

DEAN Stewart J. Schwab
*concludes his 10-year
term of GROWING
THE LAW SCHOOL*

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Cornell University
Law School

Lawyers in the Best Sense

Spring 2014

The New East Wing Opens

Trailblazers: First-Ever
Women Editors in Chief
of a Law Review

Steven H. Shiffrin:
First Amendment Expert and
Champion of Equality

Eduardo Peñalver Named
Dean of Cornell Law School

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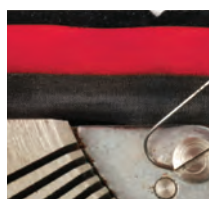


Cornell University
Law School

Lawyers in the Best Sense

FORUM

Spring 2014
Volume 40, No. 1



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The last ten years have gone quickly. I have enjoyed the opportunity as Dean to work with everyone connected with Cornell Law School. There is so much talent, high ideals, and decency among us. Our energy is high and the future is promising.

Dear Alumni and Friends:

As I write this final *Forum* column of my deanship, the new sights and smells of spring are abundant on campus. The renewal and change brought on by the season provide a fitting parallel to the many transformations that occur here at Myron Taylor Hall.

When I talk with alumni around the country and the world, they often tell me that Cornell Law School was a life-changing experience—that by graduation they had matured into disciplined analytic thinkers and were ready to be professionals advising others on important matters. During my years at the helm, I've done my best to foster our intimate, collegial, and supportive environment conducive to producing well-rounded "lawyers in the best sense."

Aside from the many individual transformations we have encouraged, the Law

School also has undergone a great deal of institutional change since I became dean in 2004. During this time, we have renewed and grown our faculty, enhanced our curriculum, added programs, and expanded the school itself with the first major building project in 25 years now completed. And while many of our accomplishments have been chronicled here before, the first article of this issue summarizes how far we have come in 10 years.

One of the most visible accomplishments is the stunning east classroom wing adjoining Purcell Courtyard, which is the focus of a photo feature on page 18. Featuring three state-of-the-art classrooms, a beautiful lobby, and impressive entrance, this new space suits our needs and character and our sense of community. It has the clarity, openness, and accessibility that are

important goals for law and the Law School.

The themes of transformation and change are woven into the two other feature articles. **Cynthia Bowman**, Dorothea S. Clark Professor of Law, reveals that Cornell Law School can lay claim to having the first, second, third, and fourth women editors of a law review—many decades before any other law school. Based on extensive interviews, Bowman recounts the rich lives of three of these women and the challenges they faced as they pursued careers as lawyers.

The final article profiles the incomparable **Steven Shiffrin**, Charles Frank Reavis Sr. Professor of Law, who retired last semester after more than 26 years at the Law School. An expert on the First Amendment, Shiffrin has been a generous teacher, mentor, and colleague with a remarkable legacy. I look forward to seeing him around the school when I return to teaching.



This year brought yet more change—both somber and joyous. In February, we were deeply saddened at the sudden death of my dear friend and brilliant colleague, Professor **Ted Eisenberg**, a founder of modern empirical legal studies. We were lucky to have had him as a colleague for more than three decades, but wish it could have been longer.

On a happy note, in March Professor **Eduardo M. Peñalver** was named the next Allan R. Tessler Dean of Cornell Law School. His energy, engaging personality, deep love of the school, and academic excellence make him a great fit. He begins July 1, and we have been working on a smooth transition.

The last ten years have gone quickly. I have enjoyed the opportunity as dean to work

with everyone connected with Cornell Law School. There is so much talent, high ideals, and decency among us. Our energy is high and the future is promising.

Stewart J. Schwab

Allan R. Tessler Dean and
Professor of Law
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Getting to Yes

by KENNETH BERKOWITZ ■ PHOTOGRAPHY by FRANK DIMEO, ROBERT BARKER,
LINDSAY FRANCE, JASON KOSKI, and PATRICIA REYNOLDS



Ten years ago, **Stewart J. Schwab**, the Allan R. Tessler Dean and Professor of Law, began his tenure with a set of ambitious, widely shared objectives: The Law School should increase the size of its faculty. It should broaden course offerings in business and international comparative law, expand partnerships with institutions around the world, and establish new on-campus initiatives to broaden its global impact.

The list kept going. The Law School should encourage more interdisciplinary studies and research across campus, taking greater advantage of its place within the university. It should create new clinics for students to broaden their experience outside the classroom, and use those real-world opportunities to reinforce its commitment to public service.

With its last major renovation two decades earlier, it should create space for additional classrooms, offices, centers, and student services, making sure to provide room to grow over the next twenty years. Along the way, it should continue to build its endowment, reinvigorate alumni participation, and foster a deeper sense of collegiality among faculty members.

Over the course of two five-year terms, he's done all that and more.

"Stewart Schwab has led the Law School with exceptional dedication, advancing valuable new



There are some deans who are inclined to say no. Stewart is a dean who's inclined to say yes . . . which is part of the reason why he has presided over an era of growth.

— John H. Blume



programs, overseeing a significant expansion and renovation of the facilities, and hiring outstanding faculty to strengthen the school's future," says Cornell **President David J. Skorton**. "I'm grateful to Stewart for his leadership and his devotion to both the Law School and the university."

"By every objective measure, the Law School has done very, very well during Stewart's tenure," says **Franci J. Blassberg '77**, chair of the Law School Advisory Council. "But what is equally important is something less tangible—the feel of the school. Unlike many law schools, Cornell Law School is a happy place where both faculty

and students are appreciated, supported, and encouraged. Stewart has a wonderfully collaborative nature, and he has managed to develop great working relationships with faculty and students, as well as with alumni. He is an excellent synthesizer, and by virtue of his unique combination of skills, he has been an incredible leader for the Law School."

WFS



BRINGING PEOPLE TOGETHER

When he took office in January 2004, the fifteenth dean in the history of Cornell Law wasn't sure what to expect. By then, he'd been on the faculty of the Law School for more than twenty years, teaching courses on labor and employment law, employment discrimination, contracts, business organizations, torts, and product liability. (While dean he would add courses on whistleblower law and ethics of business practice.) Before that, he'd clerked for Judge J. Dickson Phillips Jr. in the U.S. Court of Appeals, Fourth Circuit, and for Justice Sandra Day O'Connor in the U.S. Supreme Court; before that, he'd been at the University of Michigan Law School, graduating magna cum laude and also receiving a Ph.D. in economics with a dissertation on "Stereotypes, Imperfect-Information Theories, and Statistical Discrimination in Labor Markets."

But he'd never been a dean, and couldn't know what it would feel like. "It's very different from being the faculty member I'd been since 1983," says Schwab, sitting in his corner office in Myron Taylor Hall, with views of the lake and the city. "There are lots of aspects to being a professor, but they generally boil down to teaching classes, writing articles, and engaging the intellectual life of the school. Being a dean is much more scheduled, and I wasn't fully aware of the relentlessness of the calendar."

"I remember one day early on," he continues, "when my wife asked what I'd done at work,

and I said, 'I didn't do anything. I've been in meetings all day.' And it wasn't until later I realized that's actually what this job is all about: convening various groups, bringing people together, asking what we should do, and listening to the responses. Being a facilitator, which is very much the way I see this job."



SCHWAB on SCHWAB:

It's no surprise to **Norma W. Schwab**, associate university counsel, that friends around the Law School describe her marriage to the dean as a true partnership. "Maybe so," she says. "I've probably been more involved than a lot of dean's spouses, and I've tried to be supportive. When Stewart became dean, I don't think either one of us had a clue what it meant. I certainly didn't. It's much more demanding than I ever gave it credit for, with traveling, fundraising, and meeting after meeting after meeting. I'm not sure he gauged how significant that part would be, and I think he underestimated how much he would enjoy it, how good he'd be at it. He's been very effective as a fundraiser, which surprises me, because he hated selling Girl Scout cookies. That he's been so successful is an indication of how much he believes in the Law School and its mission."

That approach, and that sense of himself as a listener, rather than as a manager, has colored everything he's done over these past ten years. It's the reason faculty, staff, and students talk about their conversations with him, and why he consistently seeks out opportunities to listen.

"Knowing how much is demanded of him, it's impressive that he manages to set aside time every Wednesday to be with us," says **Alex Harris '14**, president of the Cornell Law Students Association, talking about the Weekly Perk, an hour of coffee and community that Schwab started early in his first term. "It shows his willingness to listen to students, and his enthusiasm for their ideas. When he's speaking with a student, you can tell he's interested in the whole person—not just what classes you're taking, but what your experience has really been like. That's much appreciated by everyone, and I think it shows a real student-first mindset."

As with many of the changes instituted over these ten years, the Weekly Perk began as someone else's idea, but needed the dean's backing to be put into action. That he provided all the support it needed, and took none of the credit, is at the heart of his management style.



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CLOCKWISE FROM TOP: Stewart Schwab with students in the Gould Reading Room of the Cornell Law Library. Talking with Professor Charles Whitehead at the 2013 Clarke Business Law Institute Transactional Lawyering Competition. Chatting with a student during a Weekly Perk event in 2004. Meeting with a delegation from the Thai Bar and the U.S. Royal Thai Embassy in 2012.

"When you're the dean of a law school, a little bit of top-down goes a long way," says Schwab. "The best, most sustainable ideas usually come bubbling up from the folks who are going to execute them, whether they're faculty, staff, students, or alumni. As a university, we're in the idea business, so we should always have great ideas around—indeed, with more great ideas than we can put into place all at once, my central role is to figure out which ones come first.

"Part of the art of being a dean is knowing when to decide an issue, versus when to let it percolate," he continues. "If you step in too soon, there won't be enough time to create a consensus. If you wait too long, then nothing will get done. You have to find that balance, and for me, it comes from working with a group of faculty members who see themselves as equals. I don't think of myself as their boss, I think of myself as a colleague who's listening, letting ideas perk, and pushing them forward with a clear sense of direction."

CLOSING THE DEAL

From the beginning, Schwab started to work on everything at once, envisioning his tasks in terms of constituencies—administration, faculty, staff, students, and alumni—and prioritizing a job that his predecessors had wrestled with for years. "It was not long into his deanship when Stewart started talking about renovations," says **Kevin Clermont**, Robert D. Ziff Professor of Law and chair of the building committee. "The early talk involved some very different alternatives: building over the parking lot behind the Law School, building west of Hughes Hall, building underground. There were any number of ideas being batted about, with three sets of architects, and it was up to Stewart to address the solution."

In the decades since the previous renovation, members of the Law School had struggled to find additional space for a wide range of needs, from classrooms to common areas, and had consistently come up short. This time, with a design by Ann Beha Architects that incorporated advances in building construction, it would be possible to increase square footage without altering the Law School's existing footprint. That was the approach that appealed most to Schwab, and that's the design that's going to be built over the next several years.

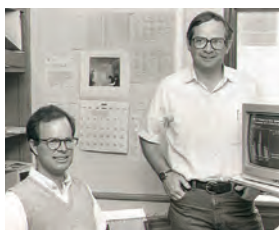
"Stewart saw the need, addressed it, and came up with this plan for a three-phase building project, of which we are just finishing the first phase," says Clermont, talking about the new, formal entranceway to Myron Taylor Hall and the three below-ground classrooms that added

23,000 square feet of building space. "As time went on, he delegated much of the work, granting a surprising degree of autonomy, but the vision was Stewart's, and the existence of this new addition is owed entirely to that vision."

Early in his first term, following a strategic plan that had identified faculty renewal as a central part of the next dean's mission, Schwab went to work creating a framework to support that expansion, which has come to include such new administrative positions as vice dean, associate dean for international affairs, assistant dean for public service, and director of clinical programs. At the start of his deanship, there were forty-five permanent faculty; coming toward the end of his last semester, there are fifty-two, and taking attrition into account, Schwab has hired forty percent of them.

"When Stewart came in as dean, the need to expand and diversify the faculty was foremost on his agenda," says **Barbara J. Holden-Smith**, who became vice dean. "He met this challenge to create a dynamic, more diverse faculty. Because of the caliber of people we recruit to teach, who have any number of different places they could go, it's usually the dean who has to close the deal. Stewart can be very proud of the job he's done, and over these years of working together, I've garnered a great deal of respect for his leadership."

To make that growth possible, Schwab had to become an effective fundraiser. "That's the facet of the job I hadn't had much to do with previously, and I've found it to be easier and far more enjoyable than I'd feared," he says,



TOP ROW (FROM LEFT): Teaching a class in 1984. At a Law School press conference with former Supreme Court Justice Sandra Day O'Connor in 2007. SECOND ROW: Shaking hands with graduates at the 2013 Law School Convocation. With Professor Theodore Eisenberg in 1989. Speaking at the Empirical Law Health Conference in 2012. BOTTOM: Schwab with participants in the ribbon-cutting ceremony for opening the East Wing (from left): Alex Harris, Barbara J. Holden-Smith, architect Ann Beha; Richard F. Robinson; and Kevin Clermont.



CLARKE on SCHWAB:

Jack G. Clarke, LL.B. '52 knows why Dean Schwab has been so successful at working with alumni. "Because he cares," says Clarke. "He cares. And people appreciate that. They have a fondness for the Law School, and he always finds ways to encourage them to come back and spend some time. He's easy to talk with, and open minded, so it's not hard to try out new ideas. His objective is to make the Law School as good as it can be, everyone can see that. He has a wonderful way of expressing himself, and he's devoted to the Law School. I don't know what else you can ask of the gentleman."

smiling. "In interacting with alumni, I've always taken the approach that we're in this together, trying to make the school better together. You just look the other person in the eye and listen. It's not at all like arm twisting, and once I'd gotten used to the process, those conversations have actually been very easy. It's become fun."

It's worked, too. Over the past ten years of shaking hands around the country and around the world, the dean has helped to raise nearly one hundred million dollars and to double annual fund giving. "We're on the cusp of finishing what will be by any measure the most successful fundraising campaign in the history of the Law School," says **Peter Cronin**, associate dean for alumni affairs and development. "That's really remarkable, and I think the reason Stewart has been so successful is that he's completely lacking in pretense. The alumni can see that he's genuine, that he's unequivocally himself, and that he's striving to do everything he can to ensure the school's success. At every juncture, he's emphasized a bright future for the school—that's the message he's carried to the alumni, and that's why they've responded. He has worked very hard and been himself, and I honestly don't think his success is any more complicated than that."

"The dean of a major law school has something of an exalted status, but one of the terrific things about Dean Schwab is that he's completely approachable," says **Ladd Hirsch '83**, a member of the alumni association's executive board. "It would hardly be surprising if he was something other than humble, but he's not, which may come from the fact that he has eight children, something bound to keep any parent humble. Stewart eagerly speaks with a first-year J.D. with the same level of enthusiasm that he engages with a thirty-year alum. That's a real tribute to his character."

DEFINING THE MISSION

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ith those successes, more followed. The Law School's focus on international law, which had broadened with the establishment, by **Jack G. Clarke, LL.B. '52**,

of the Clarke Center for International and Comparative Legal Studies in 2001 and the Clarke Program in East Asian Law and Culture in 2002, became even stronger with the addition of the Clarke Initiative for Law and Development in the Middle East and North Africa, founded shortly after the arrival of **Chantal Thomas** from Cairo.

"Analysis of the region has been so completely dominated by religion, Israeli-Palestinian geopolitics, or both, and I wanted that to change," says Thomas, professor of law and director of the Clarke Initiative. "A lot of what goes on in the Middle East and North Africa is informed by universal problems of development in poor countries, and as a law and development scholar before I went to Egypt, I immediately recognized that. So I talked to Stewart about creating this space for research, scholarship, and dialogue, and he was incredibly supportive. He really believes in encouraging faculty members to pursue their passion—which is also a very efficient way of governing and getting the best out of the people around you. I can't say enough about how wonderful he's been this whole time."

As director of the Clarke Program in East Asian Law and Culture, **Annelise Riles** has had a similar experience in proposing new

ideas. "This program was founded in 2002, but it has grown tremendously during the course of Stewart's deanship, so much so that we went from not having any program in Asian law to being without a doubt one of the top programs in the

country," she says. "With Stewart's involvement, we're redefining the role of a Law School program into something that's much, much broader than anyone would have imagined ten years ago."

After reaching its tenth anniversary, the Program launched its most ambitious project to date: Meridian 180. Taking shape as part of the international response to Japan's Tohoku earthquake and financial crisis, the project has evolved into a new paradigm for developing solutions to transnational challenges, providing real-time translations in Chinese, Japanese, and English, and building a forum for interdisciplinary conversations around the Pacific Rim.

"At the time, everyone was focusing on the short-term emergencies," says Riles. "But I



Stewart has been a champion of Cornell's land-grant mission to the world, so when we do global studies, it's not about training judges to spread American rule of law. It's about building partnerships to understand the world in a richer way. — Annelise Riles



thought it was also a symptom of much broader problems that have plagued the region for a long time. So Stewart, Jack, and I began to ask ourselves, 'What's the role of a global law school in this crisis? What's missing from the picture?' The answer we came up with was Meridian 180, which fits Stewart's idea that the Law School has a commitment that goes far beyond Ithaca, and that our connections to the world are a very important part of who we are and what we do. Stewart has been a champion of Cornell's land-grant mission to the world, so when we do global studies, it's not about training judges to spread American rule of law. It's about building partnerships to understand the world in a richer way."

With the 2008 launch of the Avon Global Center for Women and Justice, cofounded by **Kim Azzarelli '97** and **Sital Kalantry**, Cornell expanded its international focus again, working closely with judges, lawyers, governmental organizations, and NGOs to improve women's access to justice around the world. In the years since, accepting requests from across the globe, the center has studied sexual violence in Zambia, reported on acid attacks in Cambodia and India, trained lawyers working on human trafficking in Liberia, and researched the barriers faced in New York courts by survivors of domestic abuse.

"The center has created a great sense of community, the first of its kind, and had a significant impact," says Azzarelli, a member of the Law School Advisory Council. "Cornell Law may be small in size, but it's global in outlook, and having the center here means that it's not just going to be another program. Stewart has always taken good care of it, and even the little things he's done have had big rippling effects, which has to do with the sincerity with which he approaches his job. He's traveled with us, been to every conference, and become part of the judges' network. We have a lot of women, but we always say it's great to have a few good men, too. Stewart is definitely one."



THOMAS on SCHWAB:

En route to building a partnership with the American University in Cairo, **Chantal Thomas**, Jack G. Clarke, and Dean Schwab traveled to Egypt. "I remember hiking the pyramids with Jack and Stewart," says Thomas, who directs the Clarke Initiative for Law and Development in the Middle East and North Africa. "It was the middle of June, and we were on a camel ride, and I remember how totally tickled Stewart was, riding on ahead of us. That was a good way to discover his sense of adventure, his sense of fun, and I thought he must be a great dad. He had a lot to do on that trip, including visiting the courts, meeting with the U.S. ambassador, and presenting a paper in a legal theories symposium. In everything he did, he brought a sense of ease, an esprit de corps that knitted us all together. He was happy to go along for the ride, even on a camel."

DEMONSTRATING STRENGTH



As an expert in business and employment law, and cognizant of the fact that a large percentage of graduates begin their careers at one of this country's 250 largest law firms, Dean Schwab had for years hoped to expand course offerings in corporate law. With help from Clarke, who committed the lead \$5 million to the project, and alumni who contributed almost \$8 million more, he received the support he needed to found the Jack G. Clarke Institute for the Study and Practice of Business Law (BLI).

"Of all Dean Schwab's key accomplishments as a fundraiser, I think he's most proud of the evolution of the Clarke Business Law Institute, which started from square one," says Cronin.

"Stewart understood that in order for the Law School to continue demonstrating the strength it's known for, we needed to have an aggregate of tenured faculty and resources to promote scholarship and teaching across the broad array of transactional law matters."

After mapping out a vision of the BLI with members of the advisory council, Schwab began assembling the necessary pieces one at a time, hiring faculty in financial regulation, securities law, intellectual property, and

international economic law over the course of four years; collaborating to create a three-year joint J.D./M.B.A. program with the Johnson Graduate School of Management; establishing a transactional lawyering competition, the first of its kind in the world; hosting a series of conferences and symposia; and recruiting **Raymond J. Minella '74** as executive director.

"The vast majority of Cornell Law graduates wind up practicing corporate law," says Minella. "So we've significantly expanded the curriculum to deal with business law topics, with about two-thirds of the new courses coming in the last few years. Our students are now able to graduate with a much deeper background in business law, and a lot of people are taking advantage of the richer course offerings. That's been Stewart's vision from the start, to focus on business law in a way that other schools don't. And obviously, I think it's the right thing to do."

Over the same period, Schwab created an office of public service, reaffirming the Law School's long-standing commitment to support students and alumni pursuing careers in government, small firm, and public interest law. "First and foremost, Stewart is the reason I have this job," says **Karen Comstock**, who became assistant dean for public service during Schwab's first year in office. "He saw this as an important priority, and he's been nothing but supportive ever since, talking to alumni about what we do, and articulating his vision of the importance of public service. That support has gone a long way."

With the new position, the Law School has been providing one-on-one career counseling, presenting workshops on job-search strategies, administering summer and post-graduate fellowships, fostering networks between students and alumni, coordinating pro bono opportunities, organizing symposia on careers in public interest law, and formally recognizing Cornellians for their work in public service. "Putting a spotlight on this area has helped us raise the profile of public service at Cornell," says Comstock. "There's been a great synergy

between alumni and current students, and the stronger our program gets, the more credibility it has. From there it just keeps building and Stewart's willingness to put resources behind our program has made all the difference."

The Law School has also seen an expansion in its clinical programs, with new permanent clinics in labor law, LGBT law, and securities law, as well as clinics that have arisen in juvenile justice, wrongful convictions, and family law. "It's unquestionably true that we have a wider, more diverse range of clinical offerings than we had when Stewart became dean, and that it's providing a more robust, vital set of experiences for our students," says **John H. Blume**, professor of law, who became the first director of the Clinical, Advocacy, and Skills Programs. "There are some deans who are inclined to say no. Stewart is a dean who's inclined to say yes, and I think that's a very good thing. He's responsive to the things that faculty members need, and if you can make a plausible argument as to why something would be good for the school, then he's inclined to agree, which is part of the reason why he has presided over an era of growth."



He's been very strong in helping the school plot a course that looks beyond the immediate next year and into a future that will go on and on and on. Stewart has done a brilliant job of not just safeguarding the interests of the Law School, but helping the Law School continue to move forward.

— **Peter W. Martin**



PLOTTING THE COURSE



Most remarkable of all, he's presided over that growth during an economic downturn that's threatened institutions all over the country, and he's kept Cornell Law in the black through his entire tenure. "It's been a

period of great challenge," says **Peter W. Martin**, the Jane M.G. Foster Professor of Law, Emeritus, who served as dean from 1980–1988, when the Law School secured its own fiscal autonomy. "Throughout this difficult



COMSTOCK on SCHWAB:

In 2010, **Karen Comstock**, assistant dean for public service, came up with a plan to nominate Dean Schwab for an award from Equal Justice Works, which honors law school deans, faculty, and staff for their commitment to public service. But first, she needed his permission. “I went to Stewart and told him how much I thought he deserved this award,” says Comstock. “And he just turned it around, deflecting the attention away from himself, saying, ‘You’re the one who makes all this happen. You’re the one who should get the award. I know you don’t want the attention, but I think this would be really good for the Law School.’ I went in trying to show how much I appreciated his work, and by the time I left, he’d convinced me that I should get the award instead of him. And I did, which meant a lot to me.”

period, Stewart has taken the long view, which is built into the position of being dean and the responsibilities that go with it. As I’ve watched him, he’s been very strong in helping the school plot a course that looks beyond the immediate next year and into a future that will go on and on and on. Stewart has done a brilliant job of not just safeguarding the interests of the Law School, but helping the Law School continue to move forward.”

With the onset of the financial crisis, Schwab focused much of his attention on the budget, attending regular meetings with other deans and creating the position of vice dean to coordinate the internal administration of the Law School. “Dean Schwab deserves a significant share of the credit for helping steer Cornell Law through the financial crisis that negatively impacted all law schools,” says Hirsch. “He’s been a steady hand, expressing the right amount of concern without overreacting, and positioning the Law School to be in a stronger place. He’s been tremendously transformative, everything you could want in a dean—inspired, gracious, polished, well respected and undaunted by challenges—it’s going to be difficult to fill his shoes.”

With his tenure coming to a close, Schwab looks around his office, pointing out family



pictures—it’s a running joke that the Schwabs have taken greater advantage of the university’s tuition benefits than anyone else in history—and pausing at photos of his two mentors, Judge Phillips and Justice O’Connor. From Phillips, he came to “see the best in people”; working alongside O’Connor, he “observed her grace under pressure firsthand, though I’ve had neither her grace nor nearly her pressure. She was a role model, always looking ahead rather than worrying about the past, and I learned a lot from her.”



MIDDLE: Posing with four of his children, a daughter in law, and HRH Princess Bajrakitiyabha Mahidol, LL.M. ‘02/J.S.D. ‘05 during a visit to Thailand in 2010. ABOVE: With alumnus Jack Clarke, LL.B. ‘52 in the Law Library Reading Room in 2009.



ABOVE: Signing an Agreement of Cooperation and Memorandum of Understanding with Vice Chancellor C. Raj Kumar of Jindal Global Law School.

Has the deanship changed him? Schwab doesn't think so, continuing to see himself as "basically the same: optimistic, happy in most situations." When he smiles, which is often, it's easy to believe, and he intends to use these next few months working on the second phase of building construction, sketching his vision of a partnership with Cornell NYC Tech, and continuing to plan for the Law School's future.

Once he steps down, he'll begin a sabbatical that will take him to some of the Law School's exchange partners around the world, then come back home to rejoin the faculty in the fall of 2015. "We've had some accomplishments, and it's been a job with some satisfactions," says Schwab, gathering up some papers before going home. "It's not a question of tasks finished or mission accomplished. It's more a matter of stewarding ten years in the life of a 120-year-old institution before handing it to the next person. I'd like to think we've put the Law School in a better place than we were ten years ago, and that we'll be in an even better place in another ten years."

