law, is working as a consultant to a federally funded demonstration project called Trauma Informed Child Welfare Systems, and as a consultant to the National Quality Improvement Center for Child Representation.

He is working as an adviser to the National Child Protection Mediation Standards group, which is

developing standards to guide the use of mediation in child abuse and neglect cases. A book he coauthored, *Seeking Justice in Child Sexual Abuse: Shifting Burdens and Sharing Responsibilities*, has been published. A book chapter he coauthored, "Special Issues in Transcultural, Transracial, and Gay and Lesbian Parenting and Adoption," has been published in *Principles and Practice of Child and Adolescent Forensic Mental Health*. His article "A Search for the Truth or Trial by Ordeal: When Prosecutors Cross-Examine Adolescents How Should Courts Respond?" will be published this spring in the *Widener Law Review*. The paper grew out of his participation in a symposium on The Child Witness last year. In addition, Vandervort has completed work of three other book chapters, which are due to be published in 2010: "Legal Rights of Fetuses and Young Children," in *Principles and Practices of Addictions in Law and Medicine*; and "The Indian Child Welfare Act" and "Federal and Uniform Child Welfare Legislation," in *Child Welfare Law and Practice (Second Edition)*, Donald N. Duquette and Ann Haralambie.

Lawrence W. Waggoner, '63, the Lewis M. Simes Professor of Law, prepared the final segment of the Restatement of Property: Wills and Other Donative Transfer; as the reporter, he met with his advisers at the Law School in early October and with the Council of the American Law Institute (ALI) in Philadelphia in December. Next, he will present the draft to the full membership of the ALI in May. Waggoner also published two articles explaining new provisions of the Uniform Probate Code, for which he was the reporter: 1. "The Uniform Probate Code Addresses the Class-Gift and Intestacy Rights of Children of Assisted Reproduction Technologies" in the *American College of Trust and Estate Counsel Journal*, Vol. 35, No. 30 (with Sheldon Kurtz) and as U-M Public Law Working Paper No. 171; and 2. "The Uniform Probate Code Authorizes Notarized Wills" in the *American College of Trust and Estate Counsel Journal*, Vol. 34 and as U-M Public Law Working Paper No. 173.

J.J. White, '62, the Robert A. Sullivan Professor of Law, published an article on "Warranties in the Box" in the August/September *San Diego Law Review*, and was on a panel at a bankruptcy conference in Washington, D.C., on asset sales in Chapter 11 cases. The sixth edition of his *Uniform Commercial Code* (Hornbook Series), eds. White and Summers, was published, as was the fifth edition of the fourth volume of their *Uniform Commercial Code* (Practitioner Treatise Series).

Christina B. Whitman, '74, the Francis A. Allen Collegiate Professor of Law, is serving a three-year, half-time appointment as vice provost for academic and faculty affairs at U-M. She continues to teach one course each term in the Law School. 

Christina B. Whitman, '74



In the News

Michigan Law faculty members were quoted in media outlets far and wide in recent months. These are some of the highlights.

MARCH 2010

WDET, Detroit's NPR station, features an extensive interview with **Jill Horwitz** on Vanguard's proposed purchase of the Detroit Medical Center.

The *Milwaukee Journal-Sentinel* quotes **Becky Eisenberg** on a trademark issue involving AAA.

FEBRUARY 2010

Steven Croley writes in the *Huffington Post* about financial regulation and Senate filibusters.

Richard Friedman talks to the *New York Times* about a bank robber who has become a Supreme Court practitioner.

Susan Crawford provides her perspective to the *Washington Post* about Google's plans for an ultra-fast network.

JANUARY 2010

The New York Times quotes **John Pottow** in its story on bankruptcy trends.

Sam Gross appears in the *New York Times* on the American Law Institute's intellectual abandonment of capital punishment.

Jessica Litman is quoted in an Australian Broadcasting Company report on the vagaries of copyright law.

DECEMBER 2009

The New York Times quotes **David Uhlmann** in a front-page story on tainted municipal drinking water used by millions of Americans. Media outlets including MSNBC followed with stories in which they also quoted Uhlmann.

Susan Guindi, '90, tells AmLawDaily.com that a small number of 2Ls may benefit from an added mini-round of recruiting.

The Christian Science Monitor quotes **Richard Primus** in a story on the promotions of New Haven firefighters who prevailed in a Supreme Court case, in which Primus's work was cited by both the majority and the dissent.

NOVEMBER 2009

In a Sunday page-one story in the *New York Times*, **Michael Barr** (currently on academic leave as Assistant Secretary of the Treasury for Financial Institutions) says foot-dragging mortgage companies should prepare to be embarrassed.

David Santacroce and the Law School's clinical law program are helping sue Washtenaw County jailers over forced sex, lack of medical care, and other serious shortcomings, says a story in annarbor.com.

Vatican Radio interviews **Deborah Burand** on microfinance.

OCTOBER 2009

Learn to love insider trading, says a *Wall Street Journal* story that quotes **Adam Pritchard**.

Reuven Avi-Yonah is quoted on the Bloomberg news wire, on foreign banks being taxed by the United States for concealing accounts.

The New Yorker quotes **Jim Hines** in a story about White House economist Larry Summers.

An NPR "All Things Considered" story about options for detained terrorists features thoughts from **Monica Hakimi**.

Annarbor.com highlights **Don Duquette's**, '75, new \$5 million grant from the U.S. Children's Bureau of Health and Human Services, creating the National Quality Improvement Center on the Representation of Children in the Child Welfare System at U-M.

Michigan Radio and both Detroit papers run stories about **Vivek Sankaran's**, '01, new Detroit Center for Family Advocacy.





Chrysler's Bankruptcy: Money Laundering on a Grand Scale

Editor's Note: "President Obama forced Chrysler into federal bankruptcy protection on Thursday so it could pursue a lifesaving alliance with the Italian automaker Fiat, in yet another extraordinary intervention into private industry by the federal government." That was the assessment by The New York Times when the news broke in April.

We knew some of our faculty would have strong opinions about the way the bankruptcy was handled. We weren't disappointed. In the next two articles, read J.J. White's opinion about the Obama administration's "clever but legal manipulation of the bankruptcy system." Then read John Pottow's ruminations, see where he parts from his colleague, and learn his answer to what he calls the "big picture question." On which side of the divide did this fall: a government nationalization of heavy-handed policy guiding, or a reluctant intervention of capital by the ultimate lender of last resort?

By James J. White, '62

The bankruptcy of two of America's prominent industrial companies, Chrysler and General Motors, will be remembered as a curious footnote in the financial crisis of 2008 and 2009.

Both companies left bankruptcy through the side door via a "Section 363" sale, not through a plan of reorganization confirmed by the vote of the creditors. Section 363 of the Bankruptcy Code was designed to allow a company in Chapter 11 to sell off unneeded assets such as outmoded factories, unused real estate, or other assets that would not contribute to the business that was to emerge from Chapter 11 by the adoption of a Chapter 11 plan.

Since the 1980s, debtors have used Section 363 to turn the Chapter 11 process on its head. In many Chapter 11 cases of public

companies, the debtor in possession has sold the live part of the business through 363 and has left the dead assets for later liquidation. In these transactions, the debtor in possession typically sells to a buyer who purchases the live business out of the estate for cash. Despite controversy over its wisdom and legality, the 363 sale of the living part of a business in Chapter 11 has now become a well-recognized and widely practiced method of conducting the reorganization of a failing company.

Both academics and practicing lawyers have questioned this use of Section 363. The principal criticism is that this use deprives the creditors of the protection that is built into the process of proposing and approving a plan of reorganization. It is possible but difficult to

gain a court's approval of a plan over the negative vote of a class of creditors. In a 363 sale there is no vote, and creditors fear that the debtor in possession will team up with a subset of the creditor group and propose a sale that disadvantages the other creditors.

Indeed the principal limitations on such "cramdowns" over creditors' negative votes arose out of just such practices by coalitions of shareholders and subsets of creditors in 19th century reorganization practice. Set against these complaints is the argument that the speed of 363 sales saves money and by the claim that a properly conducted 363 sale will bring as much as, or more than, the value that would have been realized in a fully negotiated and confirmed plan. UCLA Professor Lynn LoPucki, '67, and I have debated the latter point in the *Michigan Law Review*.