"Dean Schwab has had an enormously positive impact on the Law School, getting acknowledgement for Cornell as one of the great law schools in the country," says **Allan R. Tessler, LL.B. '63**, who first endowed the deanship in 1999. "I'm proud that he's been the dean, and at this point, I don't think in terms of his legacy but of the continuity of his achievements at the Law School. I consider Stewart a good friend and a sometime tennis opponent, and I look forward to his continued participation on the faculty." ■





*Over the course of two five-year terms,
he's done all that and more.*

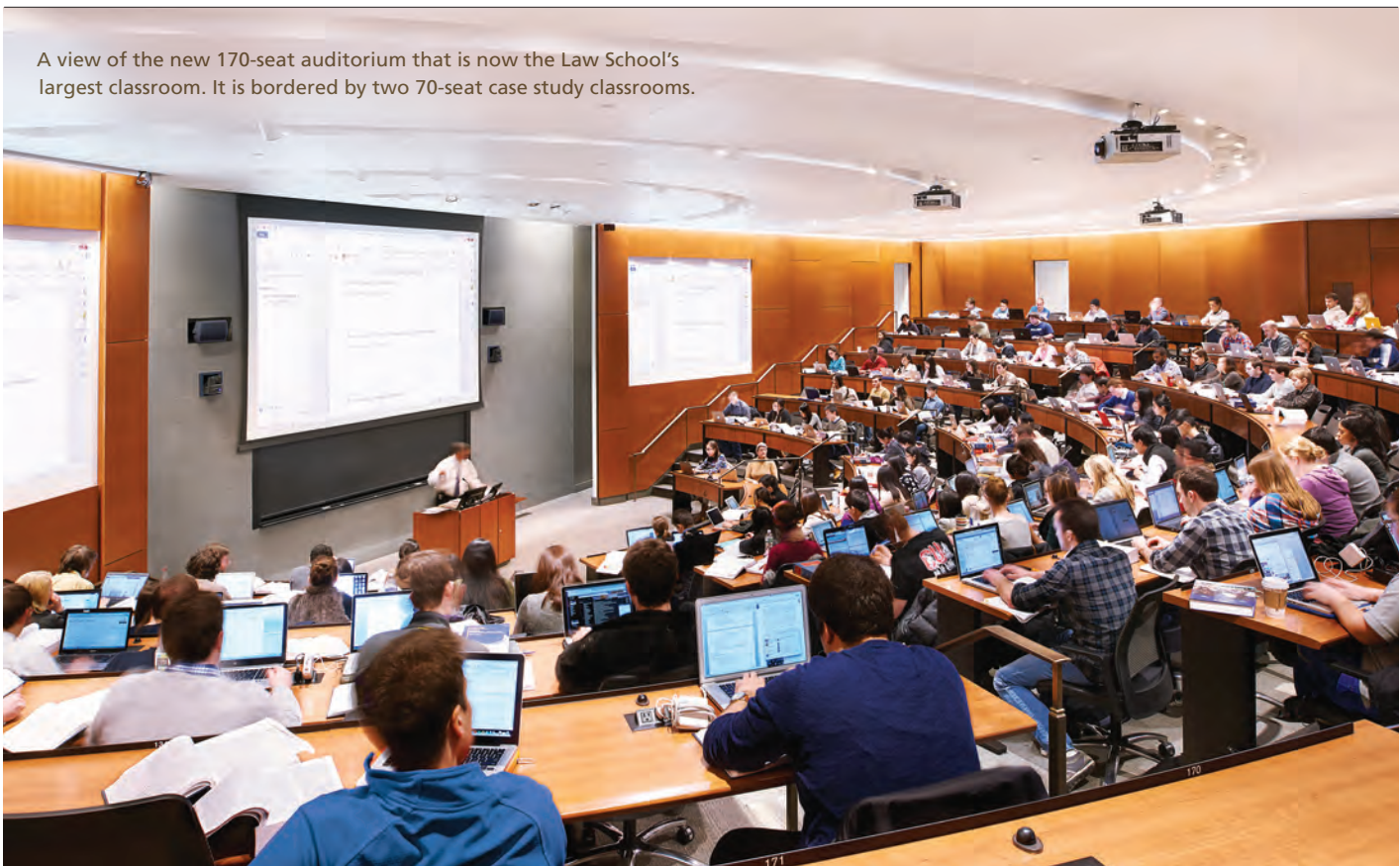
The New Wing Opens

PHOTOGRAPHY *by* DAVID LAMB



With construction begun in July 2012 and completed in December 2013, the new wing of Cornell Law School opened in time to host spring 2014 classes. The addition, which provides 23,000 square feet of space, houses three state-of-the-art classrooms and a new formal entrance to Myron Taylor Hall. The first major expansion and renovation of the Law School in 25 years, the new wing is the crowning achievement of Stewart Schwab, the Allan R. Tessler Dean and Professor of Law, who oversaw the project from its inception to its completion. The new wing was designed by Ann Beha Architects and features a breakout lobby with a view of the courtyard and tower through four bay windows.

A view of the new 170-seat auditorium that is now the Law School's largest classroom. It is bordered by two 70-seat case study classrooms.





UPPER LEFT: A nighttime shot of the new wing from the Myron Taylor Hall Tower overlooking Purcell Courtyard. College Avenue and the School of Civil and Environmental Engineering are visible just beyond the windows of the new building. UPPER RIGHT: New College Avenue entrance lobby. RIGHT AND BELOW: The light-filled lobby/breakout area outside the new classrooms.



Dusk settles over the Law School's new wing (left), which spans the courtyard to meet up with the original Myron Taylor Hall.





TRAILBLAZERS:

First-Ever Women Editors in Chief of a Law Review

by CYNTHIA GRANT BOWMAN



A number of other law schools have claimed that they produced the first woman editor in chief (EIC) of a law review. These claims are all off by several decades.

In fact, Mary Donlon, a 1920 graduate of Cornell Law School, was the first woman to head a review, the *Cornell Law Quarterly* as it was then called. Even more impressive, she was followed by the second, third, and fourth “first” women EICs in the 1940s, long before any other law journal got around to electing a female to this post. Although Mary Donlon Alger died in 1977, the remaining three women—Doris Banta Pree, Elizabeth Storey Landis, and Jean Ripton Peterson—were all still alive at the end of 2013 and graciously agreed to my interviewing them.

These Cornell Law graduates all went on to employment as lawyers for their entire working lives, and all of them appear to have had happy marriages as well, although only one had children. Based on my previous research about women in the legal profession, their experience was quite rare. They succeeded at a time when women lawyers were not welcomed into the profession. Indeed, there were very few women in law schools in the interwar period, and jobs for women lawyers were hard to come by. Positions for women opened up only when male

lawyers and potential law students were drafted during World War II. Law firms desperate for help began to hire women lawyers to replace men in the service, although most of these women were replaced with veterans when the war was over.

Law schools also began to admit women in larger numbers during the wartime years as a matter of sheer survival in the absence of young men to fill their rosters. Robert MacCrate has estimated that women increased from 3 to 12 percent of all law students at that time, only to drop to prewar levels when the war was over.¹ The second woman EIC at Cornell insists that she would never have been admitted if it were not for the war.



Mary Donlon Alger '20

“It was a time of change and we were happy to be part of it.” – Elizabeth Storey Landis



Doris Banta Pree



Doris Banta hailed from Missouri, which made her a bit of an odd duck among the students who assembled to enter Cornell Law in 1943, most of whom were from the East. (A classmate and friend from Brooklyn teased that she could not understand Banta's accent.) Her father was a country lawyer, so she grew up in a rural area and describes herself as having been a terrible tomboy, loving the out of doors and not particularly intent upon study. She attended a small women's college in St. Charles, Missouri, and began to excel academically as a student of English and political science, graduating at the top of her class and serving as student body president.

Banta wanted to become a lawyer from very early in her life, largely from listening to her father talk about his experience trying cases throughout the county. He had no comment on her plans when she was in grade school, but when she followed through by applying to law school, he discouraged her. He told her law was no job for a woman and would be an uphill battle.

When she arrived at Cornell Law School in 1943, it was very sparsely populated, at about the bottom of the war-time enrollment, just before a few veterans began to return. A large number of the small student body were women, who had clearly been accepted reluctantly according to Banta. "Professors didn't like having us," she says. "You could just tell they didn't like it. . . . Older ones were clearly less accepting than the young ones. . . ." As an example, she describes her Contracts professor, "a lovely gentleman and a great scholar," who would take off his hat and bow to women if he met them on the street. "But he gave us a tirade [in class] one day about what a mistake it was to have given married women the right to contract. We were rolling our eyes and looking at one another."

Banta found being a law student interesting, and a lot harder than her previous studies. The curriculum was tough, and the professors called on male and female students alike. The discrimination she felt was more subtle; the women students were not treated differently from the men in class. Banta spent most of her time studying and had "not much time to frolic" as she had in college. At the end of the first year, she had made law review based on her grades. She served first as book review editor and then was elected EIC. "There was not that much competition," she says, and few people to do all the work. She moved into an office with two male editors, and a woman was employed to act as managing editor. Her responsibilities consisted of revising and editing articles, checking citations and their format, reading and selecting articles, and entering into correspondence to solicit other pieces.

Asked whether she enjoyed her law review experience, she says, "It added to the stress but I would say I enjoyed it. Over the years it was a shifting scene, but I particularly enjoyed the two men who shared the office and generally went to dinner with them at the Home Ec. School."

When Banta graduated in 1946, she was offered a job on campus doing research, but she wanted to go back to Missouri. She took the bar exam there within weeks of graduation. Cornell professors helped her find a job. One professor turned up a possibility in Kansas City, but she wanted to be in St. Louis, though she was competing with the unusually large number of women who had graduated from the law school at Washington University during the war. But law firms were not generally hiring women, and most of those women could not find jobs.

Luckily, a young Cornell Law professor had a classmate from Harvard at what was then a large (fifteen-member) law firm in St. Louis and recommended Banta for a position there. The firm had put a large will construction case on hold during the war because of the absence

of male lawyers. Although there was resistance to hiring women to replace them, the firm was reviving the case and very much needed help on it. Her Cornell professor's friend recommended hiring her, and Banta was offered an interview with a senior partner. She describes him as being an "interesting and conservative



Initially the firm would not put her full name on the firm stationery . . . It also regularly held meetings in men-only clubs, some of which would not allow women even to come in for a meal.

old guy, who gave in after interviewing me. Other partners didn't want me at all. I was of course the only woman. I practiced with them for years and I was always the only woman. My contemporaries had a terrible time."

She practiced with the St. Louis firm and its successor for thirty-five years, although she was not made a partner until the early 1960s, almost twenty years after she'd started there. Initially the firm would not put her full name on the firm stationery, referring to her as D.J. Banta. It also regularly held meetings in men-only clubs, some of which would not allow women even to come in for a meal. Although she had gone into law because she was interested in trying cases, she spent most of her career doing appellate work, with a very few trials in lower courts on the side, while she watched young male associates get assigned to work on litigation.

In 1980, Banta—now Doris Banta Pree—left the law firm to become vice president and general counsel at the St. Louis Water Company, a client for which she had worked at the firm. She worked there for eleven years. During that time, she became involved in arbitration, having done some labor work at the firm. She litigated on behalf of the company in arbitration pro-

ceedings and negotiated labor agreements as well. She also had the personally difficult experience of having to defend the water company against claims of discrimination against women.

Pree faced her own kind of discrimination at the water company. When she reached age sixty-five, the president called her in and tried to get her to retire. She not only refused, but wrote a memo to support the legal argument that they could not force her to retire. Eventually they did force her out at age seventy, but she didn't want to go to the EEOC to fight the obvious age discrimination. She worked an additional year on retainer and did some "of counsel" work for the water company after that, and she volunteered another year with

legal aid. After a number of years, she realized she didn't want to get up and go to work all the time, even though she was still interested in law and attended continuing education events. She has remained active, traveling a good deal at first, riding her bicycle, and gardening. "This may be the last year, though," she says, "I'm ninety-one."

Looking back, Doris Banta Pree sees herself as having been very lucky to have had a legal career at all. "Compared to the 1970s, there were so few of us. We rolled with a lot of the discrimination, although we knew judges didn't like us and that we were being discriminated against. [But] I was good at what I did and that was a lot of it. The senior partner who hired me probably thought he would get a smart lawyer cheap and that I wouldn't be there long. A bright young Jew came back from the service, and it was the same deal—getting something exceptional on the cheap." When asked what advice she would give to young women lawyers today, she replies, "Go into private practice; you can do it today. You will need to pick a specialty to have success. Everyone is specialized. Choose your field, settle in, and make your career there."

Elizabeth Storey Landis



E

lizabeth
(Betsy)
Storey
entered
Cornell

Law School in the fall of 1945, along with the returning veterans. She too came from the Midwest, having been born in Wisconsin, and was educated there until her family moved to the Chicago area, where she went to high school. She attended Mount Holyoke as an undergraduate, then earned a master's degree in public administration from Syracuse University before entering law school. Storey chose Cornell in part because it had a reputation as being a good place for women.

There were three women law students in her class. They didn't organize or act politically to change things, she says, but saw themselves as

"groundbreakers." "Our predecessors had done a good job laying the groundwork, making it possible for women to do things they wouldn't have considered otherwise. We had no doubt things were going to be getting better. It was a time of change, and we were happy to be part of it."

Storey did well in law school and soon was working on the law review. She was elected coeditor in chief with Will J. Schapp Jr. in 1947–1948. With characteristic wit, she remembers having enjoyed the law review but being "glad that I didn't have to do it full time!" Storey had the distinction of coauthoring one of the lead articles published in 1948 with Bertram F. Willcox, a professor of law who specialized in labor and arbitration.² A comment cowritten with William B. Landis Jr. appeared in the *Quarterly* in 1949 as well.³

What she remembers with most fondness about Cornell Law School was meeting her future husband (and coauthor), Bill Landis. At a meeting or class very early in her law school career, when she was still feeling "scared to death of what I was doing," she was seated next to this guy whom she describes as "very polite." A couple of days later she got a call from him,

and their first date followed soon after. They were a couple throughout law school and married shortly after graduation. Landis was the son of a lawyer from upstate New York.

Both Bill and Betsy Landis took the New York State Bar exam in the summer of 1948, and he eventually was hired by the firm of Mudge, Rose, Guthrie & Alexander in New York City, where he spent his entire career working as a tax and corporate lawyer. Betsy Landis earned a doctorate in law from the University of Lyon, France, in 1950, but it was not easy to find a job. Milton Konvitz, a professor of law with a joint appointment at Cornell's School of Industrial and Labor Relations, eventually hired her to help him on an immense project to codify the law of Liberia, work that began Landis's lifelong involvement in African law. Konvitz had been invited by President William V.S. Tubman of Liberia in 1951 to undertake this task; Landis joined the small staff that helped Konvitz accomplish it.

In 1952, Konvitz traveled to Liberia to assemble materials that had previously been held by private attorneys and went back regularly thereafter until the coup in 1980. Prior to this time, the laws of Liberia were held by various lawyers who charged fees to people who wanted to look at them. With the president's backing, Konvitz was able to get copies of all these laws. His Cornell staff was charged with attempting to resolve conflicts and thus harmonize the statutes and precedents Konvitz obtained from Liberia; where that could not be done, they simply borrowed from American law, on which Liberian law was based. The new criminal code, for example, was taken from the New York State Criminal Code.⁴

Landis lived in New York City, but this was not an obstacle to her working on the codification project, which involved reviewing the documents brought back from Liberia, doing research on U.S. law, then coming up with a structure that was coherent and drafting new codes to submit to the Liberian legislature for

passage. The draft code prepared by Konvitz and his staff was adopted by the legislature in Liberia in March 1956. On November 29, 1957, both Konvitz and Landis were honored at a ceremony in Washington, D.C., to celebrate publication of the code by Cornell University Press. The Liberian ambassador presented the Order of the Star of Africa to Konvitz and to Cornell's president, while Landis and two other former students were awarded the Liberian Humane Order of African Redemption.⁵ Cornell Law School Library became, and remains, the main repository of Liberian law in the United States.

Journal and in the *Cornell Law Quarterly*.⁶ In later years, she would have been an obvious candidate for legal academia, but there were very few women law professors at that time.

Landis also became an activist, intensely involved in working for the independence of countries in Africa. When the American Committee on Africa (ACOA) was organized in 1953 to support these liberation struggles, she was one of the earliest board members, bringing important legal skills as well as immense knowledge about Africa to this role. And, says George Houser, former director of ACOA, "her sense was very good. She was someone who was listened to by others who were working in the field. She was very committed to Africa." Landis edited ACOA's *Africa-UN Bulletin*, in which she summarized what was happening at the United Nations with respect to Africa, served as vice president of ACOA in the 1970s, and remained on the board until the New York office closed in 2002. Friends from that period

Eventually Landis's affiliation with the UN became more regular, and she worked for the UN Council on Namibia as its senior political affairs officer from 1976 to 1981. In this capacity she served as chief aide to the UN Commissioner for Namibia, first for Seán MacBride, the well-known politician and human rights activist from Ireland, and then for Martti Ahtisaari, future president of Finland and winner of the Nobel Peace Prize. Several people who knew her then describe her as the kind of person who did the solid, hard work behind the scenes and stayed out of the limelight.

Landis's commitment to Namibia went much beyond her job at the United Nations. She was intensely and personally committed to the liberation of Namibia and worked toward this goal both through ACOA and on her own. Undeterred by the fact that in Namibia she was persona non grata as a representative of either the UN or ACOA, she entered the country simply as Mrs. William Landis and spent her time there collecting Namibian law for the new nation. "In this case," she says, the conservative norms of society worked in our favor! . . . Although a lot of my work took place in museums and libraries [for documentation, precedent, and archival work], the work was very exciting. . . . [L]ots of people working for the same goal—the liberation of Namibia."

Some of the exhaustive research she did is reflected in the numerous articles she wrote about Namibia, including one published in the *Yale Journal of International Law* in 1985.⁷ Landis knew and was known by all the prominent leaders of the liberation movement SWAPO (South West Africa People's Organization), including Namibia's first president Sam Nujoma.

Landis still lives in the same apartment on Park Avenue where Cabral and other leaders of the African liberation movements were entertained in the past. It is filled with beautiful African art, including many graceful abstract statues of women in carved wood.

Landis also became an activist, intensely involved in working for the independence of countries in Africa.

For several years, Landis's husband was assigned to the Paris office of his law firm, and she accompanied him there. She worked in 1964 as a professor of African studies at the American College in Paris. In the 1960s, she also began to publish widely on law, human rights, and Southern Africa; two-part articles by Elizabeth S. Landis appeared in the *Yale Law*

remember that many liberation movement leaders, including Amílcar Cabral, were entertained in the Landis apartment on Park Avenue.

Between 1958 and 1986 Betsy Landis published numerous articles in the ACOA journal *Africa Today*, and began to identify herself in them as a "sometime specialist-consultant to the United Nations on Southern African affairs." In 1975 she gave extensive testimony on Namibia to the Senate Foreign Relations Committee's Subcommittee on African Affairs. In short, she was devoting her efforts to work on Africa, whether in official or unofficial capacities.

Jean Ripton Peterson



Jean Ripton entered Cornell Law School in 1946, when the enrollment had increased and women were no longer necessary to fill the seats emptied by the war. She was nineteen years old at the time. The only child of a pharmacist and a teacher in Buffalo who both encouraged her academically, she had found school easy and skipped both second and seventh grades. She earned her B.A. with a major in history at D'Youville College, an all-women's liberal arts college in Buffalo where her mother had taught. She was first in her class, as well as class president, and received scholarships throughout both college and law school. Although she knew no one who was a lawyer, she liked the idea of law school; it sounded interesting. She chose Cornell because her mother had visited the campus and reported that it was beautiful and that female students were treated well there.

Ripton reports that she was one of seven women in her class at Cornell Law. Professors treated men and women the same, she says. Her male fellow students tended to be older, returned from the experience of war, and

respectful of their female classmates. She loved being a law student and studied very hard, going to the library directly from class and looking up every case that had been mentioned in the lecture. Her one problem was that she had a tendency to murmur instead of speaking loudly and distinctly. One professor worked on improving her performance, repeatedly saying "Speak so that all can hear you, Miss Ripton!" Her speaking style, along with assignment to a partner who was not a good student, contributed to a disappointing first-year moot court. Otherwise her grades were outstanding.

Selection for law review at that time was by competition; Ripton wrote two notes in her bid to join, both of which were published.⁸ By the time she was elected EIC, she was first in her

class and had won the Boardman Prize. She thinks she was elected EIC in part because "I wasn't difficult to get along with." She moved into the EIC's office and busied herself worrying about citations and deadlines, selecting articles of interest for publication, and urging the other editors to do their tasks. At the same time, she reports, she always went to class on time.

In addition to scholarships, Ripton supported herself with summer work back home in Buffalo. A friend of her mother had introduced her to Stanley Falk, a lawyer with a firm in Buffalo, who took a liking to her. He hired her to work at the firm in the summers and mentored her, calling her in to his office to give her advice about how to do things. When she graduated, she went to work at his law firm.

Ripton, like Landis, met her husband during law school. Bertil Peterson, she says, "was across the aisle from me, and I could watch him during class. He had a very good speaking voice and had been the State of Wisconsin debating champion." The two married in July 1949, right

Selection for law review at that time was by competition; Ripton wrote two notes in her bid to join, both of which were published.

As she looks back over her career, Peterson thinks that she was “lucky all around.”

after taking the New York State bar exam, and he began work as a trial attorney at a firm in Buffalo. He encouraged his wife to keep working and was very supportive of her throughout her career, hiring babysitters when necessary.

Where Jean Ripton Peterson’s career diverges from the experience of the other women whose lives are portrayed in this article is that she had children—eight of them. She worked at the law firm until the first was born and continued to work in a variety of capacities thereafter. Her mentor, Falk, was on the Board of Bar Examiners, and hired her as an assistant bar examiner to write exam questions and grade the exams, a job that could be done from home. She worked at this job from 1951 to 1981, when her youngest child was in middle school. From 1977 until 1984 she also worked as the chief attorney for the Erie County Court.

Raising eight children and working as a lawyer was not easy. Peterson would sometimes work in the back of her car, parked in the driveway where she could see her children in the kitchen through the floor-to-ceiling window. One day she told her five-year-old not to disturb her, and he took this direction so seriously that he told a reporter with whom she very much wanted to talk that she could not be disturbed.

Peterson was active in the Buffalo bar association, eventually serving as its treasurer, and popular with local lawyers. She ran for office a number of times—for town judge, county legislature, supreme court—although she never won election. Her election literature portrays her surrounded by her many family members.

From 1984 to 1988, Peterson worked as the attorney for the Town of Hamburg, just south of Buffalo. She also served as counsel for the New York State Industrial Development Agency, in

Hamburg, advising the agency on development projects seeking favorable tax treatment, from 1984 until 2001, when she finally retired from the practice of law.

As she looks back over her career, Peterson thinks that she was “lucky all around. I enjoyed a lot of it; grading bar exams was monotonous, though.” She would advise young women considering a career in law to get advice about whether they are suited for it; “part of it can be very monotonous, part interesting.” One of her daughters is a lawyer. If Ripton had not become a lawyer, she says, “. . . I would have had to be a teacher,” one of the few professions open to women at the time.

Cornell Law School should feel very proud of these graduates, to whom it gave an opportunity to succeed at law when few women were welcome in the legal profession. Each of them faced problems because of their sex nonetheless. Doris Banta Pree worked as a corporate lawyer her entire life but would have preferred litigation; she also wanted to become a judge and never attained that goal. Elizabeth Storey Landis hardly ever had a full time job, but instead spent much of her life working more than full time in various unpaid capacities, although she had the qualifications that would have fitted her for a position as a law professor today. Jean Ripton Peterson was the only one who put together work and the burdens of a large family, and she did so by working at a somewhat boring job for a large part of her work life. She also wanted to be a judge but did not realize this ambition despite numerous campaigns. Their sex played a big role in our society’s underutilization of these women’s talents. But each one made very good use of her legal education, and not a single one would say that she ever regretted becoming a lawyer. ■

1 Robert MacCrate, “What Women Are Teaching a Male-Dominated Profession,” *Fordham Law Review* 57 (1989): 989, 991.

2 Bertram F. Willcox and Elizabeth Storey Landis, “Government Seizures in Labor Disputes,” *Cornell Law Quarterly* 34 (1948): 155.

3 Elizabeth Storey Landis and William B. Landis Jr., “Federal Impleader,” *Cornell Law Quarterly* 34 (1949): 403.

4 Information about the Liberian codification project was obtained in a January 17, 2014, telephone interview by the author with Jane L. Hammond, former librarian at Cornell Law School.

5 Information about this ceremony was obtained from an article in the ILR newsletter, “For Our Information...,” Vol. 10, No. 4 (Nov. 1957).

6 “South African Apartheid Legislation I: Fundamental Structure,” *Yale Law Journal* 71 (1961): 1; “South African Apartheid Legislation II: Extension, Enforcement and Perpetuation,” *Yale Law Journal* 71 (1962): 437; “South West Africa in the International Court: Act II, Scene 1,” *Cornell Law Quarterly* 49 (1964): 179; “The South West Africa Cases: Remand to the United Nations,” *Cornell Law Quarterly* 52 (1967): 627.

7 “Security Legislation in Namibia: Memorandum of the South West Africa (Namibian) Bar Council,” *Yale Journal of International Law* 11 (1985): 48.

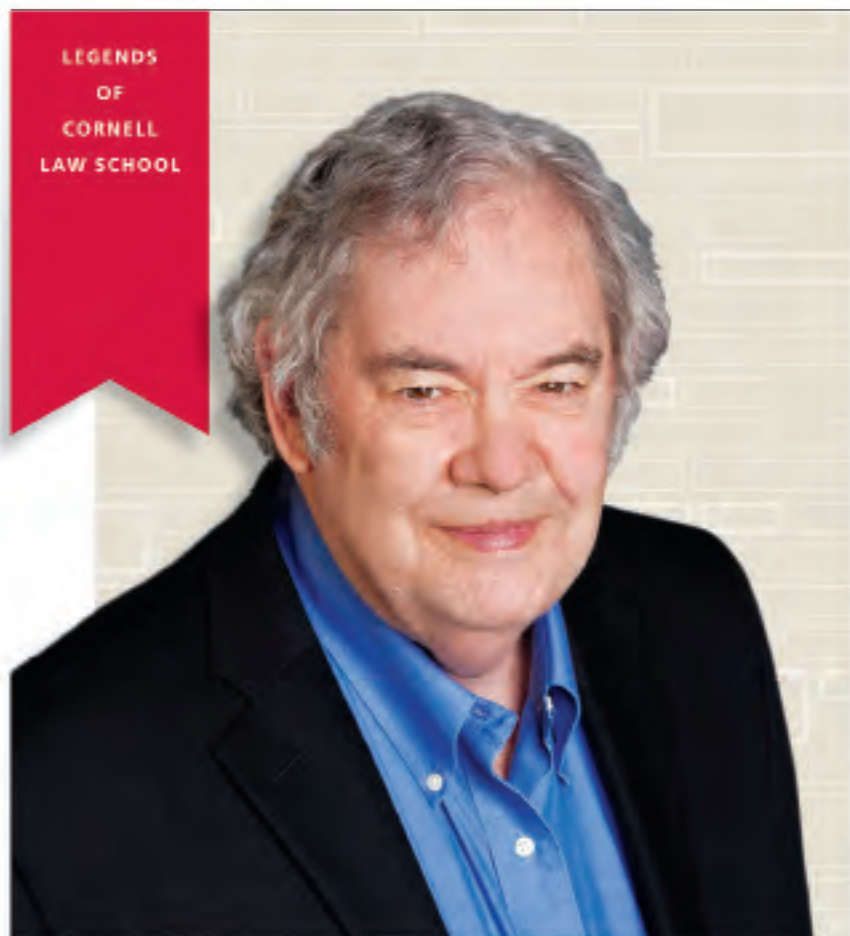
8 “Pleading and Practice: Joinder of Parties and Claims,” *Cornell Law Quarterly* 33 (1948): 597; “Conflict of Laws: Constitutional Law: Power of Congress to Compel the States to Hear Federal Cases,” *Cornell Law Quarterly* 34 (1948): 97.

STEVEN H. SHIFFRIN: First Amendment Expert and Champion of Equality

by LINDA BRANDT MYERS ■ ILLUSTRATION by PAUL BLOW ■ PHOTOGRAPHY by ROBERT BARKER,
PATRICIA REYNOLDS and SHERYL D. SINKOW



Argument makes some people uncomfortable, but **Steven H. Shiffrin**, the Charles Frank Reavis Sr. Professor of Law at Cornell Law School, isn't one of them.



issenting, it almost seems, is part of his DNA.

"From early on I had the character flaw of arguing with anyone about anything," he confesses.

On Loyola University's debate team in Los Angeles (1959–1963) he remembers happily arguing both sides of a debate about whether Congress should have the power to reverse Supreme Court decisions. Later, as a college debating coach at San Fernando Valley State College, he taught his team that skill.

And as a professor at Cornell Law School he regularly polled his students on how they thought cases should be decided. "If the overwhelming majority of the class went in one direction, I argued back in another," he says. "My goal was to force them to think hard about why they were taking the positions they took."

A night school student at Loyola Law School, Shiffrin made law review editor and graduated summa cum laude, first in his class, in 1975, with the highest grade point average in that school's history.

“

Steve has explored the speech, press, and religion clauses of the First Amendment in ways that improve understanding by the rest of us—not only academics but advocates in the trenches and judges who are willing to listen.

— Kenneth Karst

”



"It was almost impossible for anyone else to get the highest grade in any class you took that Steve was in," recalls former classmate **Stanley Goldman**, now a professor at Loyola Law School.

But it wasn't until he clerked in 1975–1976 for **Hon. Warren Ferguson**, who was then a district court judge in Los Angeles, that Shiffrin began to think hard, beyond argument, about his

own belief system. "Judge Ferguson was really an inspirational figure for me and many others," Shiffrin says. "He had a strong social justice commitment, and he turned me around."

After the internship and a stint at the Los Angeles firm of Irell & Manella, Shiffrin decided to enter academia. In 1987 he joined the faculty at the University of California–Los Angeles

School of Law, where he taught and wrote about First Amendment rights for ten years, honing his teaching skills and shaping his ideas. In 1998, by then married to his second wife, **Neesa**, and the father of three, he left UCLA to become a professor at Cornell Law School.

"When we got word that Steve and Neesa might be interested in relocating to the more child-friendly university community of Ithaca, we pounced on the opportunity," recalls Professor **Gregory Alexander**.

"Steve was a fantastic teacher, a genuinely original thinker, and a generous soul," recalls **Jack Jackson '01**, a former student of Shiffrin who is now a professor of politics at Whitman College. "He created an environment in which students and professor were engaged in a shared endeavor."

Shiffrin's early scholarly writing rejected the idea of a single theory of free speech. "I thought any such theory would be oversimplified or manipulated to produce results that fit," he says.

In the 1990s, "I began reading mountains of books on political theory," Shiffrin says. Dissent, he noticed, was their common core.

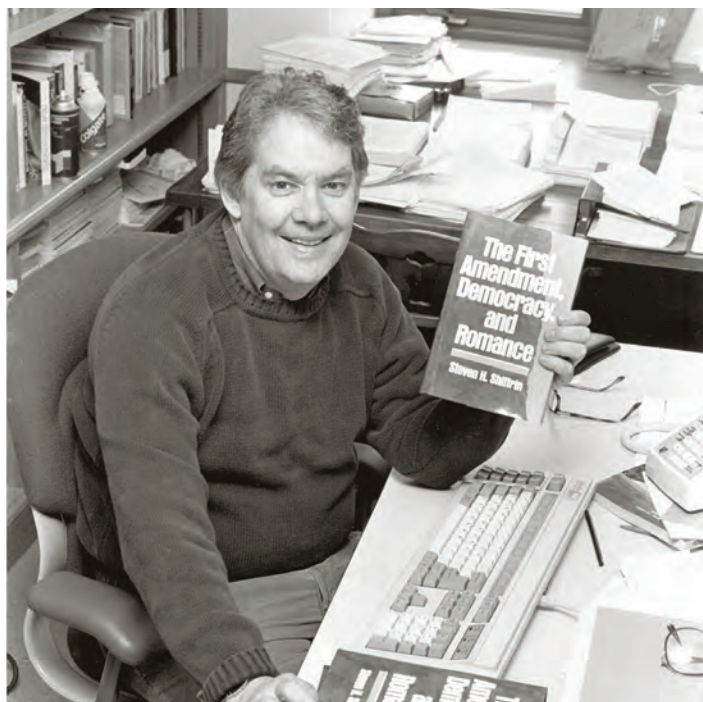
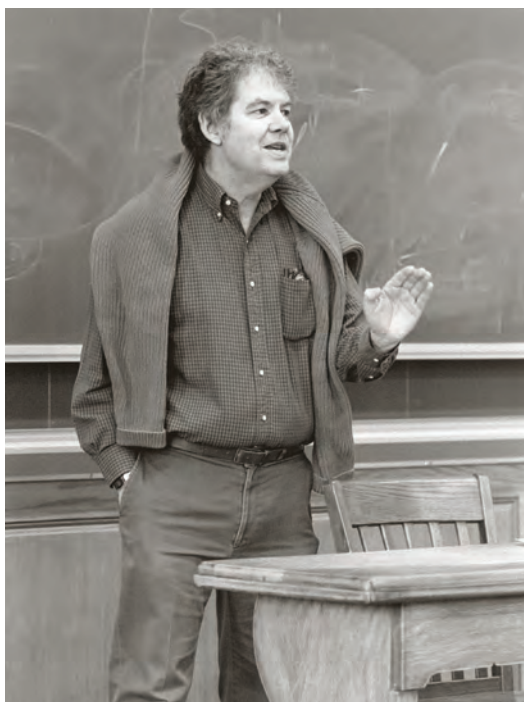
"I came to believe that dissenting speech should be given special prominence in



In the U.S. we have idolized freedom of speech as a country to the detriment of privacy, fair trials, racial and sexual equality.

— **Steven H. Shiffrin**





any appreciation of free-speech values,” says Shiffrin. “All societies, democratic or not, are riddled with unjust hierarchies. They can never be entirely cleansed of injustice, but they can be improved,” he comments. “That is why dissent will always be needed to challenge existing customs, habits, traditions, institutions, and authorities.”

He touches on dissent in all three of his books, but it was so central to his second that it was part of its title: *Dissent, Injustice, and the Meanings of America* (Princeton University Press, 1999). In that book, he argued that governments should not only protect dissent but actively promote it to fight entrenched injustice.

But the First Amendment should not protect potentially harmful commercial speech, such as tobacco ads, he asserted (he called Big Tobacco “merchants of death and suffering”), nor, he now argues, should it extend to some forms of hate speech.



Steve is a champion of equality in virtually every realm, and committed to the welfare of the least powerful among us.

— Sheri Lynn Johnson



His other books are *The First Amendment, Democracy, and Romance* (Harvard University Press, 1990; paperback, Princeton University Press, 1993), which won Harvard Press’s Thomas J. Wilson Award for the best manuscript by a new author; and *The Religious Left and Church-State Relations* (Princeton University Press, 2009), which, when it was published, was one of *Tikkun* magazine’s twenty-five recommended books of the year.

ABOVE LEFT: Professor Steven Shiffrin teaches a class in 1991. **ABOVE:** Shiffrin holds a copy of his first book, *The First Amendment, Democracy, and Romance*, which was published in 1990.



The retirement party for Professor Steven H. Shiffrin was held December 5, 2013, in the Law School's Berger Atrium. **CLOCKWISE FROM ABOVE:** Dean Stewart J. Schwab kicks off the fete with a speech full of humorous anecdotes. Shiffrin talks with Dean Schwab and Professor Gregory Alexander (right). Steve's wife Neesa Shiffrin (left) with Elizabeth McMahon. **LEFT:** Shiffrin receives a framed, custom cover of *Cornell Law Forum* magazine featuring his portrait from Dean Schwab. **BELOW:** Professors John Barceló (left), Michael Dorf, and John Blume congratulate Shiffrin. **BOTTOM:** Shiffrin shares a laugh with Professor Michelle Whalen (left) and former student Seth Peacock '01.



"Steve is a true intellectual, a scholar of broad and capacious interests who is able to weave together insights from other disciplines in a rigorous and imaginative way," said Alexander at Shiffrin's retirement *fete*. "I could have gotten a Ph.D. just from the books on his reading list."

"He is clearly one of the country's top First Amendment scholars," wrote **C. Edwin Baker**, University of Pennsylvania Law School professor, in *Loyola of Los Angeles Law Review's* symposium issue honoring Shiffrin in 2007.

Also in that issue, UCLA Professor **Kenneth Karst** wrote: "Steve has explored the speech, press, and religion clauses of the First Amendment in ways that improve understanding by the rest of us—not only academics but advocates in the trenches and judges who are willing to listen."

Retired as of January 1, Shiffrin is immersed in his fourth book, *What's Wrong with the First*

Amendment?—his first for a broad audience.

Its subject? “In the U.S. we have idolized freedom of speech as a country to the detriment of privacy, fair trials, racial and sexual equality,” says Shiffrin.

His views crystallized following 2010–2011 Supreme Court rulings that stretched the First Amendment to protect graphic depictions of cruelty to animals, overly violent video games, and antigay demonstrations intended to cause emotional distress at the funerals of soldiers.

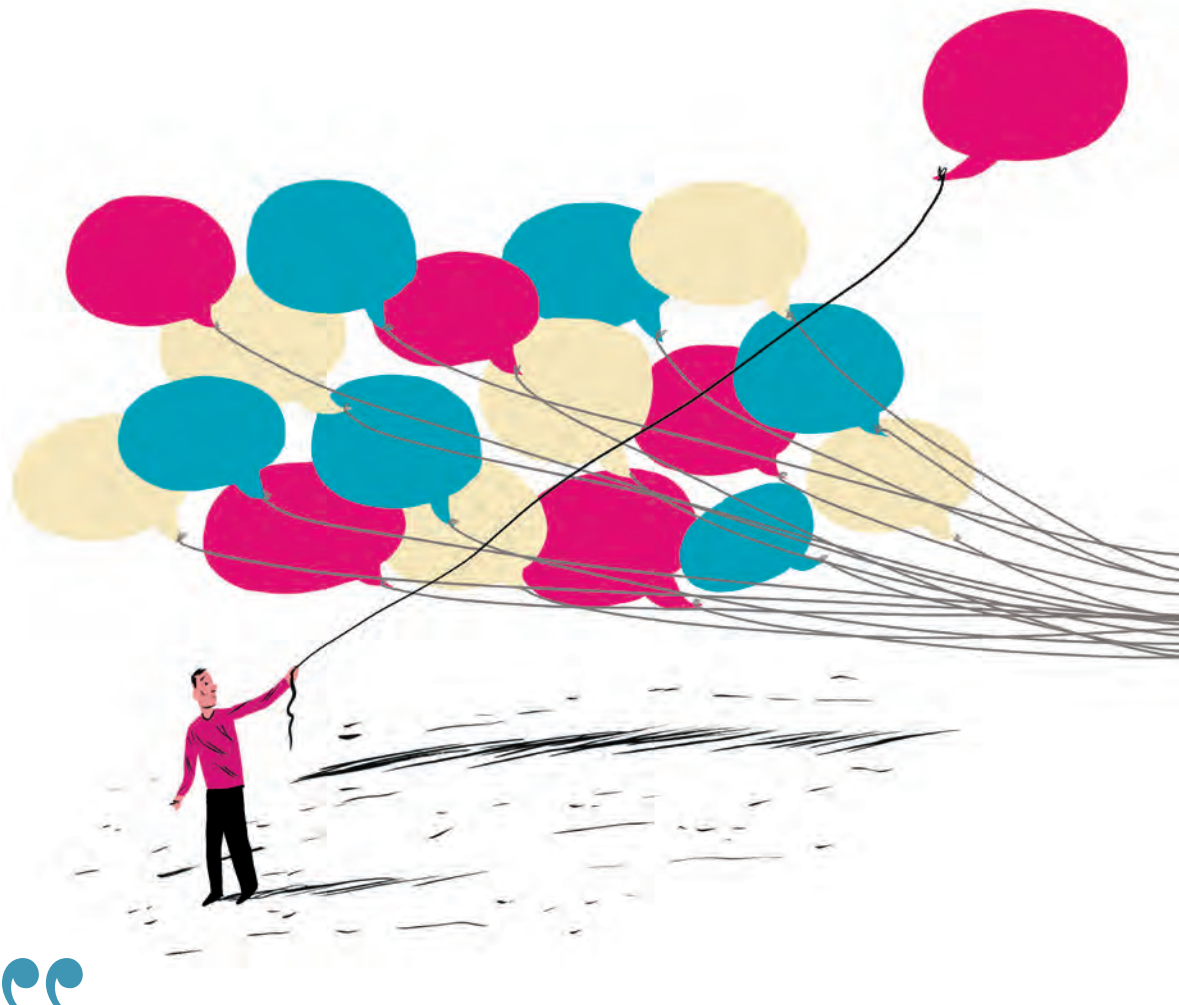
“Something has gone wildly wrong when justices have imprisoned themselves in a line of thinking that makes such results possible,” Shiffrin continues.

“At the same time the Court isn’t protecting speech where it should be,” he asserts. “It is slow to protect the rights of demonstrators, and it fails to protect the speech of students, public employees, and prisoners.”

It doesn’t have to be that way, he says. “In the book, I’ll contrast U.S. cases with cases from other democratic countries we respect that treat freedom of speech differently.”

As a teacher and colleague Shiffrin wins praise for his unflagging helpfulness.

“He had a wonderful, quiet way of making every one of



I came to believe that dissenting speech should be given special prominence in any appreciation of free-speech values.

— Steven H. Shiffrin

us feel completely accepted and supported,” says **Shannon Minter ’93**, a former student who is now a lawyer with the National Center for Lesbian Rights.

Minter related how Shiffrin recently “not only took time to write a brilliant amicus brief on an important case my organization argued before the New Mexico Supreme Court, but also showed up in Santa Fe to hear the oral argument.” The case involved gay rights in conflict with religious liberty.

“Steve is a champion of equality in virtually every realm, and committed to the welfare of the least powerful among us,” says Cornell Law Professor **Sheri Lynn Johnson**.

In “his so-called retirement,” as Johnson dubbed it, Shiffrin plans to continue writing for a blog he cofounded, ReligiousLeftLaw, and to represent indigent defendants in criminal court in Ithaca.

He also will work to improve his already impressive Tuesday night duplicate bridge game, participate more in fantasy baseball, and continue to root wildly for the Los Angeles Dodgers and, he confesses, “any team playing against the Yankees.”

Now that sounds like a good way to get an argument going. ■

John Vukelj '03

Engages the Human Element

John Vukelj's journey to Cornell Law School was inspired by events dating back to post-World War II Albania. His grandfather, an anti-communist fighter, was captured and, on the way to what would have been a show trial, executed. His grandfather's family was declared enemies of the state and lost much of their land. "Suffice it to say that my family's past helped shape my view of justice and the importance of the rule of law," says Vukelj.



Picking the single most exciting thing about my work, it has to be the courtroom. The thrill of presenting your case in a complicated matter, hopefully before an engaged judge and against worthy opposing counsel, can't be beat.

— John Vukelj '03

"It's a large part of what led me to go to law school."

As for choosing Cornell Law specifically: "My boss at the time—not a Cornell Law grad—encouraged me to give it a look. As he put it, Cornell Law flies under the radar but is highly respected and turns out excellent lawyers. I applied, got in, and then the Cornell gods did that thing where they magically make it 75 degrees and sunny on the day you visit

campus. Cornell's small class size, access to faculty, and remote location (seriously!) won me over. It turned out to be an excellent decision."

At the Law School, Vukelj found the rigorous training that would enable him to thrive in the legal field. "Clients don't want to just hear me recite black-letter law," he explains. "They want creative and thoughtful solutions to their problems, presented in a way that they can understand. The way Cornell Law professors teach and constantly challenge students to think through issues undoubtedly prepares them to be successful in practice. It certainly helped me."

He also notes the value of the school's relatively small size: "The human element of our profession is so important. Clients entrust us with their most difficult problems, and

other lawyers within my firm need to be able to trust me too. Being in an intimate environment at Cornell Law indirectly provided some training in dealing with all of the different types of people and personalities in our profession."

Like his educational journey, Vukelj's career path was determined by a fortuitous choice. While still in school, he took a summer associate position with the global law firm DLA Piper. After graduating, he returned as a first year associate, and he's been there ever since.

Now a partner in DLA Piper's litigation practice, Vukelj focuses on securities litigation and enforcement matters, white collar and corporate internal investigations, and business litigation. His clients have included public, private, and nonprofit companies, as well as directors, officers, and employees of those companies.

Among his major projects, Vukelj assisted Senator George J. Mitchell in his investigation into the alleged use of performance enhancing substances by players in Major League Baseball. More recently, he has represented public companies and their executives in major securities fraud class action suits. He has been recognized as a New York Rising Star by *Super Lawyers* magazine over the last three years.

"Picking the single most exciting thing about my work, it has to be the courtroom," he says. "The thrill of presenting your case in a complicated matter, hopefully before an engaged judge and against worthy opposing counsel, can't be beat."

In addition to his work at DLA Piper, Vukelj is also tackling some key initiatives as the president of the Law School's Alumni Association. "Recently, we've been emphasizing two issues in particular," he says. "The first is engagement of young alumni and, to some extent, current students. The legal market has faced significant upheaval over the last few years, and it's important to use our alumni resources to help more recent graduates succeed in a marketplace that bears little resemblance to the marketplace before 2008. The second issue is engagement of LL.M. alumni. LL.M. class sizes have grown, naturally leading to a spike in the number of alumni. We've added LL.M. graduates to the Alumni Association Executive Board and

are working on ideas to try to better engage our LL.M. alumni."

On the theme of engagement, Vukelj has this advice for current and ascending Cornell Law students: "Get to know your classmates, including the LL.M.s. Social skills are important; you're now in Ithaca with some fascinating people, and having a network of friends and contacts from Cornell Law may serve you well down the line."

His own Law School experience provides at least one striking example of how significant getting to know your classmates can be. "At the very beginning of my first year, on a humid night in late August, I met a classmate named Stacey," he recounts. "We were at the now-closed Royal Palm Tavern, and between the large, boisterous crowd and the blaring music, I couldn't hear a word she said. But I was already being won over. A couple days later, we had lunch on the patio at Collegetown Bagels, and it turned out she had a lot of great, fascinating things to say, and I was smitten. We're now married and have two kids. I certainly wasn't expecting this as a takeaway from Cornell Law School, but needless to say, it has impacted my life immeasurably. Stacey makes me a better person and, by extension, a better lawyer."

~OWEN LUBOZYNSKI

Allison Harlow Fumai '02

Combining Economics and Law

Allison Harlow Fumai is a partner in Dechert LLP, a 2013 New York Rising Star according to *Super Lawyers* magazine, and a Cornellian through and through.

At Dechert, she focuses her practice on the representation of registered investment companies, including exchange-traded funds, mutual funds, and closed-end funds, and their investment advisers.

At Cornell, she is vice president of the Law School's Alumni Association, and will be president in July. She has also

served on her J.D. class's Reunion committees.

"I couldn't have picked a better place to go to college," says Fumai. "I loved Ithaca and I loved being at Cornell." After finishing her degree in economics, she decided to study law at Cornell. "I wanted a smaller environment for law school, but still a broad range of offerings," she says. Those offerings included many courses cross-listed with the Johnson Graduate School of Management.

"My background in economics was helpful in law school and now in practice," says Fumai, who was the recipient of a John



At her 10th Reunion, Fumai brought her husband (an attorney at Oracle) and her two young children to visit Cornell. "My daughter fell in love immediately," Fumai said. "I took pictures of my kids in the Moot Court Room. They are excited to go to Cornell one day."

M. Olin Law and Economics Scholarship. She also served as a research assistant to Jonathan Macey (now at Yale Law School). Anne Lukingbeal was another mentor.

Fumai began her career at Clifford Chance, specializing in investment management. She moved to Dechert in 2009 and in 2012, she became a partner.

With all this, Fumai still finds time to visit Cornell and serve on the Alumni Association. "I meet people from all over the country and globally," she says. "It's also a wonderful opportunity to get to know the students and hear what they're doing. The Law School has really helped them develop their ideas and expectations." She praised the work of Peter Cronin and Kristine Hoffmeister in creating alumni programs, and Charles Cramton's leadership of the L.L.M. program. She's also excited about the building renovations. "It's a

wonderful design and I can't wait to see the final product," she said. During her last visit to Cornell, she had the opportunity to tour the construction.

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"Cornell, both undergraduate and the Law School, provided me not only a top-rate education, but an incredibly supportive community following graduation, both personally and professionally. "I want to give back to ensure that many future Cornellians have that same experience."

~JUDITH PRATT



Philip Eisenberg '64

Helps Urban Centers Flourish

"I wanted to attend a law school that was small enough to allow personal interactions between student and faculty as well as a rigorous curriculum that would prepare me to make a meaningful contribution to my community," says Philip Eisenberg '64. "Although accepted to larger law schools in urban settings, I fell for Cornell on my first visit (even though it was snowing and cold). It turned out to be the perfect environment for me."

Fifty years later, Eisenberg still recalls several formative experiences during his years at the Law School. "Who could not be influenced by Professor Schlesinger's brilliant and

only one required to prepare to take the bar on both the Sales Act and the UCC?"

Eisenberg also remembers the academic rigor of working on the *Cornell Law Review*, where he served as editor, and the practical experience of participating in the Legal Aid Clinic, which prepared him for his many years of pro bono work as a practicing lawyer.

After graduating, Eisenberg worked as a law clerk at the Supreme Court of New York, Appellate Division, and then served in the U.S. Army as a captain in the infantry. From 1968 through 1982, he practiced law and was a partner at Javits, Trubin, Sillcocks, Edelman & Knapp, where he worked in real estate and banking law.

In 1997, he forged into new territory, founding Urban



You have chosen a magnificent environment for learning and personal development. Experience the wonders of the entire university and understand that you are not there to receive a great legal education but to earn it through hard work and sacrifice on many levels.

— Philip Eisenberg '64



disciplined approach to the study and teaching of law?" he says, "or Professor Hogan's ability to make the 'New' Uniform Commercial Code (UCC) something workable for a class that would be the

American Partners to acquire, renovate, manage, and ultimately sell workforce, multi-family properties. He says, "The transition from the practice of law, advising large developers and financial institutions,

to the founding of a real estate company that grew to own many thousands of apartment units required a significantly different skill set that had to be developed through some trial and error (meaning I survived lots of mistakes)."

Eisenberg notes that his responsibility for the welfare of thousands of tenants and the buildings in which they live "is constantly present. But what always excites me and gets me up in the morning is the acquisition of buildings that are under-maintained, rehabilitating them, and turning them around to create a better environment for their tenants while making a fair return on investment for the institutions and pension funds that have invested the capital that the buildings so desperately needed. We know that, while billions must be spent to develop additional and affordable housing for the country's workforce, unless our existing housing stock is rehabilitated and preserved, our urban neighborhoods will not flourish."

Even though Eisenberg's career has shifted from law to real estate, he has continued to make use of the foundation laid by his experience at the Law School. "My Cornell education taught me how to learn; how to acquire knowledge and use it productively. It taught me to realize that one's first solution to a problem or a challenge may not be the best and that the task is to stay with the problem and revisit

it until the right solution is achieved, whether in an individual or a collaborative effort," he says. "Substantively, I was exposed to areas of law and society about which I had no previous knowledge but which I still draw upon in the conduct of our business."

Through the years, Eisenberg has maintained his ties to the Law School and the university, serving as a seminar speaker for the Cornell University Master's Degree in Real Estate Program and as member of the Cornell University Council. He currently serves on the College of Architecture, Art, and Planning Advisory Council. His three children are all Cornell graduates, as are his two daughters-in-law. In fact, Eisenberg's twin sons, Joshua and James, are principals at Urban American and have helped build the company into the success that it is today.

Eisenberg's advice to current and incoming law students? "You have chosen a magnificent environment for learning and personal development. Experience the wonders of the entire university and understand that you are not there to *receive* a great legal education but to *earn* it through hard work and sacrifice on many levels. And that achievement is what Judge Joseph T. Sneed (who taught us contracts and tax and many other valuable things) referred to as 'of greater worth than the coin of the realm of the kingdom of gratuity.'"

~OWEN LUBOZYNSKI



My Cornell education taught me how to learn; how to acquire knowledge and use it productively. It taught me to realize that one's first solution to a problem or a challenge may not be the best and that the task is to stay with the problem and revisit it until the right solution is achieved, whether in an individual or a collaborative effort.

— Philip Eisenberg '64



F. Gregory Barnhart '76

Taking On Corporate Defendants in the "Ultimate Game"

"A trial is the ultimate game," says **F. Gregory Barnhart '76**. "It's a contest, so somebody wins and somebody loses. It's intellectually challenging. It's a play, in a sense. It's clearly theater; the jury wants to be entertained and expects to be entertained, and you have to be sharp." Barnhart certainly is sharp—he is consistently recognized as one of the best trial lawyers in the country, and regularly takes on Big Tobacco, the pharmaceutical industry, and other corporate defendants in cases that have an impact on a national scale.

"It's a hard job," Barnhart adds. "There's a lot of traveling and the hours are bad at trial law. But it's fun. There are times when you're in court and you say, 'You know, I can't believe I get paid to do this.'"

Barnhart is a partner at Searcy Denney Scarola Barnhart & Shipley, the largest trial law firm in Florida, which he joined in 1978, shortly after his graduation from Cornell Law School. In the three-and-a-half decades he has been with Searcy Denney, which has offices in West Palm Beach and Tallahassee, Barnhart has won 77 verdicts worth over one million dollars.

"Our clients are people who, some are well-to-do, but for the most part they're people who really, really need help," Barnhart says. "We have the



in the crash, and the case became a major part of a book by Pulitzer Prize-winning journalist David Cay Johnston.

Another widely followed case saw Barnhart representing Al Gore in the "butterfly ballot" controversy following the 2000 presidential election, where many residents of the overwhelmingly Democratic Palm Beach County said they had miscast their votes because of confusing ballots. "Every time we went to court at the trial level we won," Barnhart says. "Ultimately, they waited too long and the Florida Supreme Court and the United States Supreme Court called it, but that was an interesting one."

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biggest corporate defendants on the other side. Our firm's one of the very few that can match the defense dollar for dollar and lawyer for lawyer." In one case, following a deadly Amtrak derailment in 1991, the firm was able to prove that CSX Railroads, the owner of

the tracks, had falsified inspection records—the employee claiming to have conducted the inspections turned out to be on vacation at the time. Barnhart's team eventually won a \$56 million verdict for their client Angel Palank, the wife of one of the people killed

Besides his duties at Searcy Denney, public-service work keeps Barnhart busy. An outdoorsman, he goes to court pro bono for 1000 Friends of Florida, a nonpartisan group promoting environmentally responsible growth. "There are just times when we need to



Our clients are people who, some are well-to-do, but for the most part they're people who really, really need help. We have the biggest corporate defendants on the other side. Our firm's one of the very few that can match the defense dollar for dollar and lawyer for lawyer.

— F. Gregory Barnhart '76



sue,” Barnhart says. “They’re always trying to demolish something, pave over some pristine wetlands or whatever and put in a parking lot.” Barnhart also has been appointed by three Florida governors to the state commission that nominates judges, and has served as president of various bar associations. “In part it’s just my nature,” he says. “In another part, it’s good to rub shoulders with the judges, it’s good to get to know all the lawyers. And if you want changes within the system, it’s better to work from within so that you get to be known as somebody who knows what’s going on.”

Barnhart, who grew up in Florida, says he got the trial litigation bug early, when he stayed home sick one day when he was 12. His mother tuned the television to *To Kill a Mockingbird*, and a young Barnhart watched Gregory Peck play the courtly lawyer Atticus Finch, defending a black man falsely charged with rape in Jim Crow-era Mississippi, at great cost to Finch and his own family. “I said at that point, you know, that’s

what I want to do,” Barnhart says. “And I never changed. I sort of geared my life that way.”

After earning an English degree at Vassar College, Barnhart arrived at Cornell Law School in 1973. Over the next three years, he met classmates who would turn into lifelong friends, as well as one, Susan Gordon '76, who became his wife. “It’s people that make the place,” Barnhart says.

Two of those people were Professors Faust Rossi, who retired in 2013 and is now a professor emeritus, and Irving Younger, who died in 1988, and whom Barnhart says was “probably the best public speaker I ever saw.” Barnhart said that after taking Younger’s evidence course one semester, he turned around and audited the same course taught by Rossi. “I wanted to know it so it was at the tip of my mind. I really wanted to know and memorize the law of evidence,” he says.

Barnhart says that compared to other law schools, “the ability to delve into the theory and the fabric of the law is explored

more deeply at schools like Cornell. And so I think my writing skills, my ability to analyze was well served and certainly well instilled by Cornell.”