But I bore you. Chrysler presents political issues far more interesting and relevant than any claim about the proper reading of the bankruptcy code. Even under the new thinking on Section 363 sales, the Chrysler sale was deviant. In Chrysler, the nominal buyer, Fiat, put up no money. Rather the federal government put the \$2 billion into Chrysler so that it could pay off the secured creditors at 28 cents on the dollar. By removing \$7 billion of secured debt from Chrysler's balance sheet, the administration greatly increased the value of the New Chrysler's unsecured promise to pay \$4 billion to the UAW Voluntary Employee Beneficiary Association, or VEBA. In effect, the payment of \$2 billion to liquidate the superior secured debt made it possible to move \$4 billion from New Chrysler to the UAW for its unsecured claim.

The interesting issue in Chrysler is not the lawyers' manipulation of the law; it is the politicians' use of the bankruptcy to launder money. Had the President simply announced that the federal government would give \$4 billion to the UAW, the public, even the public in the UAW's home state of Michigan, would have been up in arms. By laundering the money through the Chapter 11 process, the administration disguised the payment and avoided the outrage.


Where is the evidence to support my hypothesis? Some comes from the deviance of the process; most can be inferred from Steven Rattner's description of the political negotiation in the administration and of the acts and thinking of the White House automobile task force that Mr. Rattner directed. In an article published in *Fortune* in October, Mr. Rattner (not to be confused with Michigan Law's own Steven Ratner) describes some of the

political considerations. He notes that a proposal by Austan Goolsbee, a member of President Obama's Council of Economic Advisers, to let Chrysler die (and so to let GM prosper) was rejected when the participants realized that as many as 300,000 persons could be thrown out of work by Chrysler's liquidation. Mr. Rattner has the audacity to claim that the politicians did not interfere in the task force's work, only a few pages after he describes how White House Chief of Staff Rahm Emanuel was able to recite from memory the names of the members of Congress who represented the districts where Chrysler had manufacturing plants.

The surprising capitulation of the secured creditors is also suspicious. There is a strong argument that a Section 363 sale cannot be made over the objection of a secured creditor, unless the creditor is paid not merely the value of the collateral that secures its debt (here no more than a few billions and quite possibly less than that) but the face amount of its debt (here \$6.9 billion). Because the secured creditors agreed to the government's offer of \$2 billion—or, more accurately, because JPMorgan Chase & Co., the agent for the secured creditors, was found to have bound all of the secured creditors by its agreement—no court ever had to consider the argument that Section 363 required payment of the face amount of the secured debt. Mr. Rattner proudly claims to have moved Jimmy Lee, the Morgan banker who spoke for the secured creditors, from a claim for "not one penny less than \$6.9 billion" to a \$2 billion settlement by adroit negotiation.

There is another possibility. Mr. Lee's employer and several of the other secured creditors were TARP (Troubled

Asset Relief Program) recipients. It is plausible that Mr. Lee accepted the \$2 billion and chose not to argue for more in court because word was passed to his boss, Jamie Dimon, that the administration wanted it that way.

Understand what I am not claiming; I do not claim that the lawyers or the judges in Chrysler did anything wrong. If they are aggrieved it is only because they were the puppets attached to the administration's strings. By its clever but legal manipulation of the bankruptcy system, the administration was able to move \$4 billion of value to its friend the UAW while being much less generous to Chrysler's secured creditors who, in another setting, could have received a much larger payoff. 

Had the President simply announced that the federal government would give \$4 billion to the UAW, the public, even the public in the UAW's home state of Michigan, would have been up in arms.

An American flag is shown in the upper left corner, waving. Below it, the word "CHRYSLER" is written in large, light blue, serif capital letters on a dark background. The text "Government Involvement in Chrysler Bankruptcy: The Least-Worst Alternative?" is overlaid in white, bold, sans-serif font.

Government Involvement in Chrysler Bankruptcy: The Least-Worst Alternative?