In April 2013, Barnhart got to return to Cornell to give a speech on how to succeed in trial litigation. “You know, I give lectures all the time,” Barnhart said. “But I spent more time on that one because

it was a different type of audience. The people who came to see me had an interest in being trial lawyers. The people who had an interest in being real estate lawyers would not.”

Barnhart advises aspiring trial lawyers to rack up as much time in court as possible. “The one thing that I would say is to get experience,” he says. “And there’s only one way to get experience and that is, you’ve got to try cases.” ■

~IAN MCGULLAM



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Eduardo Peñalver Named Dean of Cornell Law School

Eduardo M. Peñalver, an expert in property law and land use, and Cornell faculty member from 2006 to 2012, has been named the next Allan R. Tessler Dean of Cornell Law School. Currently the John P. Wilson Professor of Law at the University of Chicago Law School, Peñalver will become dean July 1.



Eduardo Peñalver

I am excited and honored to return home to Cornell Law School as its next dean. My most formative intellectual experiences have been at Cornell, both as an undergraduate and, more recently, as a member of the Law School faculty.

— Eduardo Peñalver

”

Peñalver succeeds **Stewart J. Schwab**, who has been dean since 2004. Schwab, a faculty member since 1983, plans to return to teaching at the Law School after a sabbatical in the 2014–2015 term.

“Eduardo’s extraordinary academic pedigree, deep love for Cornell, personal warmth, and engaging vision make him ideally suited to build upon the excellent work of Dean Schwab and to further advance the preeminence of the Law School,” said Provost **Kent Fuchs**.

“I am excited and honored to return home to Cornell Law School as its next dean. My most formative intellectual experiences have been at Cornell, both as an undergraduate and, more recently, as a member of the Law School faculty,” said Peñalver. “Cornell Law School is a remarkable community of scholars and students. It is diverse, intellectually rigorous, and exceptionally collegial, and I look forward to working with our faculty, students, staff, alumni, and the university leadership to guide the Law School into the future.”

Peñalver, who received his B.A. from Cornell’s College of Arts and Sciences in 1994 and his law degree from Yale Law School in 1999, joined the Cornell faculty in 2006 and the Chicago faculty in 2013. He taught at Fordham Law School from 2003 to 2006 and has been a visiting professor at Harvard and Yale law schools.

Upon completing law school, he clerked for **Judge Guido Calabresi** of the United States Court of Appeals for the Second Circuit and for Supreme Court **Justice John Paul Stevens**. Between college and law school, Peñalver studied philosophy and theology as a Rhodes Scholar at the University of Oxford.

Praised by colleagues as an important, passionate, and brilliant scholar, Peñalver has had his work on property law published in scholarly law journals at Yale University, the University of Michigan, Cornell, and the University of Pennsylvania. He is considered to be a leading voice in the

“progressive property” movement. His research explores how property law creates or reinforces communal bonds and how property rights mediate the relationship between individuals and communities.

Peñalver’s book *Property Outlaws* (coauthored with **Sonia Katyal**), published by Yale University Press in 2010, explores the role of disobedience in the evolution of property law. His most recent book, *An Introduction to Property Theory* (coauthored with **Gregory Alexander**), was published by Cambridge University Press in 2011.

Described as an eloquent, engaging and provocative instructor, Peñalver has taught courses on land use, law and religion, property law, and theories of property, among others. In addition, he has delivered more than 60 academic presentations all over the world.

From 2009 to 2011, Peñalver was director of faculty research at the Law School. From 2007 to 2010, he was faculty adviser to the *Cornell Law Review*. In 2010, Peñalver received the Provost’s Award for Distinguished Scholarship.

Peñalver and his wife, **Sital Kalantry ‘94**, met as undergraduates at Cornell. She will be returning to the Law School as a clinical professor; currently Kalantry is a clinical professor at the University of Chicago Law School and founder and director of its International

Human Rights Clinic. Together they have two children.

Gerald Torres, Leading Figure in Environmental Law and Federal Indian Law, Joins Cornell Law School

In February, Dean **Stewart J. Schwab** announced that **Gerald Torres** will join the permanent faculty of Cornell Law School on June 1, 2014. Torres, a former president of the Association of American Law Schools, was previously the Bryant Smith Chair in Law at the University of Texas School of Law.

“We are delighted that Gerald Torres is joining us. He is a highly visible national figure, and a scholar and public intellectual in many fields,” says Dean Schwab. “His wide-ranging interests include environmental law, federal Indian law, and critical race theory. He will help the Law School continue to build connections with other parts of Cornell University.”



{my new colleagues} understand the substantial intellectual sophistication required for the first-rate practice of law and welcome the light shed by the cognate disciplines in the university on the problems in legal scholarship. I am thrilled by the opportunity to join them.

— **Gerald Torres**



Gerald Torres

Before he taught at the University of Texas, Torres was an associate dean at the University of Minnesota Law School. He has served as deputy assistant attorney general for the Environment and Natural Resources Division of the U.S. Department of Justice and as counsel to then U.S. Attorney General Janet Reno. He is a member of the Council on Foreign Relations and the American Law Institute and has served on the boards of the Environmental Law Institute and the National Petroleum Council, as well as on the EPA’s National Environmental Justice Advisory Council.

“Cornell Law School has clearly demonstrated that it is a special place, one that is very supportive of my work,” says Torres. “The school is a community of scholars who have created a culture of mutual respect while actively engaging each other’s work.”

Torres was honored with the 2004 Legal Service Award from the Mexican American Legal Defense and Educational Fund for his work to advance the legal rights of Latinos. His latest book, *The Miner’s Canary: Enlisting Race, Resisting Power, Transforming Democracy* (Harvard University Press, 2002) with Harvard law professor Lani Guinier, was described by *Publisher’s Weekly* as “one of the most provocative and challenging books on race produced in years.”

Torres notes that his new colleagues “understand the substantial intellectual sophistication required for the first-rate practice of law and welcome the light shed by the cognate disciplines in the university on the problems in legal scholarship. I am thrilled by the opportunity to join them.”

Torres originally came to Cornell Law School for the 2013 school year as the Marc and Beth Goldberg Distinguished Visiting Professor of Law. This semester, he is teaching Federal Indian Law, Water Law, and a seminar on Law and Social Movements.



Remembering a Legal Pioneer: Theodore Eisenberg

Cornell Law School mourns the death of **Theodore Eisenberg**, the Henry Allen Mark Professor of Law and Adjunct Professor of Statistical Sciences, who died February 23 at the age of 66 from a heart attack. Known as the “grandfather of empirical legal studies,” Eisenberg was a passionate teacher, beloved colleague, and prolific scholar during his 33 years at the Law School.

A legendary figure in the areas of bankruptcy, civil rights, and the death penalty, Eisenberg used innovative statistical methodology to shed light on such diverse subjects as punitive damages, victim impact evidence, capital juries, bias for and against litigants, and chances of success on appeal. He is the founder of the *Journal of Empirical Legal Studies* and a Fellow of the American Academy of Arts and Sciences. Eisenberg taught courses on bankruptcy and debtor-creditor law, constitutional law, civil rights, contracts, federal income taxation, and empirical studies of the legal system.

“Ted was a giant in the legal academy and one of the pioneers of modern empirical legal studies,” says Stewart J. Schwab, the Allan R. Tessler Dean and Professor of Law. “He had high standards and a generous spirit. His energy was astounding as he traveled the country and the world, participating in conferences



For me personally, Ted was a dear friend and our families were close. The suddenness of his death is shocking and the sadness is profound. Cornell Law School has been lucky to have had his intellectual leadership, creativity, and energy for more than three decades. I wish it could have been longer.

— Stewart J. Schwab



and teaching others how to be better empirical scholars.”

After earning a B.A. from Swarthmore College in 1969 and a J.D. from the University of Pennsylvania Law School in 1972, Eisenberg clerked for both the District of Columbia Circuit of the U.S. Court of Appeals, and Chief Justice Earl Warren of the U.S. Supreme Court. After three years in private practice at Debevoise & Plimpton in New York City, Eisenberg began teaching at UCLA in 1977. He joined Cornell Law School as a permanent professor in 1981.

It was in his second year at Cornell that Eisenberg became deeply interested in empirical legal research. From that point on, his work in that area was prodigious; he authored or coauthored over 125 scholarly articles and wrote or edited over 20 books or chapters in books. In addition to visiting professorships at Haifa University, Harvard, Stanford, Turin, and Tel Aviv, Eisenberg was recognized with numerous fellowships, grants, and awards. He also served on over 25 editorial boards and outside committees and served as an expert witness at a number of high-profile trials.

Eisenberg explained his approach to empirical research in a spring 2008 article in the *Cornell Law Forum* magazine. “I like to let the data tell their own story, not try to superimpose one,” he said. “As in any good scholarship, you check your assumptions. If you don’t have the real facts, people will make them up or follow the headlines.”

“For me personally, Ted was a dear friend and our families were close,” says Schwab. “The suddenness of his death is shocking and the sadness is profound. Cornell Law School has been lucky to have had his intellectual leadership, creativity, and energy for more than three decades. I wish it could have been longer.”

Eisenberg is survived by his wife Lisa; three children—Kate, a doctor in Rochester; Annie, a 2012 graduate of Cornell Law School now clerking in St. Louis; and Tommy, a Ph.D. student in economics at Cornell; and two grandchildren.

A memorial service was held at the Law School on Saturday, March 15. Hundreds of family members, colleagues, friends and students paid tribute to his life and career.

Memorial contributions can be made to:

Eisenberg Memorial Fund
Cornell Law School
Development Office
260 Myron Taylor Hall
524 College Avenue
Ithaca, NY 14853

Law School Holds Fourth Annual Transactional Lawyering Competition

On a weekend in November, sixty students and more than thirty distinguished alumni gathered for the Law School's fourth Transactional Lawyering Competition. Spearheaded by Professor **Charles Whitehead** and presented by the Clarke Institute for the Study and Practice of Business Law (BLI) and the Cornell Business Law Society, the event is essentially a "moot court" for students who are interested in becoming deal lawyers.

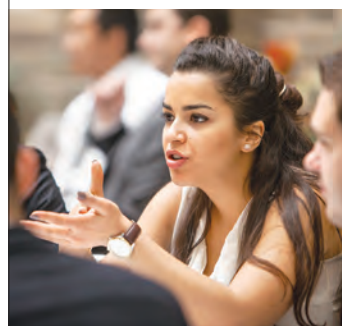
Divided into two-person teams of buyers and sellers, participants engaged in mock negotiations over the sale and purchase of a hotel and resort property in upstate New York. They were judged by a distinguished group of deal lawyers from around the country and abroad, many of them Cornell alumni and many returning for their second or third time as instructor-judges.

"It is a thrill to see that Cornell Law School is leading the way in bridging the gap between the theoretical foundation of a traditional legal education and the practical skills that the marketplace for transactional legal services demands," said instructor-judge **Thomas Malone '05**. "When transactional lawyers leave law school, they invariably face a steep learning curve; Professor Whitehead's exercise offers them an early boost."



TOP: Charles Whitehead
TOP RIGHT: Ali Wright ABOVE:
Students Guang-Yu Zhu '14
and Catherine Burns '15 (right)
negotiate with an instructor-
judge. RIGHT: Mary-Ann Awada

The competition culminated on Sunday afternoon in a packed lecture hall, where the winning buyer and seller teams were announced. The two teams then participated in a closing exhibition round, with feedback from instructor-judges **Allan Tessler '58, Rebecca Prentice '82, and Robert Feiner '85**.



Prentice observes, "Professor Whitehead and his colleagues have created a remarkably effective program. The participants (whether student competitors or alumni judges)



brought both enthusiasm and seriousness to the exercise. I was particularly impressed to see how much the students improved as the rounds progressed. By the end, I could picture them negotiating real transactions on behalf of real clients."

On the winning seller's counsel were **Christopher Burwell '15** and **Philip Goldstein '15**.

"My teammate and I learned a tremendous amount from the alumni judges, who offered specific and substantive feedback on our markup and negotiation strategies," says Burwell. "And I enjoyed applying the legal and business knowledge that I've gained at Cornell to the sort of deal that I might encounter in my career after graduation."

Adds Goldstein: "The experience was invaluable. A light bulb went off regarding how transactional lawyering works, and it definitely played a part in our performance. I feel that I and all those involved in this competition and Cornell Law's Deals classes will definitely have an advantage over our peers as we enter the job market."

On the winning buyer's counsel were **Kelsey Baldwin '14** and **Major McCargo '14**. Says McCargo, "The Transactional Lawyering Competition is one of the most valuable learning experiences I've had since I arrived at Cornell. The feedback from the judges was very insightful and enlightening. Moreover, it was fun trying to figure out how to reach a mutually beneficial agreement while protecting our client's interests as much as possible."

"Cornell's program is the only intramural transactional lawyering competition in the country," notes Professor Whitehead. "None of this would be possible without the strong support of alumni who bring real-world experience to students, and students who put in the extra work necessary to develop transactional skills in law school. I would like to thank both for working to make the competition a success."

That success reflects the widespread interest of Cornell Law students in transactional lawyering, which was also evidenced the week before when 130 students flocked to a three-hour "Anatomy of a Private Deal Negotiation." Sponsored by the BLI and the Cornell Business Law Society, the mock deal negotiation was presented by five senior lawyers from **Kaye Scholer** under the leadership of senior partner **Joel Greenberg**.

The BLI was established in 2007 by a founding gift from **Jack G. Clarke, LL.B. '52** and his

wife, **Dorothea S. Clarke**. It provides a locus for law faculty with particular expertise in such areas as securities regulation, financial institutions, international economic law, intellectual property, transactional lawyering, business organizations, and ethics and corporate culture.

INSTRUCTOR-JUDGES:

John Alexander '71
(Sayles & Evans)

John Altorelli '93 (DLA Piper)

David Barrie '78
(Barrie International)

David Boehnen '71
(Dorsey & Whitney)

John Calandra '91
(McDermott Will & Emery)

Robert Davis '78 (Cleary, Gottlieb, Steen & Hamilton)

Jacqueline Duval '92
(Ziff Legal Group)

Robert Feiner '85
(Feiner Wolfson)

Todd Feinsmith '91
(Pepper Hamilton)

Dean Fournaris '91
(Wiggins & Dana)

Ashley Gillespie, M.B.A. '00/J.D. '01 (Morgan Stanley)

Joel Hartstone '70
(Stonegate Capital Group)

William Haubert '91
(Richards, Layton & Finger)

Denise Hauselt '83
(retired, Corning Incorporated)

James Hill '91 (Morgan Stanley)

Adele Hogan '85
(Hogan Law Associates)

Jim Kaput '86
(Zebra Technologies)

Robert Lee '81
(Wells Fargo & Company)

Thomas Malone '05
(Latham & Watkins)

Stephen Maloy '76
(Jincheng Tongda & Neal)

Ira Marcus '74 (Marcus, Brody, Ford, Kessler & Sahnner)

Harry Messina, LL.B. '57
(Woods Oviatt Gilman)

Raymond Minella '74
(Cornell Law School, Clarke Business Law Institute)

Dale Okonow, J.D./M.B.A. '83 (The Watermill Group)

Andrianne Payson Livingston '00 (DLA Piper)

Jay Rakow '77
(Pacific Capital Group)

Elke Rehbock '04 (Dentons)

Mack Rosoff (Rosoff & Co.)

Richard Ross '99 (Perkins Coie)

Ira Roxland '67 (SNR Denton)

Andy Stamelman '83 (Riker Danzig Scherer Hyland & Perretti)

Alan Tessler '58
(International Financial Group)

Sara Werner (Denton's US)



Philippe Pradal, LL.M. '08 (Jones Day)

Rebecca Prentice '82
(Paramount Pictures)

J. Brett Pritchard '90
(Lord, Bissel & Brook)



TOP: Kelsey Baldwin '14 (left) and Major McCargo '14, the winning buyer's counsel MIDDLE: Students engage in negotiations. ABOVE: From left, Andrianne Payson Livingston '00 (DLA Piper), Laura Wilkinson '86 (Advisory Council), and Adele Hogan '85 (Hogan Law Associates)

Babcock and Margulies Bring Their Focus on International Justice to Cornell Law

Partway through careers that have taken them to Brazil, Iraq, Liberia, Malawi, Mexico, South Africa, and Guantánamo Bay, **Sandra L. Babcock** and **Joseph Margulies** have accepted offers to join the faculty at Cornell Law, beginning in the 2014–2015 academic year. “Sandra is one of the leading clinical professors in the United States, and a passionate teacher and scholar who has done amazing work around the world,” says **Stewart J. Schwab**, the Allan R. Tessler Dean and Professor of Law. “Joe is a great lawyer and public intellectual, whose *Guantánamo and the Abuse of Presidential Power* won the ABA’s prestigious Silver Gavel Award for promoting the public’s understanding of the American legal system. Together, they bring great energy and vision to the Law School.”

Babcock, a clinical professor and director of the Center for International Human Rights at Northwestern University School of Law, concentrates her practice on international human rights, access to justice around the world, and the application of international law in U.S. courts. In recent years, she and her students have represented Mexican nationals on death row in the United States, investigated cases of Malawians caught up in their country’s judicial system, and litigated before international



Sandra L. Babcock

tribunals, including the Inter-American Commission on Human Rights. At Cornell, she plans to work in the International Human Rights Clinic and the Avon Global Center for Women and Justice.

“It’s been incredibly powerful for students to realize they have the ability to navigate a foreign legal system and affect someone’s life halfway around the world,” says Babcock, talking about her ongoing work in Malawi, which she expects to continue at Cornell. “Over the past six years, students have contributed to the release of fifty prisoners who otherwise would have had no access to lawyers. Students routinely say it’s the most transformative experience they’ve had in law school.”

Margulies, who will have a joint appointment in the Law School and the Government Department, has been an attorney and assistant director at Northwestern Law’s Roderick MacArthur Justice Center since 2004, following a stint as a distinguished practitioner in residence at Cornell Law in



Joseph Margulies

“torture memos.” Margulies’s *What Changed When Everything Changed: 9/11 and the Making of National Identity* was published this spring by Yale University Press, and his essay “The Promise of May, the Betrayal of June, and the Larger Lesson of Manning and Snowden” appeared on the website Verdict this summer. Margulies is a 1982 graduate of Cornell University.

Sandra is one of the leading clinical professors in the United States, and a passionate teacher and scholar... Joe is a great lawyer and public intellectual... Together, they bring great energy and vision to the Law School.

— Stewart J. Schwab



2002. For the past twelve years, Margulies has been at the forefront of the effort to prevent abuses in the post-9/11 era. He was lead counsel in *Rasul v. Bush* (2004), which established the right of U.S. courts to determine the legality of imprisoning foreign nationals at Guantánamo, and *Munaf v. Geren* (2008), which established federal court jurisdiction over Americans imprisoned by the United States overseas. He is now counsel of record for **Abu Zubaydah**, whose 2002 interrogation led to the Bush Administration’s

“At Northwestern, I developed a mix of teaching, writing, and litigating in national security and criminal justice reform, and I’m looking forward to continuing that at Cornell,” says Margulies, who is currently envisioning a book-length project on the rule of law as a symbol in American life. “I’ll be teaching one class a year in the Law School, either in civil rights or criminal justice, but I also plan to make myself available as a mentor to students who are interested in national security and criminal law, and in the law as an instrument of progressive social change.”

I'm also very excited about contributing to the life of the community, whether that means working with students or collaborating with colleagues. It's a wonderful opportunity."

Babcock and Margulies expect to arrive in Ithaca during the summer of 2014.

Henderson Receives AALS Award for Outstanding Achievements in the Field of Tort Law

In January, in honor of a lifetime of accomplishment, **James A. Henderson Jr.**, the Frank B. Ingersoll Professor of Law Emeritus, received the William L. Prosser Award at the annual meeting of the Association of American Law Schools. Named after the author of *Prosser on Torts*, it's the highest distinction the AALS presents to torts professors, formally recognizing Henderson's "truly outstanding and brilliant achievements in the field of tort law, in terms of scholarship, teaching, and service."

Since arriving at the Law School in 1984, after teaching and practicing in Boston for twenty years, Henderson has been a leading commentator in torts and products liability. Best known as a co-reporter on *Restatement (Third) of Torts: Products Liability*, and a co-author of three widely used texts—*The Torts Process*; *Products Liability: Problems and Process*; and *Torts: Cases and Materials*—Henderson continues to serve as a special master in the 9/11 first responders'



James A. Henderson Jr.

lawsuits, the most complex mass-tort litigation in American history.

"James Henderson is one of the giants of contemporary torts scholars," says **Stewart J. Schwab**, the Allan R. Tessler Dean and Professor of Law. "His work adopts a pragmatic approach in the great legal-process tradition, but has blended many methodologies for understanding tort law, from traditional doctrinal work to law and economics to empirical approaches. Measured, principled approaches such as Professor Henderson's are rare and invaluable."

Newly retired from teaching, Henderson is currently working on a pair of articles, "Justiciability and Rule Formality in Judicial Review" and "Filling the Empty Shell of Failure to Warn," to be delivered later this year. He remains excited by the possibility of solving "problems that sometimes seem to defy resolution," comfortable in the balance he's found between scholarship and practice, and pleased to hear about this latest honor.

"You do the best you can, and hope the work speaks for itself," says Henderson, talking from his home in Florida. "If I've had an impact—and I want to emphasize that if—it's because the work has had a much broader application than just the subjects I've written about."

Cristina Laramée '14 Awarded Rhodes Public Interest Fellowship

During her time as a Cornell Law student, **Cristina Laramée '14** has made the most of opportunities to gain insight and experience in criminal defense, from taking an array of courses in the field to performing intern- and externships in three public defenders' offices. After graduating this spring, she will put that experience to work in the Bronx, as the Law School's third H.T. Rhodes Public Interest Law Fellow.

Supported by the fellowship, Laramée will work with the Bronx Defenders, which provides innovative criminal



Cristina Laramée '14

defense, family defense, civil legal services, social work support, and advocacy to indigent people of the borough. Laramée's goal is to reduce the number of Bronx Defenders' clients who are re-incarcerated because of probation violations.

"My project will focus on the unique obstacles faced by Bronx Defenders clients on probation," says Laramée. "Without access to services to help them succeed, individuals on probation in the Bronx, particularly people of color, too frequently find themselves in a constant cycle of punish-

My project will focus on the unique obstacles faced by Bronx Defenders clients on probation. Without access to services to help them succeed, individuals on probation in the Bronx, particularly people of color, too frequently find themselves in a constant cycle of punishment and supervision.

— Cristina Laramée '14

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ment and supervision. Through the project, I will support and advocate for clients in order to help them overcome the obstacles to successful completion of their probationary sentence.”

Laramée currently serves as the notes editor of the *Cornell Law Review* and a member of its Diversity Committee, as well as a member of the Black Law Students Association and Latino American Law Students Association Professional Development Bootcamp Committee. In addition, during her final semester, she will work as a teaching assistant for the course Death Penalty in America, taught by Professors **John Blume** and **Sheri Lynn Johnson**.

Karen Comstock, assistant dean for public service, was a member of the Rhodes Fellowship selection committee. “We are thrilled to award the third Frank H.T. Rhodes Public Interest Law Fellowship to Cristina Laramée,” she says. “The committee selected Cristina because she has a real passion for and a proven track record in indigent criminal defense work. Her belief that all clients have the ability to turn their lives around, and her commitment to doing all she can to give them the best possible chance for success, is extremely compelling. Her project is creative, and it is supported by an organization known for its holistic, client-centered approach to indigent representation. This is a winning combination.”

Funded by the Atlantic Philanthropies and shared by the Law School and Cornell’s Population Program, the **Frank H.T. Rhodes** fellowships are named for Cornell University’s president from 1977 to 1995, who was also a former Atlantic board member and chair. The fellowships further scholarship and research in poverty alleviation, public health, human rights, and support for the elderly and disadvantaged children.

Generations of Capital Punishment Clinic Students Fight for Johnny Ringo Pearson

The Cornell Death Penalty Project began representing **Johnny Ringo Pearson**, an intellectually disabled South Carolinian accused of the 1994

kidnapping, rape, and murder of **Darlene Patterson**, in 2001. Twelve years later, Cornell Law School clinic students are still working on his case. “In law school, a lot of the time you’re following a curriculum, you have a syllabus, a very guided experience,” says **Abigail Deering ’05**, a clinic alumna who worked on Pearson’s trial. “But when you do a clinic, it’s totally different, it’s the real world. You have to step into the shoes of an attorney before you are an attorney.”

According to **John H. Blume**, professor of law and the director of the Death Penalty Project and Clinical, Advocacy, and Skills Programs, the Capital Punishment Clinic’s involvement in Pearson’s case has evolved over the years. “Different generations of students did different things,”

Blume says, including finding and interviewing witnesses and sifting through records. The clinic initially assisted Pearson’s legal team in attempting to prove his innocence. Blume, one of the lawyers, said the prosecution had little concrete evidence besides a confession the defense considered suspect. However, following the U.S. Supreme Court’s 2002 decision in *Atkins v. Virginia* that sentencing defendants with intellectual disabilities to death was unconstitutional, a judge ruled in a pre-trial hearing that Pearson was ineligible for the death penalty. Still facing life in prison without parole if convicted in his non-capital murder trial, Pearson took an Alford plea, in which he pleaded guilty but maintained his innocence, and was sentenced to eight years in jail.



Students and faculty of the Cornell Death Penalty Project in 2007

Right now, we've been told, 'We understand he's been found to have mental retardation for the purposes of the death penalty and Atkins v. Virginia, but that's different from having mental retardation for the purposes of getting government benefits.' Nobody will tell you how it's different or why it's different.

— John H. Blume

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Deering, now a vice president in the legal department at Barclays, worked on Pearson's case in 2005, as the defense team prepared for the hearing based on the *Atkins* ruling, the first such hearing to be held in South Carolina. Deering recounts her work going door-to-door with another student searching for people who had known Pearson and could testify as to his mental abilities. From interviewing a former teacher, they established that he had been sent to a camp for intellectually disabled children when he was young. "That was a determination by the school to send him to this camp," Deering says. "And that was huge because we had the prosecution saying that he wasn't identified as mentally retarded at school. He was identified as mentally retarded as a child. You've got to remember that for the definition,

you have to show that it came on before eighteen."

As clinic students ran down leads in rural South Carolina, they were exposed to people of a different socioeconomic class. Blume sees this experience as a great benefit to students: "[Pearson] literally grew up in a home that didn't have a front door and didn't have plumbing. So I think seeing that kind of poverty up close was in some ways a transformative experience, to see that people live like that in the United States."

"But I think they also got to see, got to work on issues with someone who has a significant intellectual disability, and how that can play out in the criminal justice system, to their disadvantage," adds Blume. "And they also got to watch the [*Atkins*] hearing and see the system maybe get it right on the question of his mental

retardation and get death off the table, but then sometimes see the other side of it, the tragedy that sometimes people have to make very very difficult choices, and in this case, the difficult choice that he had to make to avoid the death penalty was to plead guilty to a crime that he probably didn't do."

Pearson was released from prison in May, and the clinic's latest task has been to try to obtain him Supplemental Security Income benefits, based on his intellectual disabilities and a club foot. "We're working now to get him basically assimilated, back into life and the community," says Blume, who is currently being assisted by second year law student **Nora Ali '15** in the effort to obtain benefits for Pearson.

"We've been compiling the records and talking to people who have the information, trying to make this thing go," said Blume. "Right now, we've been told, 'We understand he's been found to have mental retardation for the purposes of the death penalty and *Atkins v. Virginia*, but that's different from having mental retardation for the purposes of getting government benefits.' Nobody will tell you how it's different or why it's different."



Kelsey Baldwin '14 and Ari Diaconis '14 Receive Fraser Prizes

In October 2013, **Kelsey Baldwin '14** and **Ari Diaconis '14** were named the first- and second-place recipients of the 2013 Fraser Prizes. A gift of **William Metcalf Jr., LL.B. 1901**, in memory of former Cornell Law librarian **Alexander Hugh Ross Fraser**, the prizes are awarded annually to two third-year students who exemplify superior scholarship.

"The Fraser Prize is an unusual one in that both the faculty and the students are involved in the selection," notes **Anne Lukingbeal**, associate dean and dean of students. The third-year class votes for the recipients from a list of ten candidates submitted by the faculty. She adds, "Both of the students selected this fall have accomplishments which make them excellent recipients of the Fraser Prize."

Baldwin is a senior notes editor on the *Cornell Law Review*. During her first year at the Law School, she was the winner of the Langfan Moot Court Competition, and during her second year, she served as a tutor and a Lawyering Honors Fellow. Diaconis is an articles editor on the *Cornell Law Review*, has participated in both the Cornell Prison Education Teaching program and the Securities Law Clinic, and was the runner-up in the Langfan Moot Court Competition during his first year.



Kelsey Baldwin '14



Ari Diaconis '14

"My professors have challenged me and supported me since my first day as a 1L," says Baldwin. "Moreover, I've been absolutely blown away by the intellect, passion, and warmth of my classmates. To be recognized by such an outstanding group of people makes me feel both profoundly honored and humbled." After graduating in the spring, Baldwin will begin work at Sullivan & Cromwell in New York City.

"Receiving one of the Fraser Prizes is an honor," says Diaconis. After graduation, he will clerk for Judge **Edward R. Korman** of the U.S. District Court for the Eastern District of

New York and then expects to join the litigation department at Sullivan & Cromwell. "There's a group of extremely intelligent and hard-working students here at Cornell, and it's nice to know they value my participation as much as I value theirs."

Stout Teaches New Business "Boot Camp" for Law Students

Today, most law students must possess a basic understanding of business before entering the legal profession. However, finding the time to take a semester-long class on basic business skills can be time consuming for students engaged in the rigors of law school. According to **Lynn Stout**, Distinguished Professor of Corporate & Business Law at Cornell Law School, it is simply "too distracting to teach something like this one hour at a time."

In an effort to help students learn this critical part of the legal world, Stout led a boot camp of sorts at the beginning of the semester. In one weekend in early September, Stout taught "Business Concepts for Lawyers," a new one-credit course aimed to prepare students for practice in areas such as business transactions and litigation. The class, which met for four hours a day for three days, worked to get students ready for other upper level business courses, such as Bankruptcy and Corporate Finance.

"By having this in one intense weekend," says Stout, "it makes

it easier for the students to learn." Stout covered a wide range of business topics over the long weekend, including accounting and the securities market—material many of the students have never studied. "The students had to adjust to it," she says. "The course explains business concepts and gives students a fundamental business vocabulary."

For the students who took the class, there was something appealing about the short and intense structure, which they say aided the learning process. "What I enjoyed most about this course is that [it] is quite compact so that we can learn a lot from Professor Stout in a short time," says **Yifan Wu, LL.M. '14**. According to Wu, though the class was condensed into twelve hours, he was able to learn the basics of the business world—an experience he will take with him throughout his career. "This course will not make me become an expert in business but it will at least make me comparatively familiar with those terms."

Drew Singer '15, another one of Stout's students, said that the course "will help immensely" if he decides to go into a law firm that focuses on financial services. "Most importantly, I now at least have a baseline from which to build more



Lynn Stout

knowledge instead of having to start purely from scratch," says Singer.

Ultimately, despite the challenge of dealing with the novel nature of the material being covered, Stout says that she was impressed with the performance of the class. "On a whole, the class did quite well," says Stout, adding that it wasn't exactly the easiest subject matter to teach. However, as Stout notes, nailing down basic business concepts, such as knowing how to read a balance sheet, is imperative. "The course gave them good guidance to better their practice of law."

This course is one of many new additions to the curriculum in recent years related to business and transactional law, lending to the vision of the Clarke Business Law Institute, of which Stout holds the first endowed professorship.

Stout covered a wide range of business topics over the long weekend, including accounting and the securities market—material many of the students have never studied.

Cornell e-Rulemaking Initiative Partners with the Consumer Financial Protection Bureau to Give Consumers a Voice about Debt Collection Practices

In November, the Cornell e-Rulemaking Initiative (CeRI) announced a partnership with the Consumer Financial Protection Bureau (CFPB) to better protect consumers from harmful debt-collection practices. The CFPB published an Advance Notice of Proposed Rulemaking, asking consumers for feedback about their experiences with debt collections and asking the industry for information about its practices. Consumers can visit CeRI's www.regulationroom.org to learn about, discuss, and react to the issues on which the CFPB is considering writing new rules.

"We want to hear how we can better protect consumers and bring greater accountability to this multibillion-dollar industry without hamstringing legitimate debt collection activities ... Certain debt collection practices have long been a source of frustration for many consumers ... Debt collection is becoming the topic that draws the most complaints of all the consumer financial products and services covered by our consumer response team," said **Richard Cordray**, director of the CFPB.

The CFPB wants to get to the bottom of the problem and "root out the bad actors who



Cynthia R. Farina

people working in the debt-collection industry can help the CFPB."

Farina continues, "The CFPB wants information to help it design the right rules to ensure that collectors are contacting the correct people and trying to collect the correct amounts. It wants to identify and deal with collection tactics that cross the line and become abusive. And it's particularly

This is where the interactive nature of RegulationRoom plays a unique role. There are significant ways that participation on RegulationRoom by consumers, consumer counseling groups, state and local agencies, and people working in the debt-collection industry can help the CFPB."

— Cynthia R. Farina

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violate the law." This will require input from consumers and industry stakeholders themselves.

"This is where the interactive nature of RegulationRoom plays a unique role," said **Cynthia R. Farina**, McRoberts Professor of Research in Administration of the Law and Faculty Director of RegulationRoom. "There are significant ways that participation on RegulationRoom by consumers, consumer counseling groups, state and local agencies, and

interested in how newer technologies such as voicemail, texting, and social media should be used in debt collection. On RegulationRoom, people can easily find out what the CFPB needs to know—and they can discuss ideas and debate possible solutions."

Cordray said that debt collection remains challenging for consumers and that it will take time to change this industry in a lasting way. Farina agrees: "It's tough for federal law to get the right balance of effective, yet responsible debt collection

practices. Consumers and creditors both have a huge stake in what the CFPB is doing.

CeRI is a cross-disciplinary research group at Cornell University comprised of faculty and students from the Law School, the Computing and Information Science Program, and the Scheinman Institute on Conflict Resolution at the ILR School. CeRI works with federal agencies to discover best ways to use Web 2.0 and other technologies to improve public understanding of, and participation in, rulemaking.

Avon Global Center Receives \$600,000 Commitment

On December 10–12, 2013, the Avon Global Center for Women and Justice at Cornell Law School hosted its fourth annual Women and Justice Conference on "State Responsibility for Eliminating Violence Against Women: The Due Diligence Principle and the Role of Judges." Held at the United Nations Headquarters in New York, the conference convened more than 100 participants—senior and distinguished judges from national and international courts, scholars, and human rights advocates—from over fifteen countries.

At the close of the conference's public events, Avon Foundation for Women President **Carol Kurzig** announced a new \$600,000 commitment to support the center's efforts to end violence against women.



TOP: Hon. Lucie La Vigne, Court of Queen's Bench, New Brunswick, Canada BOTTOM LEFT: Carol Kurzig, president of the Avon Foundation for Women BOTTOM RIGHT: Hon. Martha Koome, Court of Appeal, Kenya

This will be added to the Foundation's 2009 grant of \$1.5 million, which made possible the launch of the center and supported the first five years of its work. "With this generous grant from the Avon Foundation for Women," said **Stewart J. Schwab**, the Allan R. Tessler Dean and Professor of Law at Cornell Law School, "the center will be able to continue its important work with judges and governmental and nongovernmental organizations to advance access to justice in an effort to eliminate violence against women worldwide."

The conference began on Human Rights Day with a panel and reception celebrating the 20th anniversary of the Vienna Declaration on Human Rights. The second day of the conference focused on the theory and practice of the principle of state responsibility to act with due diligence to eliminate violence against women. "As state actors, judges—in partnership with other branches of government and civil society—play a critical role in realizing states' responsibility to elimi-



nate violence against women and girls," noted **Elizabeth Brundige**, executive director of the Avon Global Center. "By sharing best practices from around the world, participants gained information and insights that will support their efforts to fulfill this essential obligation."

In her keynote address for the conference, **Rashida Manjoo**, UN Special Rapporteur on Violence Against Women, called upon participants to work to prevent harm, ensure account-



ability, address root causes, and improve policies and programs to eliminate gender-based violence. Added **Hon. James Makau** of the High Court of Kenya, one of the conference panelists, "The ultimate obligation for meeting the due-diligence obligation rests on the state, and it cannot be delegated. If the fight against gender-based violence is to be effective, the judiciary has to play a leading role."

At the Senior Roundtable on Women in the Judiciary, held on the third day of the conference, judges discussed strategies and solutions for addressing violence against women within

and outside of their courtrooms. The event "promoted valuable dialogues among the judiciary and helped to find ways to eliminate violence against women and girls," noted Taiwanese judge **Claire Wu**, a visiting scholar at the Law School.

The 2013 Women and Justice Conference was co-sponsored by the Avon Foundation for Women, the Virtue Foundation, the Dorothea S. Clarke Program in Feminist Jurisprudence at the Law School, the University of Miami School of Law Human Rights Clinic, and the United Nations Department of Economic and Social Affairs.

2013 Cuccia Cup Moot Court Competition Tackles Affordable Care Act and Religious Exercise

Can a corporation exercise religion? Does the contraceptive coverage requirement of the Affordable Care Act (ACA) impermissibly burden the religious rights of a corporation or its owners? In early November, an enthusiastic cohort of second- and third-year law students wrestled with these questions when they argued this year's Cuccia Cup problem, "*Bonnie's Wollenberg, Inc. v. Sebelius*," created by the Cornell Law School Moot Court Board. The board's editorial team based the problem on several split cases in circuit courts, most notably *Sebelius v. Hobby Lobby Stores* and *Conestoga Wood Specialties Corp. v. Sebelius*. The U.S. Supreme Court

recently decided to resolve the circuit split by considering appeals in both cases.

The first issue in the Cuccia Cup problem addressed whether or not, under the Religious Freedom Restoration Act (RFRA), a for-profit, secular corporation was a person and thus able to exercise religion. The petitioner argued that because a nonprofit corporation and a for-profit sole trader could exercise religion, a for-profit corporation was also able to exercise religion. The respondent countered that precedent could not be combined to find that a for-profit corporation could exercise religion, and furthermore, Congress had never intended to extend the protections of the RFRA to for-profit corporations.

The second issue addressed whether an employer's religious beliefs were substantially

burdened by the mandate to provide contraceptive coverage to employees. The petitioner argued that the ACA coerced religious employers into providing the coverage and thus violated their religious beliefs, as the alternative was to pay a crippling fine. The respondent countered that the connection between an employee's potential use of contraceptives and the employer's religious beliefs was too attenuated, and in any event, the government had a compelling interest in mandating employers to provide contraceptive coverage.

The tournament culminated on November 9 in the MacDonald Moot Court Room, with **Matthew Tymann '14** and **Benjamin Rudofsky '14** representing the petitioner, Bonnie's Wollenberg, and **Ryan Mansell '15** and **Christopher Benedik '15** representing the

respondent, the United States. The two finalists faced a panel of active federal judges: **Hon. Charles R. Wilson** of the United States Court of Appeals for the Eleventh Circuit; **Hon. Richard C. Wesley '74** of the United States Court of Appeals for the Second Circuit; **Hon. Karen K. Caldwell** of the United States District Court for the Eastern District of Kentucky; **Hon. J. Frederick Motz** of the United States District Court for the District of Maryland; and **Hon. Amy J. St. Eve '90** of the United States District Court for the Northern District of Illinois.

After a hard-fought and entertaining final round, followed by lengthy deliberations, Tymann and Rudofsky were proclaimed the winners. In announcing the winners, Judge Wilson stated that the quality of advocacy from both teams



Benjamin Rudofsky '14 (at lectern) addresses a panel of active federal judges in the 2013 Cuccia Cup Moot Court Competition.

easily equaled that which he had heard earlier in the week in the Eleventh Circuit. Judge Wesley described choosing the winning team as “one of the tightest decisions” he has had to make. All of the judges praised the demonstrable work ethic of the competitors. As well as finishing as runners-up in the oral arguments, Mansell and Benedik won the prize for best brief.

“This year’s Cuccia Cup impressed the board on all fronts,” said Moot Court Chancellor **Jon Underwood ’14**. “Every team put a great deal of effort into their arguments, and their preparation showed in how skillfully they were able to answer the myriad questions fired at them from the bench. The final-round teams displayed excellent appellate advocacy skills—congratulations to both teams!”

The prizes for the Cuccia Cup are funded annually through endowed gifts from the late **Francis P. Cuccia LL.B. 1912**, in memory of **Mary Heagan Cuccia**, as well as from **Helen Belding Smith** and the estate of **Henry P. Smith III ’36**. The prizes for best brief are funded through an endowed gift from **Louis Kaiser LL.B. ’21**.



Gender Equality Pioneer Delivers Clarke Lecture, Signs Memorandum of Understanding

Though the South Korean government has taken many steps to create a legal framework for gender equality in the country, much work remains to be done, says **Sun-Uk Kim**, president of Ewha Woman’s University. “Gender policies should aim to reduce the gap between the legal system and the real world,” she asserts.



Sun-Uk Kim, president of Ewha Woman’s University

Kim spoke on gender equality legislation and policy in Korea when she delivered the Law School’s annual Clarke Lecture on October 21, co-sponsored by the Law School’s Clarke Program in East Asian Law and Culture and Cornell University’s East Asia Program. In the lecture, Kim discussed the status of women in South Korea, from their presence in

Kim sees a crucial task in “gender-mainstreaming,” with the government consistently assessing the different ways in which policies affect men and women. Kim proposes child-care resources, enacting policies that support diverse family types, and ensuring that legislative reforms are enforced and integrated into the culture.

government and corporate leadership positions to their roles in family life and child rearing.

While previous legislation and policies have made progress in providing welfare protections, dismantling patriarchal practices, and establishing affirmative action in many areas, she sees a crucial task in “gender-mainstreaming,” with

the government consistently assessing the different ways in which policies affect men and women. Kim proposes child-care resources, enacting policies that support diverse family types, and ensuring that legislative reforms are enforced and integrated into the culture.

Throughout a career that has included numerous positions in academia, the government, and the legal field, Kim has made pioneering efforts to build gender equality in Korea. As a member of the Presidential Committee on Administrative Reform and the Central Administrative Appeals Commission, she developed a Gender Equality Officer system. In 2005, she became the first woman appointed as the Minister of Government Legislation. Under her leadership, the ministry conducted a comprehensive review of discriminatory provisions within Korean law and also reformed its own statutory examination process to increase gender sensitivity.



LEFT: Annelise Riles (left) and Sun-Uk Kim RIGHT, FROM LEFT: Associate Dean of Students Anne Lukingbeal, Sun-Uk Kim, Christine Kim '15, and Minkyu Park '15

"President Kim's remarkable contributions to gender equality both as minister of legislation and as president of Ewha Women's University are a model and an inspiration," says **Annelise Riles**, the Jack G. Clarke Professor of Far East Legal Studies, director of the Clarke Program in East Asian Law and Culture, and professor of anthropology. "Her visit has galvanized students and faculty from across the university."

In addition to Kim's lecture and several informal meetings, the Ewha delegation participated in a Memorandum of Understanding (MOU) and Exchange Agreement signing ceremony with Cornell University Provost **Kent Fuchs** and Vice Provost for International Affairs **Fred Logevall**.

Says **Hirokazu Miyazaki**, director of the East Asia Program, "The new partnership with Ewha Woman's University is a critical component of the

East Asia Program's major initiative to enhance Cornell's Korean Studies and the university's engagement with Korea more generally." The MOU includes new opportunities for faculty exchanges, collaborative research for faculty and graduate students, and study abroad experiences for undergraduate students. The Law School is currently in talks with Ewha Women's University to expand the MOU to include exchange opportunities for law students.

The Law School will be a key player in the partnership. Says Riles, "Given Korea's pivotal role in East Asian markets and security relations, it is essential that every great American research university, and every great American law school, offer its students an opportunity to learn about Korea."

She adds, "Korean law firms are growing rapidly and em-

ploying our J.D.s and LL.M.s in increasing numbers. Students of Korean descent now represent one of the largest demographic groups at our law school, and they and other students with strong interests in Korea are eager for opportunities to build on their own knowledge to prepare for a legal career. We hope that this MOU will translate into student and faculty exchanges that will enrich our programs and also strengthen our ties with Korean studies on the main campus."

Each year, the Clarke Program in East Asian Law and Culture brings a star scholar to Cornell to deliver a major public lecture. Funded by a gift to the Law School from Jack and Dorothea Clarke, the program seeks to expand the purview of legal scholarship and to develop new ways of thinking about transnational law, politics, and culture.

Cornell Law Faculty Members Join Alumni-Led Legal Advocacy Program to Overturn *Citizens United*

The effects of the Supreme Court's ruling on *Citizens United v. FEC* were widespread, causing a ripple effect throughout the American political landscape. In a 5-4 decision, the Court ruled that political spending is protected free speech and that both unions and corporations were free to spend money on supporting (or denouncing) a candidate.

In a response to this 2010 decision, a non-partisan organization called Free Speech for People was co-founded by **Jeff Clements '88**. The organization's goal? Overturn *Citizens United*.

In an effort to ramp up its fight, Free Speech for People launched a Legal Advocacy Program "to restore Constitutional

jurisprudence based on human, rather than corporate rights, and republican citizenship rather than unlimited money in politics.” The initiative has a strong Cornell presence, as Professors **Steve Shiffrin**, the Charles Frank Reavis Sr. Professor of Law, and **Gerald Torres**—in addition to alums **Cyrus Mehri ’88** and **Lisa Graves ’94**—will be working together.

“I genuinely believe in their cause,” says Shiffrin of why he joined the initiative. “[*Citizens United*] compromises equality and undermines democracy.”

“I think they’re an extremely important group,” says Shiffrin of Free Speech for People. “They work to introduce bills. They’ve been working on a constitutional amendment. Their approach is the most sensible. I’m pleased they’re joining their legislative efforts with litigation efforts.”

For Clements, the issue of granting too much power to corporations has a crucial importance for Americans. Last year, he authored a book entitled *Corporations Are Not*

People: Why They Have More Rights Than You Do and What You Can Do About It. Throughout his career, Clements has been an impassioned advocate for the general public, including a tenure as chief of the Public Protection & Advocacy Bureau in the Massachusetts Attorney General’s Office. In a press release, Clements said that Free Speech for People’s new initiative is another step in the fight for equality.

“Americans across the political spectrum know that ‘corporate rights’ and unlimited money in our elections are wrong, and are coming together to ensure that *Citizens United* will not stand,” said Clements. “We are grateful to see so many outstanding legal experts and jurists join in this work to renew our democracy of free and equal citizens.”

Mind If I Order the Cheeseburger? Professor Sherry Colb Tackles the Questions People Ask Vegans

It was at Cornell Law that **Sherry Colb**, Professor of Law

and Charles Evans Hughes Scholar, was first approached about teaching a course on animals and the law. “Prior to that, ethical veganism had been a commitment of mine, but I had not thought of it as a potential area in which I could write and teach as well,” she

Through examples, case studies, and logic, Colb addresses such questions as “What about plants?” “Don’t animals eat other animals?” and “There are no perfect vegans, so why bother?” In the book, she answers them at face value and also delves into the moti-



On December 3, 2013, a book celebration was held at the Law School honoring the publication of Professor Sherry F. Colb’s book, *Mind if I Order the Cheeseburger?* FROM LEFT: Prof. Taimie Bryant, UCLA School of Law; Professor Robert Hockett, Cornell Law School; Sherry Colb; Professor Michael Dorf, Cornell Law School; and Professor Mariann Sullivan, Columbia Law School

says. The results of the suggestion were an animal rights seminar and, later, a book: *Mind If I Order the Cheeseburger? And Other Questions People Ask Vegans*, published this year by Lantern Books.

“Once I agreed to teach a course on animal rights, I began reading and thinking about the subject in new ways,” explains Colb. “Writing a book about the most common philosophical questions that arose in class and out of class felt like a natural next step.”

variations behind various lines of inquiry related to ethical veganism and people’s relationship to nonhuman animals.

Colb’s background in law also gave her exposure to these questions. While clerking for U.S. Supreme Court Justice **Harry Blackmun**, she worked on the case *Church of Lukumi Babalu Aye v. City of Hialeah*, concerning an ordinance prohibiting animal sacrifice. Practitioners of the Santeria religion challenged the ordinance on First Amendment

Americans across the political spectrum know that ‘corporate rights’ and unlimited money in our elections are wrong, and are coming together to ensure that Citizens United will not stand.

— Jeff Clements ’88



grounds while the city defended the law as an effort to protect animals from cruelty.

“As I read the briefs in the case and thought about the interests of nonhuman animals in a more systematic way, I came to realize that our legal system consistently treats animals as resources for human use, whether they are used for animal sacrifice or, much more commonly, as sources of flesh, hormonal secretions (like dairy and eggs), skin (leather and fur), and hair (wool),” says Colb. “Singling out animal sacrifice thus plainly reflected an antipathy to a particular religious group rather than any genuine commitment to protecting animals from suffering and death.”

The Court ruled that the ordinance violated the church’s right to Free Exercise of Religion. Colb adds, “Thus began my journey into thinking in a more clear-eyed way about what would have to happen for us to demonstrate a true commitment to the interests of nonhuman animals, rather than an expression of prejudice against the particular ways in which one individual or culture happens to hurt animals, whether it be Santeria or dog-fighting rings.”

These issues are also examined in Colb’s seminar, which provides a broad survey of the challenges that different writers have posed to the status quo regarding nonhuman animals and includes lectures from guest experts in a variety of

fields. “The response to the course has been extremely positive,” says Colb. “Students have told me that the ability to think critically about the validity of an entire legal category has strengthened their analytical and argumentation skills within existing legal categories like torts, contracts, and constitutional criminal procedure.”

She adds, “People taking the seminar have also said that it exposed them to some of the most profound moral debates of our time. They are able to think critically about information that rarely undergoes any kind of public scrutiny. The willingness to look skeptically at the ‘facts’ that ‘everyone knows’ is invaluable in the law, because attorneys need to be able to question what no one else questions.”

Federal Mediation and Conciliation Service Director George Cohen ’57 Visits Labor Law, Practice, and Policy Class

“The day that a union gets certified as the exclusive bargaining agent follows almost inevitably after three or six months of a horrific organizing campaign,” **George Cohen ’57** told students of the Law School’s Labor Law, Practice, and Policy class on October 24. “So now comes the \$64 question: If that’s how relationships begin, how are they going to end?”

Cohen, director of the Federal Mediation and Conciliation Service (FMCS), has addressed

that question throughout an extensive career as a labor lawyer, negotiator, and mediator. As a senior partner at Bredhoff & Kaiser from 1966 to 2005, he represented labor organizations across a wide variety of industries, including sports, entertainment, steel, airline, and rail, and government entities employing teachers, police, and firefighters. Cohen has argued five landmark labor cases before the United States Supreme Court and more than 100 appellate and federal district court cases.

He was listed in *Best Lawyers in America* for twenty-five consecutive years and has been named a Legend of the DC Bar.

During his presentation to the class, Cohen discussed the work of the FMCS, an independent agency created by Congress in 1947 to preserve and promote labor-management peace and cooperation. Headquartered in Washington, D.C., with two regional offices and more than seventy field offices, the FMCS provides mediation and conflict resolu-



George Cohen ’57



He has personally mediated some of the most contentious and high-profile labor disputes in the country, earning the respect of both organized labor and management.

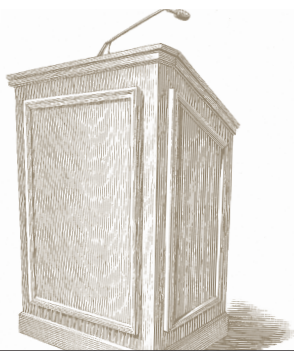
— Angela B. Cornell



tion services to industry, government agencies, and communities. As Cohen put it, “We have a variety of models to take [labor-management relationships] from destructive animosity to nirvana.”

“It’s all behavior modification,” he explained, speaking of the techniques FMCS mediators use as they seek to guide parties from contention to problem solving. Responding to student questions, he also addressed the importance of neutrality and the mixed blessing of the FMCS’s lack of enforcement power.

“Few people can draw on George Cohen’s great wealth of experience as an accomplished practitioner in the field of labor and employment law and as an extraordinarily successful neutral leading the Federal Mediation and Conciliation Service,” says Professor **Angela B. Cornell**, director of the Labor Law Clinic, who teaches Labor Law, Practice, and Policy. “He has personally mediated some of the most contentious and high-profile labor disputes in the country, earning the respect of both organized labor and management.”



Law School Faculty Help Alumnus Win New Mexico Supreme Court Civil Rights Case

At the end of last year, **Shannon Minter '93** approached his former constitutional law professor **Steven Shiffrin**, about writing an amicus brief on an important civil rights case out of New Mexico. Minter, the legal director of the National Center for Lesbian Rights, recruited attorneys and coordinated briefs in the case. There were a number of issues at bay, and Shiffrin agreed to tackle the free speech angle, recruiting fellow professor **Michael Dorf** to join him.

The case was *Elane Photography v. Vanessa Willock*, which centered on discrimination against a same sex couple stemming from a refusal to photograph a commitment ceremony. On August 22 the New Mexico Supreme Court ruled in favor of the plaintiffs, ruling that their rights were violated.

“It’s an important victory for equality,” says Shiffrin, the Charles Frank Reavis Sr. Professor of Law, who added that he believes this case will be appealed. “It sets an important precedent for other states to follow. It may be persuasive for a number of courts across the country. That’s why it will be appealed. There’s some chance that the Supreme Court may take it, but no one gets rich guessing which cases the court will take.”

It is gratifying to see sexual orientation being treated in the same way. But if this case had gone the other way, you would see a flood of cases seeking exemptions from anti-discrimination laws.

— Michael Dorf

”



Shannon Minter '93

The case involved the plaintiff’s refusal to photograph a same-sex commitment ceremony. In 2006, **Vanessa Willock** sent an e-mail to Elane Photography, LLC to ask its co-owner, **Elaine Huguenin**, if she would photograph her commitment ceremony. In response, Huguenin replied that she would not photograph the ceremony because she only worked “traditional weddings” and the ceremony was against her religious beliefs.

Willock filed a complaint with the New Mexico Human Rights Commission for violating her rights pursuant to the New Mexico Human Rights Act (NMHRA). The commission found for Willock, and Elane appealed the decision. Ultimately, the state’s Supreme Court granted certiorari to the case. Elane claimed that the decision should be overturned, offering two main arguments: first, that opposition to same-sex marriage did not amount

to discrimination based on sexual orientation; and second, that even if it did, the First Amendment protects photographers from what Elane claimed was compelled speech.

In their brief, Professors Shiffrin and Dorf focused on the compelled speech issue. They argued that the application of the NMHRA to Elane Photography was in fact constitutional. To support their conclusion, the professors denied that photographing a same-sex ceremony necessarily conveys any particular view about the morality of the ceremony. As they wrote, the photographer isn't expressing sentiments, but trying "merely to capture the speech of others (which also partly explains why the photographer may differ from the essayist or the singer)."

Though this may not be the last of the case, it does mark a continuing trend in the fight for equality.

"The decision of the New Mexico Supreme Court shows that the inclusion of sexual orientation in anti-discrimination law has become well accepted," says Dorf, the Robert S. Stevens Professor of Law. "Virtually no one would argue in 2013 that a wedding photographer should have a free speech right to discriminate on the basis of race or sex. It is gratifying to see sexual orientation being treated in the same way. But if this case had gone the other way, you would see a flood of cases seeking exemptions from anti-discrimination laws."