By John A. E. Pottow

As usual, my colleague Jim White has hit many nails on many heads. Also as usual, however, I'm going to be a pain and part ways with him a bit.

First, was Chrysler's bankruptcy "suspicious" in its use of section 363 of the Bankruptcy Code? You bet. Leaving aside the proliferation of 363 sales to swallow Chapter 11 as we once knew it, Chrysler was out in left field. Not only was it a "sale" of everything meaningful in the company, it was to a seller—Fiat—that put in no money. (To be fair, Fiat agreed to contribute technological know-how on cars that Americans will now be much more interested in buying than they were in a pre-financial collapse environment.)

And GM was even weirder: Not only did the government put up all the purchase money, but the purchaser wasn't even a foreign car maker with a plausible contribution of sweat equity; it was "new GM," a legal creation. GM bought its economic self from its former self for no money down, all at the underwriting of the government. So yes, that's "deviant," even worse than Professor White lets on.

But *why* the deviance? Was it to mask a nefarious government plan of wealth redistribution? Before we analyze the propriety of the government's conduct, we must consider why it got involved in the first place. And to do that, we have to understand basic business reorganization financing. In a regular reorg, companies turn to a now thick and sophisticated market of so-called DIP lenders who provide funds to reorganizing "debtors-in-

possession," as the struggling companies are called in the Bankruptcy Code. In a regular Chapter 11, you'd call up commercial lender CIT Group and ask for a multimillion dollar DIP loan (which, rest assured, gets highly favorable treatment in bankruptcy law, so don't worry about the DIP lender's risk). Thus, free marketeers would say, "Fie on public intervention! Let the auto companies fend for themselves, get a DIP loan, if they can, and reorganize the same way anyone else would have to in Chapter 11."

In the abstract, not an unfair point. But there was a problem, and it was twofold. First, the car companies were huge and so needed DIP loans that would be amongst the largest ever in bankruptcy (orders of magnitude beyond the traditional case). Not unprecedented, to be sure, but the size of loans that would need at the very least a syndicate of banks to cobble together the funds. Second, and more importantly, they needed the money in the midst of a financial collapse of the lending markets. (By the way, anyone see how that great DIP lender CIT Group fared?) So even the starchiest libertarian would grudgingly concede that if there's a time for public intervention into the DIP loan market, this would probably be it. It was a bold decision, but one that I believe will be eventually vindicated economically. It's not surprising that Mr. Rattner's *Fortune* article (see Professor White's article) recounts a 4–4 deadlock of advisers confronting the President in deciding whether to intervene with a loan.

Now the tricky part: You decide as a policy matter the feds should step in and provide a DIP loan to the failing auto giants. How do

you do that without nationalizing them? You do what they did: Appoint an ad hoc task force with negotiating authority and headed up by real financiers, not government bureaucrats. They drove hard bargains. They took an equity stake, because there's only so much debt financing you can tolerate in a reorg with this capital structure. And they decided to do it through 363 presumably for the reasons most 363 sales occur: for speed. (And speedy these reorgs were—in and out in a month.) Viewed thus, the 363 sale structure had nothing to do with masking redistribution goals; it was driven by bankruptcy reorganization strategy.

Now we judge in hindsight. Did they drive too hard a deal with certain parties? Were they too soft with others? Maybe. Let's start with the secureds. Were the feds too hard on them, knocking \$6 billion down to 2? (Let me be clear, I am assuming a proactive role of the government as negotiator because, as with all DIP lenders, they set the terms of when they'll be willing to lend; so yes, they get to set financial conditions.) I could try to weasel on this and point to the consent of the trustee representing the consortium of secured lenders, which bound the others, but Professor White rightly raises the enthusiasm with which some of the TARP-recipient secured lenders might have wanted to help out the government by being especially conciliatory.

The real question is: Are the assets encumbered by those lenders' liens worth more than the \$2 billion? No, as far as I'm aware, and certainly no one tried to make a valuation argument—common in bankruptcy litigation—to the contrary. In fact, some pundits opined that \$2 billion was generous, especially in the liquidation scenario that would unfold absent government financing. (As a sidebar, I disagree with Professor White and some courts that suggest a secured creditor could insist on payment of the face amount of the liens—more than \$6 billion—to block a 363 sale. I'm in the camp that reads the Code to say if \$2 billion is all the encumbered assets are really worth, that's all a secured creditor can expect in a 363 sale.)