LGBT Clinic Releases Report on How Current Immigration Bills Impact the LGBT Community

Cornell Law School's Advocacy for LGBT Communities Clinic and United We Dream's Queer Undocumented Immigrants Project ("QUIP") presented their report on the enforcement-only immigration bills currently proposed in the U.S. House of Representatives.

These bills make a broken immigration system even worse and will subject thousands of LGBT people to violence and uncertainty. This would criminalize 30 percent of all LGBT immigrants living in the United States today.

— Cristina Quinones-Betancourt '14

”



Prior to the congressional briefing on November 20, 2013, members of Cornell Law's LGBT Clinic participated in a protest at the Longworth House Office Building.

The report called *Broken Dreams: How Enforcement-Only Bills in the House of Representatives Threaten to Further Marginalize the LGBT Undocumented* was released at a congressional briefing in Washington, D.C., on November 20.

The panelists included **Cristina Quinones-Betancourt '14** of the LGBT Clinic, **Juan Carlos Ramos** of QUIP, **Olga Tomchin** of the Transgender Law Center, and **Marco Quiroga** of Immigration Equality. The panelists discussed the effects on LGBT immigrants of the SAFE Act,

the Legal Workforce Act, the Agricultural Guestworker Act, and the SKILLS Visa Act.

"These bills make a broken immigration system even worse and will subject thousands of LGBT people to violence and uncertainty," said Quinones-Betancourt. "This would

criminalize 30 percent of all LGBT immigrants living in the United States today.”

Quinones-Betancourt spoke of additional risks that LGBT immigrants face, adding, “This can be problematic for members of the LGBT community because they can be deported to countries that are hostile to LGBT individuals.”

Ramos described his own experience as an undocumented immigrant and gay man. He remembers being put into a detention center for two days when he arrived in the United States as a child. He has suffered discrimination as a member of two minority communities and, as a result, has decided to speak out on this issue.

Thomchin explained “Many trans people fled their home countries because they experienced violence and they thought they would be safer in the United States.” But as it turns out, “Trans people have experienced such high rates of violence in both their home countries and in the United States, that as a result, many suffer from post-traumatic stress syndrome.”

“It was great to see such a large turnout for the briefing,” said **Susan Hazeldean**, assistant clinical professor of law and director of the LGBT Clinic. “Meaningful immigration reform is critical for the LGBT community, especially the hundreds of thousands who are undocumented.”

Same-Sex Marriage in the South African Constitutional Court

In 2005, South Africa’s Constitutional Court ruled that denying same-sex couples the right to marry was unconstitutional. “But that’s not the end of the decision; that’s the beginning of the decision,” recounted **Albie Sachs** as he delivered the year’s first Berger Lecture at the Law School on September 4. Sachs was appointed to a six-year term as an A.D. White Professor-at-Large in 2012. This was his first official visit to Cornell.

A renowned lawyer, judge, activist, scholar, and author, Sachs worked at the forefront of the struggle for justice and freedom in South Africa during apartheid, surviving imprisonment, exile, and a car bomb explosion. As a member of the national executive committee of the African National Congress, he took part in the negotiations that made South Africa a constitutional democracy. From 1994 to 2009, he sat on the Constitutional Court, and he was the author of its decision on *Minister of Home Affairs v. Fourie*, the same-sex marriage case.

“I think our court is unique in the world in the extent to which it workshops,” said Sachs during the lecture. After months of discussion, the justices ruled unanimously that the common law definition of marriage and section 35(1) of the Marriage Act of 1961 constituted unfair discrimination



Albie Sachs

That’s the way people are and the way some people express their love for each other. And we as South Africans are better people—all of us, straight and gay—because we accept that.

— Albie Sachs

against same-sex couples. The most difficult task in writing the decision, Sachs recalled, was recognizing the deep religious beliefs held by the majority of the country’s citizens, which made it imperative to present the ruling not as a victory for any particular position but as a victory for a constitutional vision encompassing different, co-existing belief systems.

After issuing its judgment, the court gave Parliament one year to correct the defect in the law, an option that Sachs described as “extremely valuable” for national debate. In 2006, the Civil Union Act came into

force, making South Africa the fifth country in the world to recognize same-sex marriage.

“We still have homophobia in South Africa,” said Sachs, noting the persistence of horrific beatings and “corrective rape” in some areas. “But by and large, same-sex marriage has been accepted. In the last country in the world, in the last continent in the world maybe that you would expect it to be, it’s just accepted: That’s the way people are and the way some people express their love for each other. And we as South Africans are better people—all of us, straight and gay—because we accept that.”

Sachs' Berger Lecture ended a nearly two-week visit to Cornell's Ithaca campus. During his stay, he delivered a university-wide public lecture on August 29 on the theme "Liberating the Mind and Liberating the Heart: South African Experience in Dealing with Terrorism and Torture." He also spent time with students and faculty at the Law School, participating in two classes led by Professors **Muna Ndulo** and **Laura Underkuffler**.

Berger Program Hosts Gara LaMarche

Right after earning his bachelor's from Columbia University, **Gara LaMarche** took his first full-time job in the New York office of the American Civil Liberties Union. In the four decades since, he's helped lead the ACLU, Human Rights Watch, PEN American Center, the Open Society Foundation, and the Atlantic Philanthropies. He's seen the landscape continually shifting, and in "Reflections on the Human Rights Movement," a Berger lecture delivered on November 5 at Myron Taylor Hall, he shared his perspective on a career in human rights.

"Lawyers have always been very important in this movement, because at its root, human rights is a set of moral values grounded in ancient traditions and codified in law," said LaMarche, president of Democracy Alliance. "When I talk to law students, I find that



TOP: Gara LaMarche ABOVE: Gerald Torres

people have a real hunger to use their legal skills to make a better world. The changing nature of legal practices means the path to this kind of work may not be as clear as it once was, but there remains an enormous need for lawyers."

Looking back, he described the infancy of the movement

in the civil rights struggle, its growth to adulthood in the progressive politics of the 1980s and '90s, and its current, primarily professional place in a global network of organizations. Through it all, he sees the needle of human freedom moving slowly in the right direction, though issues grow

steadily more complex and solutions more difficult to obtain.

"Increasingly, our students understand themselves to be global citizens, and their education needs to prepare them for that," says **Laura Spitz**, associate dean for international affairs and executive director of the Clarke Center for International and Comparative Legal Studies. "Bringing speakers to campus to draw students into global conversations is a critical component of students' learning. That's what the Berger speaker series aims to do, and Gara LaMarche's contribution was especially important because he was able to put students' current knowledge of human rights into a broader, global and historical context."

Alumni Share Strategies for Public Interest Legal Careers

The 9th Annual Public Interest Legal Career Symposium was held at the Law School on January 24, 2014. Eleven Cornell Law alumni returned to Ithaca to share their wisdom and enthusiasm with a large student audience. Attendees were energized by the speakers' strategies for building careers dedicated to contributing to the public good.

The symposium featured three panels presented in Myron Taylor Hall and moderated by **Karen Comstock**, assistant dean for public service, and **Elizabeth K. Peck**, director of public service. Each speaker



TOP: Panelists for the 9th Annual Public Interest Legal Career Symposium ABOVE: Michael Levine '80 ABOVE RIGHT: Ben Tettlebaum '12 (left), Melissa Gallow '12, Molly Rowles '08, and Jacques David '05

tions. In addition, the endowment provides support for an annual gathering of public interest alumni on campus to mentor current students and network with fellow Cornellians.

Later in the evening on March 24, close to 100 students attended the symposium's capstone event at Cornell's Statler Hotel, the 15th annual Cyrus Mehri '88 Public Interest Lecture. Mehri, a devoted supporter of the Law School's public interest program, created the annual lecture with the belief that a vital component of legal education is the opportunity to benefit from strong public interest mentors.

PUBLIC INTEREST LEGAL CAREER SYMPOSIUM PANELS

Crossing Borders: Issues of National and International Concern

Michael Pillera '11

Asylum Officer, U.S. Department of Homeland Security

Laura Berumen '10

Attorney, California Rural Legal Assistance Migrant Farmworker Project

Dawn Sikorski '05

Acting Corporation Counsel, Islamic Relief USA

In Our Back Yard: Creative Projects Supporting Local Communities

Jacques David '05

Attorney, The Legal Aid Society Harlem Neighborhood Office, Community Development Project

offered concrete advice on crafting stimulating careers and finding job satisfaction. They provided insights into the best and most difficult aspects of their jobs, offered tips to students interested in pursuing their type of work, and suggested helpful courses, clinics, internships, and other law

school experiences. Speakers also reflected upon the wisdom they have gained and how that impacts their goals for the future.

Beginning this year, the symposium was underwritten by an endowment from the AP Foundation as part of the Frank H.T. Rhodes Public Interest

Law Fellowship. The Rhodes Fellowship, which is now in its third year, provides a salary and benefits for a two-year period to a selected graduate. The graduate partners with a non-profit legal organization on an innovative project designed to improve the delivery of legal services to vulnerable popula-

Molly Curren Rowles '08

Attorney, Jewish Community Alliance

Melissa Gallo '12 Frank H.T. Rhodes Public Interest Fellow, Lawyers' Committee for Civil Rights

Ben Tettlebaum '12

Frank H.T. Rhodes Public Interest Fellow, Conservation Law Foundation

For the People: Government's Role in Consumer Protection**Ronald Chillemi '96**

Acting Insurance Fraud Prosecutor, State of New Jersey Attorney General's Office

James Kim '99

Enforcement Attorney, Consumer Financial Protection Bureau

Yen Hoang '11

General Attorney U.S. Food and Drug Administration

Cyrus Mehri '88**Public Interest Lecture**

"Community Development Law—How to Make a Difference"

Michael S. Levine '80

Executive Vice President and General Counsel, Local Initiatives Support Corporation, New York, NY

Justice Imman Ali Speaks on Child Marriage in Bangladesh

Bangladesh has the third-highest rate of child marriage in the world. Its population is also among the world's most impoverished. According to the Honorable Justice **Imman Ali** of the Bangladesh Supreme Court, the two problems are intimately related. "Child mar-



Henna painted hands of a bride

Institute for African Development, and a member of the Avon Global Center's steering committee, said "Justice Ali addressed a very important challenge of our time: how to ensure that the girl child is protected and that child marriages are ended world wide."

Speaking before Law School students and faculty, Ali laid out his view of the causes and consequences of the practice in

only of the wedded girls but also of the country as a whole. Young brides are exposed to physical and sexual abuse, endure high-risk pregnancies, and are denied access to school or job training. Isolated and disenfranchised, they commonly lack the resources and motivation to educate their own children, perpetuating a cycle of poverty.

The most important means of breaking this cycle, Ali concluded, is education. In his position on the Supreme Court, he has advocated mandatory primary education, as well as economic incentives for parents to send their children to school. Most crucial for changing attitudes toward child marriage, he believes, is informing the girls themselves of its hazards. He expressed optimism in the ability of girls to slowly but surely influence their parents. Asked about the role of technology, he also noted a recent trend: Girls who face marriages are using text messages to alert their friends, who then contact police to intervene.

The Avon Global Center for Women and Justice works with judges, legal professionals, and governmental and non-governmental organizations to improve access to justice in an effort to eliminate violence against women and girls. The Berger International Legal Studies Program sponsors a varied and indispensable array of activities that provide Cornell Law students with legal training and skills of global relevance.

Child marriage, said Ali, is disastrous for the welfare not only of the wedded girls but also of the country as a whole. Young brides are exposed to physical and sexual abuse, endure high-risk pregnancies, and are denied access to school or job training. Isolated and disenfranchised, they commonly lack the resources and motivation to educate their own children, perpetuating a cycle of poverty.

— Imman Ali

”

riage leads to poverty, and that poverty leads to more poverty," he asserted in a September 30 lecture at the Law School.

Ali's lecture, "Child Marriage in Bangladesh: A Harmful Traditional Practice," was presented by the Berger International Studies Program and the Avon Global Center for Women and Justice. Professor **Muna Ndulo**, director of the

Bangladesh, where it affects girls as young as six. He cited custom, poverty, and lack of information among its motivations. Another factor, he said, was the prevalence of sexual assault, which leads many parents to deem the protection of their daughters' chastity prohibitively burdensome.

Child marriage, said Ali, is disastrous for the welfare not

Visiting Professor Offers a Response to Human Trafficking

In the 1990s, Israel became an important destination for international human trafficking, with thousands of people brought into the country to work in prostitution, agriculture, construction, and health-care. But within the last few years, that traffic has largely been stopped by a combination of prosecution, protection, and academic research, including the work of **Daphna Hacker**, who has documented the experiences of men and women living in state-run shelters.

"Compared to other countries around the world, Israel really does offer a unique response," said Hacker, a member of the Tel Aviv University Faculty of Law and visiting professor at Cornell Law, sharing her research in "Sheltering Survivors of Human Trafficking: Lessons from the Israeli Experience" on September 24. "We have a framework of state-funded and state-regulated shelters that are specifically for victims of human trafficking. That



It's not just about policing, but about being a positive role model for the world.

— **Daphna Hacker**



Daphna Hacker

assistance is not conditioned on cooperation with the authorities, and there is a comprehensive basket of services to provide for residents' basic needs, including housing, food, medical treatment, legal aid, therapeutic assistance, and work permits."

Still, many problems continue, which Hacker and co-author **Orna Cohen** explored at length in a research report presented to the U.S. State Department. Starting in 2007, the State Department's annual ratings were an essential tool in persuading Israel to take action, and for Hacker, the United States needs to remain a critical part of preventing trafficking and assisting its victims.

"I would like the United States to continue pressuring Israel, to be reflective of its own problems with human trafficking, and to make itself a model for rehabilitation," said Hacker. "It's not just about policing, but about being a positive role model for the world."

Following her talk, Hacker returned to Tel Aviv University, where she teaches family law, feminist jurisprudence, and qualitative methods. "Daphna Hacker's research on Israel's shelters helps to illuminate what is needed to assist and rehabilitate survivors of human trafficking," said **Elizabeth Brundige**, executive director

of the Avon Global Center for Women and Justice, which co-hosted Hacker's talk with the Dorothea S. Clarke Program in Feminist Jurisprudence. "Having her here at Cornell, sharing her ideas and strategies, has been an eye-opening, inspiring, and galvanizing experience."



Barbara J. Holden-Smith, vice dean and professor of law, poses with the police and military escorts assigned to her during her trip to Nigeria in June 2013 for the International Association of Law Schools (IALS) African Law Deans' Forum. Holden-Smith, who is general secretary of IALS and sits on its board of governors, attended all eight regional law deans conferences that led up to the Global Law Deans' Forum held in Singapore from 25–27 September 2013. At that event, more than 80 law school deans and chairs of law faculties from around the world met to adopt a set of principles of standards and outcomes for a legal education. These global principles grew from the two years of regional law deans' workshops sponsored by the IALS.

Alumni Share Advice On Achieving Success

What does it take to succeed as an attorney? Sharing their stories, the alumni panelists at Homecoming Weekend's "Achieving Success in Today's Legal World," held in the Berger Atrium, represented a broad range of experiences, from sole proprietors to corporate litigators, criminal investigators, investment bankers, and government department heads.

"There was so much diversity on the panel, with so many different career paths, and still, there were consistent themes running through their talks," said **Christina Refhilwe Mosalagae, LL.M. '14**, a representative on the Cornell Law School Alumni Association executive board. "You must be a brand. You must be flexible. You must be confident. You must be able to connect. You must have passion. Because regardless of your choice, that passion is what's going to push you forward, and that's what you need to become a lawyer in the best sense."

John Vukelj '83, a partner in the litigation practice at DLA Piper, opened the panel by discussing the importance of establishing a personal brand to identify what you do best. He was followed by **Ladd Hirsch '83**, a senior litigation partner at Diamond McCarthy in Dallas, who encouraged students to apply for jobs beyond the northeast, and to use social media to explore oppor-

RIGHT: Ladd Hirsch '83 (left), John Vukelj '83, and Christopher G. Hogg, LL.M. '81 BELOW: Mary B. Griffin '88 BELOW RIGHT: Kaumbi Mutinta Ndulo LL.M. '14 (left) and Christina Refhilwe Mosalagae LL.M. '14 BOTTOM: Christopher G. Hogg, LL.M. '81 speaks with a group of students.



tunities in markets Cornellians rarely visit.

Using herself as an example, **Angelique Crain, J.D./LL.M. '02**, director and senior counsel for procurement at Diageo North America, emphasized the importance of flexibility in following an unpredictable career path. "Stay open minded," she said, "and always be ready for new opportunities, because you never know where you're going to end up." New Zealand's **Christopher G. Hogg, LL.M. '81**, managing director and head of FIG capital markets at Macquarie Capital Advisors, addressed stateside opportunities for students from abroad, and talked about finding his own unlikely career in banking.



Having risen from environmental lawyer to assistant attorney general to deputy commissioner, **Mary B. Griffin '88**, commissioner of the Massachusetts Department of Fish and Game, urged students to take advantage of every job, gaining hands-on experience as they moved up the ladder. Then, before opening the floor

for questions, Vukelj underlined the importance of working hard at everything you do, and always maintaining the connections you make as a law student, which will keep propelling your career forward.

"As a student spending a lot of time in the classroom and in the library, it is sometimes hard to have a perspective on

post-graduate life,” said **Minsuk Han ’14**, a representative on the Law School Alumni Association executive board. “The panel discussion truly helped students like me understand what can and will happen after graduation, and how we can best prepare ourselves.”

Visiting Professor Philippe Pradal Serves as Cornell Clerk for France’s Conseil d’Etat

Philippe Pradal, Rudolph Schlesinger Visiting Assistant Professor, served as the Cornell clerk at the Conseil d’Etat last year. The Conseil is the French supreme court for administrative law matters. Since 2009, Cornell has sent a clerk—generally a Cornell Law School alum—to the comparative law division of the Conseil. The primary duty of the Cornell clerk is to educate French supreme court judges in American and British law for the cases that are deemed important by the court.

According to **Bernard Stirn**, current president of the litigation chamber of the Conseil, in about 95 percent of the 30 to 40 most important cases decided by the Conseil every year, judges ask for legal research in comparative law. The Cornell clerk therefore works only on the cutting edge of legal developments.

Among the numerous assignments he completed during his term, Philippe had the opportunity to research U.S. law on

Conseil d’Etat, Paris



The Cornell Clerkship is highly regarded by the Conseil, which uses the research ability of the Cornell Clerk on major cases. In a globalized world, the Conseil wants to know precisely how its case law fits in the global legal community.

— Philippe Pradal



the issue of whether women exposed to a risk of genital mutilation in their home country could be deemed to be part of a “social group” entitled to refugee status. While the American courts had already ruled that it was the case, the Conseil had not. Advocating for the recognition of refugee status for women facing genital mutilation in their home country, the Rapporteur Public¹ directly quoted Pradal’s research on U.S. law in his opinion. The Conseil concurred with the Rapporteur and granted asylum status.

While working at the Conseil, Pradal was on the forefront of judicial law making in France. He was also given the opportunity to participate in Conseil’s intense scholarly activities. He

coauthored a commentary on the U.S. Supreme Court decision *Bowman v. Monsanto* in the law review *Droit de l’Environnement*, and recently published a study of the principles governing the liability of government in the United States in *La Revue Française d’Administration Publique*, a major French law review.

“There is no doubt that this experience has allowed me to broaden my professional horizon both in private practice and in academia,” says Pradal.

The Cornell clerkship program has positioned Cornell Law School at the top of academic institutions interacting with French supreme courts. Indeed, French courts do not have a tradition of having “clerks” and, as a result, the clerkship

has attracted attention from other French supreme courts, which from time to time reach out to the Conseil on an informal basis to benefit from the expertise of the Cornell Clerk. In addition, the Conseil has expressed its wish to strengthen ties with Cornell and American academia. As a result, Professor Mitchell Lasser and the Conseil Vice President Jean Marc Sauvé have agreed in principle to organize a cycle of biennial conferences to be held alternatively at the Conseil and Cornell.

“The Cornell Clerkship is an unparalleled program, which participates in the dialogue of different legal traditions,” says Pradal. “It is highly regarded by the Conseil, which uses the research ability of the Cornell clerk on major cases. In a globalized world, the Conseil wants to know precisely how its case law fits in the global legal community.”

The Cornell Clerkship is funded through donations from Cornell alumni. ■

¹ The *Rapporteur Public* is a judge whose role is to propose how to solve a case to the deciding judges. His or her role can be compared to the role of the Advocate General of the European Court of Justice.

FACULTY



Professor **John H. Blume**, along with his coauthors (Richard O. Lempert, Samuel Gross, James S. Liebman,



Cynthia Grant Bowman, the Dorothea S. Clarke Professor of Law, published two new articles during the last semester. One, "Feminism and the Uses of History: An Essay on the Legacy of Jane E. Larson," was published in the *Wisconsin Journal of Law, Gender, and Society* and presented at the AALS Annual Meeting at a symposium in honor of legal historian Professor Jane Larson, who died the previous year. The second article, also published in the *Wisconsin Journal of Law, Gender, and Society*, was entitled "Learning by Doing: Adding a Clinical Component to a Traditional Family Law Course." It described the new family law clinic Bowman developed as a supplement to the traditional family law course at Cornell and was presented to a conference on new family law pedagogy at the University of Wisconsin Law School.

research projects. He served as program chair for the legal-publication track at the Law via the Internet Conference in Jersey (U.K.), and launched collaborations with researchers at the Australian National University and at the University College Cork. In December, Bruce, with three other founding editors in Spain and Italy, launched the *Journal of Open Access to Law*, which publishes research and policy work related to the open publication of law on the Internet. Most recently, he has been asked to serve as an advisor to a 550,000 GBP project at the U.K. National Archives investigating the use of big data techniques in law. Meanwhile, back home, the LII website has passed the 25-million-unique-visitors-per-year mark, with LII Associate Directors Sara Frug and Craig Newton providing new direction.

Blume, Professor Weyble, and students in the Juvenile Justice Clinic were the architects of the class habeas corpus challenge to South Carolina's juvenile sentencing procedures. The South Carolina Supreme Court agreed to hear the challenge, and oral arguments were heard on January 8.

Stephan Landsman, and Fredric I. Lederer), published a new edition of their evidence textbook, *A Modern Approach to Evidence* (West), in November. Also in November, Blume presented a forthcoming article, "The Unexonerated," at a faculty workshop at the University of South Carolina School of Law. In January, Blume argued on behalf of a class of juveniles sentenced to life without parole in the state of South Carolina. Blume, Professor Weyble, and students in the Juvenile Justice Clinic were the architects of the class habeas corpus challenge to South Carolina's juvenile sentencing procedures. The South Carolina Supreme Court agreed to hear the challenge, and oral arguments were heard on January 8.



Legal Information Institute (LII) Director **Thomas R. Bruce** spent the fall semester working on a variety of LII-related



In December, **Elizabeth Brundige**, executive director of the Avon Global Center for Women and Justice and visiting assistant clinical professor of law, hosted the Center's annual Women and Justice Conference at the United Nations Headquarters in New York City. The conference, which was cosponsored with

the Avon Foundation for Women, Cornell Law School's Dorothea S. Clarke Program in Feminist Jurisprudence, and other partners, examined the role of judges in realizing states' responsibility to eliminate violence against women. It convened more than 100 participants, including senior judges, scholars, and human rights advocates, from over fifteen countries to share strategies and solutions for fulfilling this essential obligation. At the conference, the Avon Foundation for Women announced a new two-year commitment of \$600,000 to support the Avon Global Center's work to end violence against women. Earlier in the fall, Brundige spoke at a symposium hosted by the Inter-American Development Bank on the role of the justice and citizen security sectors in addressing gender-based violence.

Brundige continued to supervise Cornell Law students and

post-graduate fellows carrying out research and advocacy projects in support of efforts to advance human rights. Under her direction, Cornell's International Human Rights Clinic submitted a petition to the Inter-American Commission on Human Rights on behalf of former and current members of the U.S. military. The petition alleged that by failing to prevent and provide meaningful redress for the sexual violence that the petitioners had experienced, the United States violated its obligations under the American Declaration of the Rights and Duties of Man. The Clinic, together with the Avon Global Center, also worked on projects addressing gaps in accountability for sexual violence in South African schools, human trafficking in India, the forcible "virginity testing" of female demonstrators by Egyptian military personnel, and child marriage in Bangladesh.

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In October, at the University of Pennsylvania Law School, **Femi Cadmus**, the Edward Cornell Law Librarian, associate dean for library services, and senior lecturer in law, attended the fall board meeting of NELLCO, an international consortium of law libraries.

Cornell Law Library is one of sixty libraries participating in NELLCO's new pilot project, "Preserving America's Legal Materials in Print" (PALM-Print), managed jointly with the Legal Information Preservation Alliance. Cornell is one of four libraries contributing to the corpus of this collection of primary U.S. state and federal materials. The collection is housed in a storage facility in Windsor, Connecticut, and will be available to all member libraries of PALMPrint.

The library also became one of the founding members of Perma.cc, an online preservation service developed by the Harvard Law School Library in conjunction with university law libraries across the country and other organizations. Perma.cc is a service currently in beta, that allows users to create online citation links that will never break.

Cadmus continues to serve as executive board member of the American Association of Law Libraries (AALL) and attended the fall executive board meet-

ing held in Chicago last October. She also serves as board liaison to the AALL Recruitment to Law Librarianship Committee, the Diversity Committee, as well as the Index to Foreign Legal Periodicals Committee. In the fall, she was a member of the search committee that led a national search for Cornell University Library's Director of the Division of Rare and Manuscript Collections.



Sherry F. Colb, professor of law and Charles Evans Hughes Scholar, was honored by the Law School in December with a celebration of her new book (available on Amazon.com and bn.com), *Mind if I Order the Cheeseburger? And Other Questions People Ask Vegans*. Participants in the book celebration, an event which is available for viewing on the Cornell Law School website, included Professor Taimie Bryant of the University of California, Los Angeles School of Law faculty; Adjunct Professor and Law Lecturer Mariann Sullivan, who has taught at Brooklyn Law School, Cardozo School of Law, and Columbia Law School; and Professor Hockett of Cornell Law School. Through the fall

and winter, Colb gave lectures about the book and about the phenomenon of “stereotype threat” as it applies to ethical vegans. She spoke at Albany VegFest (in November) and for the Rochester Area Vegetarian Society (in December). In the fall, Colb also worked with Cornell Law School’s Professor Dorf on a book they are coauthoring that explores animal rights and abortion.

Colb also continues to publish biweekly columns on Justia.com’s legal commentary site, Verdict (Verdict.Justia.com). Her recent titles include several analyses of abortion-related issues in “What to Expect from the Supreme Court’s Abortion Case This Term,” “Maternal-Fetal Conflicts in Abortion and Fetal Protection,” and “Excluding Pregnant Women from the Right to Terminate Life Support.” Colb also addresses other areas in her columns, including “The U.S. Supreme Court Considers Anonymous Tips,” “U.S. Supreme Court Considers When Heroin Dealing ‘Results’ in Death,” and “The Fortieth Anniversary of the Endangered Species Act and Plato’s Allegory of the Cave.” Colb writes a related blog post at Dorf on Law (DorfOnLaw.org), Dorf’s legal blog, where her biweekly posts generally appear on the same day as her Verdict columns.



Last fall, **Angela B. Cornell**, clinical professor of law and director of the Labor Law Clinic, presented her research on multistakeholder and global framework agreements in Latin America at the Latin American Labor Lawyers Conference in Medellín, Colombia. The event was attended by labor lawyers and academics throughout the region. Earlier in the semester, Cornell was a commentator at the Business and Human Rights Conference at the West

and human rights. In September, she was a participant at New York University School of Law’s Clinical Writers’ Workshop and discussed her paper “Negotiating Human Rights in the Workplace: The Use of Private Agreements in Latin America.”