In all the gnashing of teeth that was the appellate litigation (including brief Supreme Court stays) trying to block the 363 sale, there was plenty of hand-waving to alleged bias, *sub rosa* end runs around Chapter 11 through 363, and statutory interpretations of section 363. But there was never a good, meaty argument that \$2 billion was not a fair valuation of the secured creditors' assets. As such, I weep nary a tear for the purportedly aggrieved dissenting secureds.

The better raising of eyebrows comes from the treatment of the UAW as an unsecured creditor. Here, it ended up with a relatively handsome stake in new Chrysler (and GM for that matter). I don't

agree that they got a \$4 billion gift; at best they received a disproportionately favorable stake in the new company. To this charge of favoritism there is a technical argument of exquisite legal positivism and there's a better answer. The technical answer is that "new" Chrysler can distribute its capital structure however it likes, and so, for example, the Bankruptcy Code's command of equal treatment of unsecured creditors is inapposite (in contrast to a proposed restructuring under a Chapter 11 plan). That explanation is not likely to satisfy skeptics of why this was a 363 sale in the first place; in fact, it will infuriate them and prove their underlying mistrust.

The better answer is that even the Bankruptcy Code allows departure from the injunction if the creditors are uniquely situated. Here, there is a plausible argument that the union-creditor is differently situated: One needs a happy union to continue making cars at maximal efficiency, and it is not a far stretch to imagine labor unrest scuttling any hopes for economic survival. Thus, even if they had to defend the capital structure—which the positivists would not concede—there's a decent argument to rest behind that this favoritism was perfectly appropriate (although Professor White might brand it a mere fig leaf).

The \$64,000 question is how much value added the union contributed vis-à-vis the other creditors, and how does one commensurate that into a premium in terms of the stake in the new company? I don't have an answer to that, nor do I have a strong feeling whether a Republican-led auto task force (assuming it embraced the policy threshold whether to lend DIP money in the first place) would have come to strikingly different amounts. I'm not so wet behind the ears that I envision no labor solicitude from a task force emanating from this administration, but I'm also not sure how much of an effect it actually had. I don't think it was tantamount to a \$4 billion giveaway. (More thought is devoted by Professors Roe and Skeel in an upcoming issue of the *Michigan Law Review*.)



The big picture question for me was on which side of the divide did this fall: a government nationalization of heavy-handed policy guiding, or a reluctant intervention of capital by the ultimate lender of last resort? Contrary to popular rumor, Representative Barney Frank did not get to dictate which plants shut down, and I don't think the President was very involved in picking Fritz Henderson's replacement at the helm of GM. The jury's still out, but history may well judge this as restrained government intervention in a time of financial crisis that enhanced, not undermined, capital markets. **Q**

[CLOSING]

Building for the Future



A front-page story in the Sunday, Sept. 21, 1924, *New York Times* hailed a gift to a law school in a Midwestern city. Above a story headlined "Coolidge Directs Inquiry on Planes," the article about the gift read, in part: "The donor of the \$2,000,000 Lawyers' Club building at the University of Michigan, one of the finest buildings of its kind on any campus in the world, is William W. Cook, Michigan alumnus and a New York City lawyer, it was learned today."

The construction of that building is shown in the first photo, from 1924. *The New York Times* followed up with an article on June 14, 1925: "The University of Michigan's new \$2,000,000 Lawyers' Club, gift of William W. Cook of New York City, was dedicated here this afternoon, Dean Henry M. Bates of the Michigan Law School formally accepting the building. . . . 'America is still in the making,' [Cook] wrote, 'but in the domain of law is no longer dependent on England. On the contrary, it is working out a jurisprudence of its own.'"

Another fine building is now under construction across the street. Below, workers make headway on the new academic building at the southeast corner of State and Monroe streets. Read more about the academic building and the new Robert B. Aikens Commons on pages 7 and 29.



Q **LAW**uadrangle

NOTES FROM MICHIGAN LAW

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