Cornell also helped draft the *Shadow Report on U.S. Compliance with the International Covenant on Civil and Political Rights, on Freedom of Association and Right to Equality and Non-Discrimination in Work*. She updated the section “Duty of Fair Representation” in the West treatise, *The Employee and Union Member Guide to Labor*

The Labor Law Clinic continues to thrive with considerable student interest and participation. The demand exceeds the available spaces every year. In the clinic, students regularly address a range of traditional labor law inquiries. Some of the most demanding cases for students are the arbitrations that address whether a worker’s termination was consistent with just cause.

Virginia University College of Law. The conference examined the United Nations’ recent work on business and human rights issues and included participants from the UN’s working group on business

Law. During fall semester she also managed to bring a group of her students to hear a labor law case argued in the U.S. Supreme Court.

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student interest and participation. The demand exceeds the available spaces every year. In the clinic, students regularly address a range of traditional labor law inquiries. Some of the most demanding cases for students are the arbitrations that address whether a worker’s termination was consistent with just cause.



This past fall, **Charles D. Cramton**, assistant dean for graduate legal studies, welcomed an incoming LL.M. class of eighty-six students representing twenty-six countries and nationalities (by citizenship and/or education). For the fourth time, there are more women than men in the LL.M. class with fifty-five women and thirty-one men. Seventy-six percent come from Asia (with the largest representation from China), 8 percent from Europe (principally western Europe), and the balance from the rest of the world (with the Americas and Africa having the largest representation). This year we also welcomed two new J.S.D. students (both from the LL.M. class of 2013). They join our sixteen continuing J.S.D. students (ten of whom are in residence this year).

During the fall, Cramton worked with the Cornell LL.M. Association and the Cornell J.S.D. Association in planning and coordinating events and seminars for the international students, including all facets of career services for the LL.M. students. In his role as the Law School's coordinator for continuing legal education, Cramton monitored the school's compliance with the rules and regulations of the New York CLE Board. In calendar year 2013, the Law School sponsored a total of fifty-six Continuing Legal Education programs, on a wide variety of topics.

As a member of the National Association for Law Placement's Advanced Degree and International Advising Section, he was involved in the planning of the program for the upcoming annual meeting in April. He also was active in the Association of American Law Schools' Graduate Programs for Non-U.S. Lawyers Section, and is a member of the section's executive committee.

Cramton is in frequent contact with both the New York Board of Law Examiners and the Court of Appeals to ensure that graduate students will meet the qualification requirements for taking the New York Bar Examination, and he works with LL.M. students on an individual basis regarding any bar admission issues. In January, Cramton participated in the annual International Student Interview Program (one of two job fairs in the United States for international

LL.M. students), cosponsored with New York University School of Law and thirty other U.S. law schools. During the job fair, forty-four of our LL.M. students had interviews with U.S. and international legal employers.



Michael C. Dorf, the Robert S. Stevens Professor of Law, wrote "What Really Happened in the Affordable Care Act Case," which appeared in the *Texas Law Review*, and "Liberalism's Errant Theodicy," which appeared in the *Boston University Law Review*. His 2013 Miller Lecture at Georgia State University was published in the *Georgia State University Law Review*.

Dorf's biweekly columns in the web magazine *Verdict* (Verdict.Justia.com) and his more frequent blog posts at *Dorf on Law* (DorfOnLaw.org) received significant media attention, with quotations and links appearing in stories in the *New York Times*, the *Washington Post*, *Politico*, the *Los Angeles Times*, and elsewhere. Print, radio, and television reporters were especially interested in his views on the constitutional implications of the recurring debt ceiling crisis

and Supreme Court actions involving same-sex marriage and claimed religious exemptions from the Affordable Care Act's contraception insurance mandate.



Cynthia R. Farina, the William G. McRoberts Research Professor in the Administration of the Law, spoke about the online participation research of CeRI (the Cornell e-Rulemaking Initiative) at two Washington, D.C., workshops this fall. On September 17, the Administrative Conference of the United States (ACUS) sponsored "Social Media in Rulemaking," which brought together e-participation thought leaders and practitioners with agency officials from across the federal government to discuss trends and challenges in using Web 2.0 technology in one of the government's principal policymaking processes.

On November 7, the Administrative Law Section of the American Bar Association's fall meeting featured a panel, "What Technology Can Do for Rulemaking," which included not only Farina but also agencies who had worked with CeRI, to talk about the benefits that Regulation Room had brought

to their rulemaking process. Following on the "Social Media in Rulemaking" workshop, ACUS adopted a set of recommendations on use of social media in rulemaking at its December plenary session. In both the supporting materials and the public discussion, CeRI's Regulation Room research was credited for unique contributions in advancing knowledge and defining best practices in this area.

Farina, with coauthors Dmitry Epstein (CeRI postdoctoral fellow), Josiah Heidt (CeRI e-Government fellow), and Mary Newhart (CeRI executive director), published "Regulation Room: Getting 'More, Better' Civic Participation in Complex Government Policymaking" in the peer-reviewed multidisciplinary e-Government journal *Transforming Government: People, Process and Policy*. The article explores barriers to effective citizen engagement and discusses research-based strategies for lowering those barriers. "The Value of Words: Narrative as Evidence in Policymaking," coauthored by Farina with Epstein and Heidt in the peer-reviewed social science journal *Evidence and Policy*, discusses how policymakers might situate the experiential knowledge that new participants tend to contribute in rulemaking and similar public comment periods.

Farina continues to represent CeRI in the small group of civil society organizations advising the White House on the Open Government National Action Plan.



During the fall semester **Michael Heise** presented “Financial Arbitration and FINRA: An Empirical Perspective,” at the Eighth Annual Conference on Empirical Legal Studies, hosted by the University of Pennsylvania Law School. Heise and Cornell colleague Professor Eisenberg (1947–2014) are founding directors of the Society for Empirical Legal Studies, which sponsors the annual conference. Heise’s chapter, “Empirical Analysis of Civil Litigation: Torts Trials in State Courts,” was published in the *Research Handbook on the Economics of Torts* (2013). Finally, “Experimental Evidence That Retaliation Claims Are Unlike Other Employment Discrimination Claims,” cowritten by Heise, David Sherwyn, and Zev Eigen, is forthcoming in the *Seton Hall Law Review*.



During the fall, **Robert A. Hillman**, the Edwin H. Woodruff Professor of Law, published the third edition of his book

Principles of Contract Law. He also completed his portion of volume three of the treatise, J. White, R. Summers, and R. Hillman, *Uniform Commercial Code* (6th ed.), and began work on volume four. The four volumes comprise over 2000 pages on commercial law.

Hillman also contributed an article entitled “The Future of Fault in Contract Law” to a symposium exploring predictions about the nature of contract law in 2025. The article will be published in early 2014 in the *Duquesne Law Review*. Hillman concludes that, despite the current controversy over the role of fault in contract law, fault plays a large role today and will play an even larger role in 2025 in part because of the challenges of electronic contracting.



William A. Jacobson, clinical professor of law and director of the Securities Law Clinic, chaired the Annual Securities Law Seminar for the Public Investors Arbitration Bar Association at its annual meeting in Orlando, Florida, in October. Jacobson, who is a PIABA board member and treasurer, presented an arbitration law update as part of the program.

The *Securities Arbitration Desk Reference* (West), of which Jacobson is a coauthor, also published its 2013–2014 edition.



Anne Lukingbeal, associate dean and dean of students, began her sixth year of service on the American Bar Association Section of Legal Education and Admissions to the Bar Accreditation Committee. She has been appointed vice chair of the Accreditation Committee. She traveled to Chicago in September and to Boston in October to attend regular meetings of the group. In October, she returned to Chicago to attend a meeting of the Accreditation Committee’s Foreign Programs Subcommittee. In Ithaca, she hosted the annual Women’s Law Coalition reception for students and faculty at her home.

In the fall, on behalf of the Cornell Prelaw Advisors, she again moderated “More Than You Ever Wanted to Know about Law School Applications,” an event always well attended by Cornell undergraduates. She also served on the Cornell Endorsement Committee interviewing nominees for the Truman Scholarship, a prestigious scholarship awarding

funds for two years of graduate or undergraduate study. In December, Lukingbeal attended a meeting of the New York State Bar Association Committee on Legal Education and Admission to the Bar in New York.



Peter W. Martin, the Jane M.G. Foster Professor of Law Emeritus, revised and delivered his “Cornell Law School Ghosts” presentation (www.access-to-law.com/video/ghosts.html) to the Law School entering class. Martin also produced the 2013 edition of his online citation guide, *Introduction to Basic Legal Citation* (www.law.cornell.edu/citation/), as well as its companion e-book versions and video tutorials. Following that revision cycle, he launched a new blog, *Citing Legally*, at citeblog.access-to-law.com/.





Professor **Jens David Ohlin** published “Targeting and the Concept of Intent” in the *Michigan Journal of International Law*. The principle of distinction prohibits military forces from intentionally targeting civilians. In contrast, *unintended* collateral damage is permissible unless the anticipated civilian deaths outweigh the

prosecutors, judges, and even scholars have progressively redefined what it means to “intentionally” target a civilian population. In particular, these accounts rely on the civil law notion of *dolus eventualis*, a mental state akin to common law recklessness that differs in at least one crucial respect: it classifies risk-taking behavior as a species of intent. Ohlin’s article voices skepticism about this vanguard application of *dolus eventualis* to the law of targeting, and concludes that

Armed with criminal law principles from their own domestic systems, prosecutors, judges, and even scholars have progressively redefined what it means to “intentionally” target a civilian population. In particular, these accounts rely on the civil law notion of dolus eventualis, a mental state akin to common law recklessness that differs in at least one crucial respect: it classifies risk-taking behavior as a species of intent.

expected military advantage of the strike; this is the principle of proportionality. These cardinal rules were once relatively well settled. However, in a string of recent decisions, international tribunals have completely upended this understanding. Armed with criminal law principles from their own domestic systems,

at stake is nothing less than the moral and legal distinction between terrorists who deliberately kill civilians and lawful combatants who foresee collateral damage.

Ohlin also is in the process of editing two collected volumes. The first, which will be published by Oxford University

Press in 2014, deals with the emerging threat of cyber war. The second book, which will be published by Cambridge University Press, explores the relationship between the law of war and the law of human rights.



Annelise Riles, the Jack G. Clarke Professor of Far East Legal Studies, director of the Clarke Program in East Asian Law and Culture, and professor of anthropology, published “Market Collaboration: Finance, Culture, and Ethnography after Neoliberalism” in *American Anthropologist*, December, 2013. Her article, “Is New Governance the Ideal Architecture for Global Financial Regulation?” was also published in *Monetary and Economic Studies* in November.

Riles presented “Diplomacy and Its Others: The Case of the Comfort Women,” with Karen Knop and Monica Eppinger as the keynote lecture at the Gender and International Law Conference at Ewha Womans University in December 2013. And in October at the American Society of Comparative Law Annual Meeting, she commented on a talk given

by Stavros Gadinis of the University of California on the topic, “Why do Countries Adopt International Financial Standards?”

At Cornell, Riles hosted a speaker series on East Asian Law under the auspices of the Clarke Program in East Asian Law and Culture. The series brought seven speakers to campus and was attended by 300 students and faculty. She continues her work with Meridian 180 (www.meridian-180.org), an online community of leading intellectuals in Asia, Europe, and North America, featuring discussions of current policy issues now in four languages—Chinese, Japanese, Korean, and English. In 2013 the work of this program has significantly expanded. In fiscal year 2014–2015 it will become an affiliated program with the Mario Einaudi Center for International Studies.

Riles also writes about financial markets regulation at collateralknowledge.com.



E.F. Roberts, the Edwin H. Woodruff Professor of Law Emeritus, has been pottering about with the subject of judicial notice for the past half year. The current conventional

Judges answer questions of law, and juries of fact. But what if in olden times the date on a contract in dispute turned out to be a Sunday: would it be seemly for a jury to find that it wasn't a Sunday if a calendar clearly evidenced that it was?

wisdom on that subject is a delightful logical construct. Questions of law can only have one right answer, given that the law would be exposed as an ass if different answers were given in various courtrooms around the state. Questions of fact have two right answers given that a jury answer, one way or the other, will pass muster. Judges answer questions of law, and juries of fact. But what if in olden times the date on a contract in dispute turned out to be a Sunday: would it be seemly for a jury to find that it wasn't a Sunday if a calendar clearly evidenced that it was? Did the defendant supply minors with alcoholic beverages when he gave them shots of 80-proof bourbon? Some questions of fact appear to have only one right answer. These are the questions that are the subject matter of judicial notice because it would be unseemly to allow a jury to come up with a finding contrary to the truths every damn fool knows or which can be established by

reference to sources of indisputable accuracy. Presto, these are questions of fact the judge will answer and instruct the jury they must find to be true.

But since when has the law been such a neat product of logic? James Bradley Thayer, Harvard professor of law, writing in the latter portion of the nineteenth century, is said to have taken a broader view and to have extended the doctrine to include facts very likely true. The judge should take judicial notice of these facts and excuse the proponent of producing evidence, leaving it to the opponent to produce evidence to the contrary if he could find any. Get the show on the road, we might say was his guiding light. The logicians never tire of pointing out that this makes a hash of the neat distinction between a subject of judicial notice and that of presumption. But in an era when the jury is in decline and the costs and time consumption of litigation are matters of concern, is it time to reconsider the Thayer approach? I must confess that

it must have been the Devil who made me insert something to that effect in the latest edition of McCormick's Hornbook on evidence.

And it has set me into looking at Thayer's close association with the early pragmatists Charles Saunders Peirce and William James and, more importantly, that Socratic gadfly about Cambridge, Chauncey Wright. Wright was one of the few people that Oliver Wendell Holmes ever acknowledged as an influence on his thinking. Wright grew up with Thayer in Northampton, Massachusetts, and it was Thayer who oversaw a posthumous publication of Wright's letters and wrote the included sketch of his life. It was Wright who drew a stark distinction between facts and values: facts belonging to the world of science, and values to that of metaphysics, that is to say, groundless speculation. Perhaps we can discern here an echo of Holmes's view that beneath all the fancy talk of principles and ideals, people do as amoebas do and just get on with it as best they can. Arguably this world is closer to our own than the construct of the logicians. Be that as it may, this is the garden in which Roberts plans to spend the upcoming months.



Adjunct professor of law **Gregory Scopino's** article, "Regulating Fairness: The Dodd-Frank Act's Fair Dealing Requirement for Swap Dealers and Major Swap Participants," will be published in volume 93 of *The Nebraska Law Review* (forthcoming, August 2014). In the years leading up to the financial crisis of 2008, investment banks used tactics that were alleged to be misleading and unfair in marketing, selling, and dealing in complex swaps and other over-the-counter derivatives. With the Dodd-Frank Act of 2010, Congress amended federal law to direct the futures and derivatives markets' regulator, the U.S. Commodity Futures Trading Commission (CFTC), to promulgate ethical business conduct standards for these swap dealers and major swap participants ("swap entities"). This included a regulation requiring swap entities to communicate with counterparties in a fair and balanced manner based on principles of good faith and fair dealing. The CFTC fulfilled this directive by adopting Regulation 23.433 in 2012, but the rule merely mirrors the statutory text and the adopting release does not provide much information about the content of the good faith principles for swap entities.

To provide context for the fair dealing rule, Scopino's article examines and analyzes sources referenced in the rule's adopting release—namely, relevant National Futures Association (NFA) guidance and a Senate report about the causes of the financial crisis. The article concludes that an excluder conceptualization of good faith and fair dealing, as exemplified by Section 205 of the Restatement (Second) Contracts, would help to specify Regulation 23.433's strictures. Under an excluder conceptualization of good faith, a list of specific examples of the kinds of communications that would violate Regulation 23.433—taken from NFA guidance and the Senate report—would clarify the fair dealing rule's prohibitions for market participants. Scopino borrowed the idea of using an excluder conceptualization to provide guidance from the writings of Cornell Law Professor Emeritus Robert S. Summers, who (in his writings) had advocated the use of an excluder conceptualization in connection with contract law's implied covenant of good faith and fair dealing. (Incidentally, Summers taught Contracts to Scopino in his first semester as a 1L at Cornell Law School.)



Emily L. Sherwin wrote a commentary for the journal *Legal Theory* on Scott Shapiro's new book, *Legality*. She also wrote a paper on the role of remedies in private law, which she presented at the annual meeting of the North American Workshop on Private Law Theory, held this year at McGill University. She contributed an article, "Common Law Reasoning in the Field of Intellectual Property," to a new book entitled *Intellectual Property and the Common Law*. She continued her research in philosophy, writing several papers on practical and epistemic rationality, with a focus on the rationality of following rules.



Lynn Stout's book *The Shareholder Value Myth* was named Governance Book of the Year by *Directors and Boards* magazine. Throughout the fall semester, Stout, Distinguished Professor of Corporate and Business Law, gave public talks about the book and other subjects at the following events: the Financial Managers

Association Annual Meeting in Chicago in October, Cleary Gottlieb's Twelfth Annual Corporate Governance and Disclosure Seminar in New York City in November, the Annual Meeting of the Senior Roundtable of the National Investor Relations Institute in Miami in December, the Fifteenth Annual Conference of General Counsel in San Antonio in November, the general meeting of the American Philosophical Society in Philadelphia in November, and the Philosophy of Management Association in Brussels in December.



Gerald Torres, the Marc and Beth Goldberg Distinguished Visiting Professor of Law, had a productive fall with three articles in press. The first, an essay on the public trust enti-

tled "The Public Trust: The Law's DNA," explores the constitutional and pre-constitutional origins of the public trust doctrine with particular reference to greenhouse gas regulation. The second essay, "American Blood," is a response to Professor Sanford Levinson as part of the Childress Lecture series at Saint Louis University School of Law. The essay explores the question of "who counts" in political and legal theory. Torres explores this question in the context of federal Indian law where the questions of "who counts," but especially "who is doing the counting," are especially salient. Finally, in anticipation of a keynote address this spring at Harvard Law School, he has completed an essay, "Environmental Justice at Twenty," on the evolution and history of President Clinton's Executive Order 12898 on environmental justice. In addition to these articles, he coauthored "Changing the Wind," an essay on the role of social movements in producing enduring legal change. The essay will be published in

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the *Yale Law Journal* as part of a symposium on the third volume of Professor Bruce Ackerman's magisterial history of the American Constitution, *We the People*.

In addition to his scholarly work, Torres continued to serve on the board of the Natural Resources Defense Council as vice chair of their litigation review committee and as a member of the presidential search committee. He has also continued in his role as founding chair of the Advancement Project, the leading national social justice advocacy group, and as vice chair of Earth Day Network. He also serves on the board of the Bauman Foundation. The Bauman Foundation focuses on advocacy to protect the environment and for public health; advocacy to assure the right-to-know and open, responsive government; and nonpartisan civic engagement in the political process. He continues his work as a member of the advisory committee of the American Law Institute's Restatement Third, The Law of American Indians, and with the Tribal Supreme Court Project.



W. Bradley Wendel spent much of the fall semester finishing a book for Cambridge University Press. Entitled *Ethics and Law: An Introduction*, the book is part of a series on practical ethics in various professional disciplines. Other books in the series include works on ethics and the environment, business, the media, and war. The book is intended to acquaint nonspecialists with

role. Classic examples include defending guilty people, representing abhorrent clients, and using procedural devices to defeat just claims. Understanding legal ethics requires delving into jurisprudential issues such as the nature of law, the relationship between law and morality, and the grounds (if any) for the obligation of citizens to respect the law. Initial work for the book was done in connection with a class called Philosophical Perspectives on Legal Ethics, taught in May at Tel Aviv University. Wendel participated in the course as part of the

considering "Government Lawyers: Advocates or Ethical Watchdogs?" and addressed the ethical responsibility of government lawyers for the legal advice they provide on national security matters. Wendel's paper, coauthored with nationally known capital defense lawyer Russ Stetler, also appeared in a *Hofstra Law Review* symposium (vol. 41, issue 3) exploring the Tenth Anniversary of the ABA Capital Defense Guidelines: The Road Traveled and the Road to be Traveled. Entitled "The ABA Guidelines and the Norms of Capital Defense Representation,"

The book is intended to acquaint nonspecialists with the issues in philosophical ethics that arise in relation to law and the legal profession. The most basic question was stated many years ago by Charles Fried: "Can a good lawyer be a good person?" The answer may seem to be self-evidently yes, but it can be tricky to work out exactly how the standards of ordinary morality should relate to certain actions taken in a professional role.

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faculty exchange program between Cornell and Tel Aviv. The book will appear in print sometime in 2014.

In September in Philadelphia, Wendel took part in Professional Ethics in National Security Law and Policy, a conference sponsored by the University of Pennsylvania, Center for Ethics and the Rule of Law. He spoke on a panel

the paper explores the intersection between tort theory, legal ethics, and the constitutional right to effective assistance of counsel.



R. Wertheimer and N. Bernardo (Adjunct Faculty)

During the Fall 2013 semester, Professors Wertheimer and Bernardo once again taught a seminar course to 2L and 3L students. The focus of the course was review and analysis of real-world commercial real estate transaction documents. The professors redacted final, execution versions of agreements that they used in their practice in connection with real estate transactions that have closed recently. After the students read the agreements independently, the professors led the students in a multi-faceted class discussion. They analyzed with the students the way in which the document was written, exposing the students to contract drafting techniques and “tricks of the trade.” Because these were documents used in actual transactions, the professors described for the students the circumstances under which the contracts were negotiated, and the various perspectives and goals of the parties that were directly and indirectly involved. Students were often struck by the power asymmetries among the parties—while every party comes to the transaction with something to offer and something to gain, the state of the market and external economic factors will often dictate the leverage that

analysis and development of negotiation techniques. Discussions centered on choosing to conduct negotiations on

Students were often struck by the power asymmetries among the parties—while every party comes to the transaction with something to offer and something to gain, the state of the market and external economic factors will often dictate the leverage that parties have vis-à-vis one another.

parties have vis-à-vis one another. By using detailed organizational and deal debt and equity capitalization charts throughout the course, the professors were able to expose the students to an integrated view of a real estate transaction, and then the students applied that knowledge when reading and analyzing the agreements that govern each party’s relationship to the deal. Students gained a real appreciation of the influence that third parties have on transaction documents—for example, although a lender is not a party to the operating agreement that governs the relationship between the property’s institutional investor and its manager, the lender’s requirements will weigh heavily on the rights and obligations that the investor and manager negotiate with one another.

The professors also devoted a portion of the course to the

the telephone vs. in-person meetings, seating placement at a negotiation table, and techniques with which to deal with overbearing and aggressive opposing counsel. The course offered students the opportunity to gain an early look into the everyday practice of real estate law.



Charles K. Whitehead’s article, “Lawyers and Fools: Lawyer-Directors in Public Corporations” (with Lubomir Litov and Simone Sepe), was published by the *Georgetown Law Journal*. The paper, which was profiled internationally in

financial and legal publications, including the *Financial Times* and *Corporate Counsel*, is the first to analyze the rise of lawyer-directors in public, nonfinancial firms. It explains why the number of lawyer-directors has increased, as well as the impact of lawyer-directors on corporate monitoring, and the reduction in risk taking and increase in firm value that results from having a lawyer on the board.

Whitehead was invited to be a visiting professor in the Ph.D. program, Law and Economics of Money and Finance, at Goethe University in Frankfurt, Germany. His course focused on the intersection between the financial markets and corporate governance, with particular attention on the impact of financial regulatory reforms. While at Goethe University, he presented a paper, “Paying for Risk: Bankers, Competition, and Compensation,” forthcoming in the *Cornell Law Review*, which focuses on the role of nonexecutive compensation on risk taking by banks and other financial institutions.

Whitehead also moderated the fourth annual Transactional Lawyering Competition, the country’s only intramural “moot court” for students interested in exploring a transactional career. The competition included sixty student competitors and over thirty alumni-instructors. His media interviews included BBC Radio, Reuters, Fox Business News, and Bloomberg. ■

Curia Evening Draws Record Crowd

In the largest Curia Society gathering in memory, more than 100 alumni came together for the organization's eighty-third annual dinner, held in November 2013 at the Harmonie Club in New York City. Billed as "Curia's Evening with the Judges," highlights of the event included a mini-reunion of the Class of 2013 and a lively discussion between **Hon.**

Alison J. Nathan '00, district judge of the U.S. District Court for the Southern District of New York, and **Hon. Anne M. Patterson '83**, associate justice of the New Jersey Supreme Court, moderated by **Hon. Loretta A. Preska**, chief judge of the U.S. District Court for the Southern District of New York.

"It was an outstanding program," said **Margaret Finerty '78**. "Three prominent women



There's a large Cornell presence in New York City, and we should all take full advantage of it. There are vast social opportunities, vast networking opportunities, and there's a lot of pride that comes from being part of this community. Staying involved is very worthwhile, and we need to keep moving forward, starting new initiatives, and making this community even stronger.

— Adam Augusiak-Boro '13



judges, at the pinnacle of their profession, talked about their careers and the paths they had taken to reach the bench. Hearing them directly discuss their experiences was invaluable for everyone present,

and what made it even more special was that both of the judges being interviewed were Cornell alums."

"The judges were enormously accessible and personable,



LEFT AND BELOW: Over 100 alumni attended Curia's Evening with the Judges in November in New York City.



Hon. Loretta A. Preska (left) and Hon. Allison J. Nathan '00



which was especially important for our recent graduates to see," added co-organizer **Neil V. Getnick '78**. "In this early stage of their careers, the likelihood is that most of their interactions with the judiciary will take place from the other side of the bench. We want them to know that judges, even extraordinary judges like these, are real people, too."

Curia was founded in the 1930s by a group of Jewish law students responding to their exclusion from the national legal fraternities of that era. For Getnick, who's been attending these dinners since graduation, it's especially meaningful that the society's spirit of inclusivity continues into the future. Getnick and co-organizer **Hon. Stephen G. Crane '63**, recognizing the importance of sustaining Curia's legacy, focused their efforts on the Law School's most recent graduates, and succeeded in drawing twenty-

one members of the Class of 2013 to their first-ever event.

"Our goal is to keep Curia a focal point for Cornell alumni of all classes in the metropolitan region, and to keep them committed to their alma mater," said Crane, who attended the dinner with his daughter, **Hon. Melissa A. Crane '91**, and who has gone from being the youngest member in 1969 to becoming one of the oldest. "For the future of the organization, we need to engage

younger alumni. Thanks to Neil and Peggy, we had a big attendance of newly-minted lawyers, and the feedback has been terrific."

After spending the summer studying for the bar, and the autumn acclimating to life after law school, the Class of 2013 enjoyed a much-needed opportunity to reconnect as they begin this next stage in their careers. "It was great to see my classmates," said **Adam Augusiak-Boro '13**, who started working last fall as a

corporate associate at Paul, Weiss, Rifkind, Wharton & Garrison. "There's a large Cornell presence in New York City, and we should all take full advantage of it. There are vast social opportunities, vast networking opportunities, and there's a lot of pride that comes from being part of this community. Staying involved is very worthwhile, and we need to keep moving forward, starting new initiatives, and making this community even stronger."



Three prominent women judges, at the pinnacle of their profession, talked about their careers and the paths they had taken to reach the bench. Hearing them directly discuss their experiences was invaluable for everyone present, and what made it even more special was that both of the judges being interviewed were Cornell alums.

— Margaret Finerty '78



Ten Sworn into the United States Supreme Court Bar

On December 3, 2013, the Cornell Law School Office of Alumni Affairs hosted its annual group admission to the United States Supreme Court Bar Association. Ten alumni raised their right hands to uphold their office as newly sworn-in members of the bar.

The two-day event included a special dinner on the eve of the ceremony for alumni inductees and their guests at the Monocle Restaurant on Capitol Hill, a breakfast on the morning-of at the Court, an opportunity to attend the day's oral argument, and a private docent lecture in the courtroom afterwards. At

It was a wonderful event. Having the dinner beforehand was a great way to meet the others who were being admitted. Learning about the cases made the court experience more meaningful.

— Janet Bostwick '80

the dinner, current Law School student **Chanwoo Park '14** presented the two arguments

that would be heard the following day in Court. Stewart J. Schwab, the Allan R. Tessler

Dean and Professor of Law, then invited the group to vote on the outcome and he tallied the decisions. As **Janet Bostwick '80** noted, "It was a wonderful event. Having the dinner beforehand was a great way to meet the others who were being admitted. Learning about the cases made the court experience more meaningful. It was a special time—and the added elements from the alumni group made it more so. I would highly recommend that others do this event in the future."

The ceremony commenced at 10:00 a.m. in the courtroom of the United States Supreme Court in Washington, D.C. Among the admitted were **Janet E. Bostwick '80, Jacob M. Lebowitz '01, Dan T. Moss '07, Leslie A. Saint '07, David A. Pierce '92, Philip M. Eisenberg '64, Joshua S. Eisenberg '00, Robert Ziff '92, Renee Pristas '09 and Susan Warshaw Ebner '80.**

The Alumni Affairs Office recognizes **Arthur Siskind '62** who moved the party forward in Court. Siskind was sworn in as a member of the Supreme Court with the Cornell Law group just last year.

The 2014 swearing-in is scheduled for Wednesday, November 12. If you are interested in being part of this prestigious group, please contact Kristine Hoffmeister, Director of Alumni Affairs at ksh54@cornell.edu.



The group in the East Conference Room of the Supreme Court building. FROM LEFT TO RIGHT: Chanwoo Park, David Pierce, Renee Pristas, Leslie Saint, Philip Eisenberg, Arthur Siskind, Dean Schwab, Susan Warshaw Ebner, Janet Bostwick, Joshua Eisenberg, Dan Moss, Robert Ziff, Jacob Lebowitz)

"Cornell in Hollywood" Alumni Event Entertains 100+

The Office of Alumni Affairs, in partnership with Cornell in Hollywood, presented a well-attended event at Paramount Pictures Studio on the evening of December 6. As darkness fell and Paramount's holiday lights began to glitter, guests and participants arrived to enjoy a reception in the lobby of the Paramount Theater before the main event. Hosted by **Rebecca Prentice '82** (executive vice president and general counsel at Paramount), "The Wacky World of Entertainment Law" featured an esteemed panel of entertainment-industry attorneys willing to offer insights about how they identify and resolve ethical conflicts that can arise in their field. More than one hundred Cornell alumni (Law School and then some) listened as **Joseph Calabrese '81** (partner, O'Melveny and Myers), **Michael Chernuchin '81** (executive producer), **Robert Getman '81** (partner, Jackoway Tyerman Wertheimer Austen Mandelbaum Morris & Klein), and **Derek Arteta** (vice president, Motion Picture Legal/Marketing, Paramount Pictures) described various ethical challenges they have confronted while working in the entertainment industry.

Their four-part dialogue qualified the event's attendees for one hour of California MCLE credit toward satisfying the Ethics Requirement. Prentice moderated the panel discussion



LEFT: Rebecca Prentice '82, executive vice president and general counsel at Paramount
BELOW: Sumee Oh, AB '04, Jennifer Craig, AB '08, Erin Flinn, AB '00, Nancy Mills, BS '64, Barton Mills, AB '64



to great effect, with the result that the evening was both entertaining as well as informative. Indeed, Prentice made this memorable event possible by agreeing to host it and by offering a glamorous and beautiful venue. It was the first Law School alumni event held

at Paramount Pictures Studio since **Jay Rakow '77**, Prentice's predecessor as Paramount EVP/GC, hosted a Law School event in the spring of 1995. Essential, too, was the cosponsorship of Cornell in Hollywood, an alumni organization closely allied to the Cornell Club of Los Angeles. CCLA board

member and secretary **Nancy Mills** facilitated this first-time partnership with the Law School's Office of Alumni Affairs and also merits credit and thanks for this successful and educational evening.

New York Annual Luncheon Focuses on Technological Change

Ever since writing the groundbreaking “Electronic Discovery in Federal Civil Litigation: Is Rule 34 Up to the Task?” (2000), **Hon. Shira A. Scheindlin ‘75**, U.S. District Judge for the Southern District of New York, has been at the forefront of legal discussions on electronic records. She literally wrote the book on it, *E-Discovery: The Newly Amended Federal Rules of Civil Procedure* (2006), and in January, she continued that conversation at the New York Annual Luncheon, giving a talk, “How Technology Is Changing the Practice of Law and the World We Live In.”

“For those of us working with electronic discovery as a regular part of our litigation practice, it was an enlightening presentation,” says **Ladd Hirsch ‘83**. “It’s a very interesting, timely subject, and one that reflects the brave new world in which we live. Judge Scheindlin clearly demonstrated that she’s well aware of what we’re dealing with as practitioners. She does appreciate the challenges we face, and she shed light on a number of these issues from her perspective on the bench.”

After years as a law clerk, corporate lawyer, assistant U.S. attorney, general counsel, adjunct professor, and special master, Scheindlin rose to the bench in 1994, nominated by President Bill Clinton in an era before smartphones, social media, and electronic filing. By the late ‘90s, when Scheindlin



ABOVE: Hon. Shira A. Scheindlin ‘75, U.S. District Judge for the Southern District of New York
RIGHT: Maria Fernandez ‘92, Gene Lee ‘92, Jacquie Duval ‘92, Kelly Tullier ‘92, William Barrett ‘92
BELOW: Hon. Gligor A. Tashkovich (left) and Ladd Hirsch ‘83
BELOW RIGHT: Hon. Shira A. Scheindlin and Dean Stewart J. Schwab

was drafting rules for class action suits as a member of the Advisory Committee on Civil Rule, all that had begun to change, and the legal profession needed to catch up quickly.

“I’ll never forget it,” said Scheindlin, speaking after the presentation. “We received a letter from a lawyer that said, ‘It’s very nice that you’re working on class actions, but that’s

not where the future is. You should be addressing electronically stored information.’ I was intrigued by that letter, and wrote an article about Rule 34, which is about document production. That led to a seven-year effort to pass new rules, and somewhere in the middle, I wrote the Zubulake decisions, which became the landmark opinions in the field to this day.”



For those of us working with electronic discovery as a regular part of our litigation practice, it was an enlightening presentation. It’s a very interesting, timely subject, and one that reflects the brave new world in which we live.

— **Ladd Hirsch ‘83**



Her talk really resonated with me, and I think for everyone there, focusing on the ways that technology has completely upended the way we practice law, and about the practical impact of technology and its privacy concerns on her day-to-day life as a judge . . .

— Katherine P. Ward Feld, M.B.A. '82 /J.D. '83

”

In his introduction, Stewart J. Schwab, the Allan R. Tessler Dean and Professor of Law, praised Scheindlin as “a leading judge on the Southern District of New York, whom we are proud to have as a graduate of the Law School.” By the end of the presentation, as Scheindlin—who’s known for her sense of gravitas on the bench—cracked her last few jokes, alumni around the room were in clear agreement.

“Her talk really resonated with me, and I think for everyone there, focusing on the ways that technology has completely upended the way we practice law, and about the practical impact of technology and its privacy concerns on her day-to-day life as a judge,” says **Katherine P. Ward Feld, M.B.A. '82 /J.D. '83**. “That’s what I like about the New York Annual Luncheon. It’s an opportunity to learn from distinguished alumni, reconnect with classmates, and meet new

people, both inside and outside my practice area. That’s the beauty of the alumni network, and the New York Annual Luncheon in particular. It’s why I always make a point to attend, and as always, I enjoyed it tremendously.”

This year’s event, held in Le Parker Meridien, was sponsored by Cadwalader (**Charles Adelman '73**); Gibson Dunn (**Steven P. Buffone '84** and **David J. Furman '86**); Morrison & Foerster (**Joel C. Haims '93**); Proskauer Rose (**Paul A. Salvatore '84**); Skadden, Arps, Slate, Meagher & Flom (**David E. Schwartz '94**); Tortoise Investment Management (**Randal I. Goldstein '01**); and the Cornell Law School Admissions Office.



Alumni Professorship in Business Law Reaches Goal

Four “completion” gifts from prior donors have brought the endowment fund of the Myron C. Taylor Alumni Professorship in Business Law to its \$3 million goal. **Valerie Ford Jacob '78**, **William F. “Bill” Lee, J.D./M.B.A. '76**, **Frank L. Schiff '84**, and **Mark A. Underberg '81** each made new gift commitments, which, added to their prior support, completed an effort that included five other Law School alumni. Thanks to the generosity of these individuals, Cornell Law School will be able to name the inaugural Myron C. Taylor Alumni Professor in time for the 2014–2015 academic year. The Alumni Professorship in Business Law is the second named professorial chair associated with the Jack G. Clarke Institute for the Study and Practice of Business Law. **Lynn Stout**, Distinguished Professor of Corporate and Business Law, holds the first such chair.

Valerie Ford Jacob, a corporate partner of Fried, Frank, Harris, Shriver & Jacobson, is co-chair and head of the firm’s global Capital Markets Group. Jacob joined Fried Frank in 1978 and became partner in 1986. She acts as counsel to both issuers and underwriters in domestic and international financings and represents her clients in all types of securities offerings. Jacob also counsels corporations on corporate governance and securities regulation. She

is a member of the Law School Advisory Council.

William F. Lee, a partner of Wilmer Cutler Pickering Hale and Orr in Boston, is an intellectual property litigator. During a career of more than thirty-five years, Lee handled some of the era’s most significant patent cases including the “smart phone war” litigations, in which he was lead trial counsel for Apple. In 2012, the *American Lawyer* named him as one of eight finalists for Litigator of the Year. Lee was a member of the Law School Advisory Council from 2002 to 2011.

Frank L. Schiff, a managing partner of MidOcean Partners, a private-equity firm with offices in New York City, concentrates on investments in the business and financial services sectors. Schiff joined MidOcean at its founding in 2003. Previously he was a partner of White & Case, where he headed the firm’s corporate department. Schiff is a member of the Law School Advisory Council and co-chair of the Dean’s Special Leadership Committee.

Mark A. Underberg was most recently a partner in the corporate department of Paul, Weiss, Rifkind, Wharton & Garrison, where he concentrated his practice on public and private merger and acquisition transactions and corporate finance matters. He has also served as general counsel and in other executive positions at The Henley Group, Fisher Scientific International, and Abex.

Underberg was distinguished practitioner in residence at Cornell Law School during the 2012–2013 academic year. He has also taught at Cardozo Law School.

In directing additional gifts to the Alumni Professorship, Jacob, Underberg, Schiff, and Lee have brought to fruition a project that was initiated through the generous gifts from **Stuart J. Hendel '83**, **Craig B. Klosk '84**, **Raymond J. Minella '74**, **Victor J. Paci '80** and **Jennifer Miller Paci '80**, and **Thomas S. Richards '72**.

Bernard S. Berkowitz '56 Planned Gift Creates Endowed Fund

A planned gift from **Bernard S. Berkowitz '56** will establish an endowed fund at the Law School for new initiatives, as identified by the Allan R. Tessler Dean. The Bernard S. Berkowitz Dean's Discretionary Fund will be constituted from a charitable gift annuity that itself is funded by marketable securities and an IRA beneficiary designation. Berkowitz, a partner of Berkowitz, Lichtstein, Kuritsky, Giasullo & Gross in Roseland, New Jersey, has a long-established practice in trusts and estates. His current firm is a spin-off from Hannoch Weisman, the law firm he joined upon his graduation from Cornell Law School almost sixty years ago.

In addition to his Cornell degrees, Berkowitz earned a Master of Laws (LL.M.) from New York University Law



Bernard S. Berkowitz '56

School in 1959. He is a former member of the Cornell Law School Advisory Council and through his philanthropy to the Law School has distinguished himself as one of its most generous benefactors. Berkowitz has, at different times, belonged to the Charter Society, Quadrangle Club, Tower Club, Dean's Circle, and President's Circle giving societies. His most recent gift places him in the Ezra Cornell Circle, the preeminent giving society at Cornell.

Harold Oaklander Endows Public Interest Fellowship

Dr. Harold Oaklander has established an endowment fund to support public-sector legal work by Cornell Law students. The Harold Oaklander Public Interest Fellowship to Advance Justice and Public Policy against Persistent Unemployment will provide Public Interest Fellowship grants to as many as six students every year. To qualify for an Oaklander Fellowship, a student will have



Harold Oaklander

to have secured an internship that involves attorney representation of low-income persons faced with legal issues related to unemployment, such as an unfair denial of unemployment insurance benefits, a discriminatory layoff, or hiring bias against the unemployed. Oaklander Public Interest Fellows also will write a field research report on a topic related to unemployment, based on the work they do in their public-interest internship.

Oaklander is cocreator of the Department of Labor/Alliance for the Prevention of Unemployment program (DOL/APU), which since 2002, has placed seventy Cornell students a year in four-week volunteer internships at one-stop job centers based in state departments of labor nationwide. In 2012, he worked with Karen Comstock, assistant dean for public service, and Angela Cornell, director of the Labor Law Clinic, to reconfigure the DOL/APU program as an eight-week summer internship exclusively for Law School students. The Harold Oaklander

Public Interest Fellowships are designed to support this program and the students who participate in it.

Class of '69 Leaders Appeal to Classmates with Reunion Challenge Fund

With the intention of encouraging reunion-year giving, **Jack L. Lewis '69** and **Scott M. Hand '69** have pledged a combined \$250,000 as a Class of '69 Reunion Challenge Fund. This initiative seeks to promote increased, renewed, and new giving, including multiyear commitments, among Class of '69 graduates in recognition of their 45th Reunion. The goal of the Challenge Fund is to achieve total giving of at least \$500,000 by June 30 through one-for-one matching commitments.

Outright gifts of \$5,000 or more will qualify for a Challenge Fund match. Annual Fund gifts and other commitments made to any designation can be paid over five years (e.g., \$1,000 per year for a donation of \$5,000). Planned gifts, such as bequests, charitable gift annuities, and retirement-plan beneficiary designations, also



qualify for Challenge Fund-matching. Lewis and Hand are optimistic that many of their classmates will consider a planned gift option in addition to their outright support as an effective and convenient means of philanthropy.

Lewis, senior counsel at Morrison Foerster in the firm's Northern Virginia office, has over forty years of experience helping businesses and entrepreneurs develop effective business strategies, from the start-up stage to operation as successful public companies. He has been named as one of America's Leading Business Lawyers by *Chambers USA* and a Virginia Super Lawyer by *Law & Politics*. Lewis also taught business planning for more than ten years at the George Washington University Law School. He is a longstanding member of the Cornell Law School Advisory Council.

Hand is former chairman, president, and CEO of Inco, a major global resources enterprise based in Canada, and currently serves as executive chairman of the Board of Directors of Royal Nickel Corporation in Toronto. He is also a member of the boards of directors of Manulife Financial Corporation, Juno Special Situations Corporation (of which he has been director and co-chairman), and the World Wildlife Fund Canada. Hand originally joined Inco as a corporate attorney in 1973.

Thomas M. Jones '75 Establishes Fund for Business Law

As part of the ongoing initiative to expand the activities of the Jack G. Clarke Institute for the Study and Practice of Business Law (BLI), **Tom Jones '75** has established an endowed fund in support of the institute's annual programming. The Thomas M. Jones Business Law Institute Fund will be used in conjunction with other resources to underwrite the costs of BLI conferences, guest speakers, the Transactional Lawyering Competition, and other programming that the dean, the executive director of the Clarke Institute, and its associated faculty may consider important to offer. This gift effectively complements the impending activation of the Myron C. Taylor Alumni Professorship in Business Law.

Jones is a partner of McDermott Will & Emery in the firm's Chicago office, where he pursues a diverse practice focused on matters of federal and state



Tom Jones

The Thomas M. Jones Business Law Institute Fund will be used in conjunction with other resources to underwrite the costs of the Business Law Institute's conferences, guest speakers, the Transactional Lawyering Competition, and other programming that the dean, the executive director of the Clarke Institute, and its associated faculty may consider important to offer.

tax, insurance regulation, and captive insurance on behalf of clients working in private businesses, multinational corporations, taxable and exempt healthcare, trade associations, and all sizes of joint ventures and enterprises. His transactional experience, which includes all major U.S. and offshore captive insurance jurisdictions, has resulted in high demand for his services as a guest speaker at international seminars and conferences. Jones is a member of the Illinois State Bar Association, the American Bar Association, the Chicago Bar Association, and the International Fiscal Association. He is widely recognized as a leading captive insurance attorney and has been named as such by *Chambers USA* and the *U.S. Legal 500*. In addition, he has won several awards for distinguished service and industry service in his area of expertise. Jones also holds an M.B.A. from

Cornell's Johnson Graduate School of Management.

Donor Honor Roll Additions

The Donor Honor Roll for the 2013 fiscal year, published in last autumn's Forum, inadvertently omitted the names of two alumni who are loyal and generous donors to Cornell Law School.

Lewis M. Ress '54 should have been named with his classmates and, with his wife Esta Ress, also should have been included in the "\$1,000 to \$4,999" giving-level roster.

Bernard Zucker '66 should have been named with his classmates and also should have appeared on the giving-level roster of gifts "Up to \$499."

We sincerely regret these errors.

O'Neil Charitable Trust Honors Judge Albert Conway with Endowed Fund

The William C. and Joyce C. O'Neil Charitable Trust has established an endowed fund in honor of New York State Court of Appeals **Chief Judge Albert Conway** (1889–1969). The Judge Albert Conway Memorial Fund for Legal Research will support scholarly research by a faculty member of Cornell Law School in an area of law important to the jurisprudence of Conway, including administration of the courts; labor and employment law; civil rights, including free speech and freedom of religion; and the common law, including torts, contracts, and property. Trustee **Hollis F. Russell '78** facilitated the establishment of this endowment in keeping with the intentions of the O'Neil Charitable Trust.

The son of English and Irish immigrants, Conway was born, reared, and lived all his life in Brooklyn, New York. He

attended St. John's College for a year, apprenticed as a clerk in his father's law office, and in 1911 graduated cum laude with an LL.B. from Fordham University School of Law. A lifelong Democrat with a fierce sense of social justice and commitment to equality before the law, Conway strove for evenhandedness and bipartisanship throughout his career in government, private practice, and the judiciary. Following the election of **Franklin D. Roosevelt** as governor of the State of New York, Conway was appointed state superintendent of insurance in 1929. Two years later, he won election to the Kings County Supreme Court on the strength of bipartisan support, and was similarly endorsed by both parties upon being nominated in 1939 by then New York **Governor Herbert H. Lehman** to serve as associate judge of the New York State Court of Appeals. Conway was appointed chief judge of the Court of Appeals in 1954 and served in that capacity until reaching

the mandatory retirement age of seventy in 1959. He served two years, from 1960 to 1962, as an official referee of the Court of Appeals, then returned to the bench from 1962 to 1966 on the Kings County Supreme Court. His son, **Hewitt A. Conway** (d. 1996) graduated in the Cornell Law School J.D. Class of 1949.

Advisory Council Welcomes New Members

The Cornell Law School Advisory Council welcomed six new members at its meeting in November 2013. Joining the continuing membership at Myron Taylor Hall for the three-day event were **Michael J. Foster '78, Rebecca L. Prentice '82, Paul Salvatore '84, David J. Scott '78, Kelly Tullier '92, and David J. Wermuth '95.**

Michael Foster is managing director of RFE Investment Partners, a private-equity firm specializing in the acquisition of smaller middle-market, later-stage, and mature companies. Foster joined RFE in 1989, having previously represented the firm as part of his legal practice while a partner of O'Sullivan Graev & Karabell. Based in Connecticut, he has served on the boards of directors of more than thirty RFE portfolio companies and is currently director of several.

Rebecca Prentice is executive vice president and general counsel of Paramount Pictures. Based at the Paramount Studios in Hollywood, Prentice was named by the *Hollywood*

Reporter to the Power 100 List for Women in Entertainment. In addition, she has received the Outstanding Corporate Counsel Award from the Corporate Counsel Section of the Los Angeles Bar Association. Prentice was previously an attorney at Kindel & Anderson in Los Angeles.

Paul Salvatore is a partner of Proskauer Rose in New York City and practices in the firm's Labor and Employment Law Department. Salvatore is consistently ranked by *Chambers USA* as one of America's Leading Lawyers for Business. He also has been recognized by *U.S. Legal 500, Best Lawyers in America, New York Super Lawyers, Guide to the World's Leading Labour & Employment Lawyers*, and similar publications. Salvatore was elected a fellow of the College of Labor and Employment Lawyers by his peer practitioners. In addition, he is a speaker and writer on labor and employment law issues, and has appeared on CNN, Fox News, and a number of business television news programs.

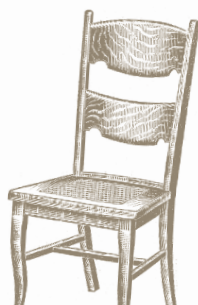
David Scott is senior vice president, general counsel, and secretary of Amgen, having taken these roles in March 2004. From May 1999 to February 2004, Scott served as senior vice president and general counsel of Medtronic, a medical technology company, where he also was secretary from January 2000. From December 1997 to April 1999, he served as general counsel

A lifelong Democrat with a fierce sense of social justice and commitment to equality before the law, Conway strove for evenhandedness and bipartisanship throughout his career in government, private practice, and the judiciary.

of London-based United Distillers & Vintners. From April 1996 to November 1997, Scott served as general counsel of International Distillers & Vintners, also based in London.

Kelly Tullier is senior vice president and deputy general counsel at PepsiCo, based in Purchase, New York. Tullier previously served in that position for PepsiCo's Asia, Middle East, and African division. Before that, she was vice president and general counsel for Frito-Lay. She began her legal career as law clerk to **Hon. Sidney A. Fitzwater** of the U.S. District Court for the Northern District of Texas, and subsequently was an associate in the Dallas, Texas, office of Baker Botts.

David J. Wermuth is a senior principal and the general counsel of Stone Point Capital, based in New York City, and a member of the Investment Committees of the Trident Funds. Wermuth joined Stone Point in 1999 after having served as a corporate attorney at Cleary Gottlieb, where he specialized in mergers and acquisitions. He, too, began his career as a law clerk, serving in that capacity on the U.S. Court of Appeals for the Ninth Circuit.



David Furman '86 and his son Jonathan listen closely to former Associate Law Librarian, Pat Court.

Annual Fund Names New National Chair, Director

The Law School is pleased to announce that **David J. Furman '86** is the new national chair of the Cornell Law School Annual Fund. Furman will carry on the exceptional work of Annual Fund national chair emeritus **Charles M. Adelman '73**. He will work closely with **Kristen Burke**, the Law School's new director of the Annual Fund, and **Christian Shaffmaster**, associate director.

Furman is excited to take the Annual Fund to the next level and reach the milestone of \$2 million by June 30 on the strength of gifts from 2,100 donors. "I'm honored to be part of the Cornell Law School community, even if I'm not in Ithaca," says Furman, "and I'm proud to invest my time and resources in the present

and Wells Fargo. He specializes in representing buyers and sellers of hotels, multi-family assets, office properties, and real-estate debt. Furman is also one of the United States' leading practitioners of Islamic-compliant real-estate products structuring.

In addition to his generous support for the Law School Annual Fund, Furman and his wife **Gail Furman** established the Furman Family Program Fund in 2013 to support programming of the Clarke



I'm proud to invest my time and resources in the present students and future alumni of Cornell Law School, ensuring Cornell's prominent place in the forefront of American legal education.

— David J. Furman '86



students and future alumni of Cornell Law School, ensuring Cornell's prominent place in the forefront of American legal education."

David Furman is a partner at Gibson, Dunn & Crutcher in the firm's New York office. Furman has been recognized as a leading real-estate attorney by *U.S. Legal 500* and the *Best Lawyers in America*. The *Legal News* named him among the top three percent of attorneys in the nation. His clients include such notables as J.P. Morgan, HSBC, Investcorp,

Initiative for Law and Development in the Middle East and North Africa. This initiative promotes peace and economic stability in the Middle East and North Africa by supporting the study of law, student-exchange and visiting-faculty relationships with law schools in the region, international public-interest student internships in Israel and other countries, and opportunities for faculty to serve as visiting scholars, guest speakers, and conference participants. Furman is a member of the Dean's Special Leadership Commit-

tee. His son is a sophomore in Cornell's College of Arts and Sciences.

Kristen Burke was most recently associate director of the Class Agent Program at Cornell's Johnson Graduate School of Management. She also served as a major gifts associate at the Johnson School and has been a member of Cornell's division of Alumni Affairs and Development since 2004. Burke received her B.A. degree from Boston College and earned an M.A. in Communications and Public Relations from Emerson College in Boston.

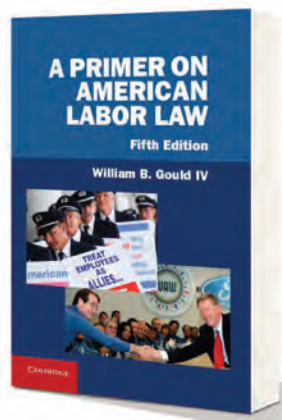
ALUMNI AUTHORS:

William B. Gould IV, LL.B. '61, the Charles A. Beardsley Professor of Law Emeritus at Stanford Law School and Chairman of the National Labor Relations Board (1994–98), has published *A Primer on American Labor Law*, 5th Edition (2013). Much has been said about this book including: "[An] ... indispensable book. ... Both students and practitioners can benefit from this clear and well-written guide to a complex subject." —Robert Flanagan, Konosuke Matsushita Professor of International Labor Economics and Policy Analysis Emeritus, Stanford School of Business. "The fifth edition of Professor Gould's *A Primer on American Labor Law* is a primer only in the sense that he has distilled an enormous body of

The fifth edition of Professor Gould's A Primer on American Labor Law is a primer only in the sense that he has distilled an enormous body of law, much of it exceedingly complex, into an eminently readable volume. But it also is a real tour de force of the topics he covers... both a terrific resource and a terrific read.

— Willis Goldsmith, Jones Day

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William B. Gould IV, LL.B. '61

law, much of it exceedingly complex, into an eminently readable volume. But it also is a real tour de force of the topics he covers... both a terrific resource and a terrific read." — Willis Goldsmith, Jones Day. "This is just what professionals and students need to get them to join the effort to reform, update, and restore the system to meet our country's needs today and for the next generation." —Thomas A. Kochan, George M. Bunker Professor, MIT Sloan School of Management and codirector, MIT Sloan Institute for Work and Employment Research. "Bill Gould has updated his *Primer on American Labor Law* to cover issues that are challenging trade union organizers all over the country. This book is a valuable tool for any organizer, union leader, or labor attorney." —Peter B. Olney, director of organizing, ILWU.

Gerald F. Phillips '50, of counsel, Phillips Lerner in Los Angeles, published *Fair Deal for All Clients*. This book is dedicated to improving the image of lawyers by educating the public about how lawyers bill clients and by convincing lawyers that their billing practices are harming the profession. It gives concrete suggestions for making clients more knowledgeable about billing practices, teaching lawyers to recognize improper billing practices, and urging bar associations to provide ethical guidelines ensuring



Gerald F. Phillips '50



that billing statements are honest.

"Gerry Phillips takes on and exposes the inherent conflicts in much of attorney billing methods. He offers/presents alternatives to financing legal services that better align both client and attorney interest—individual, financial, and moral. An important study for an important profession under scrutiny and stress," says Maureen Weston, professor of law at Pepperdine University School of Law.

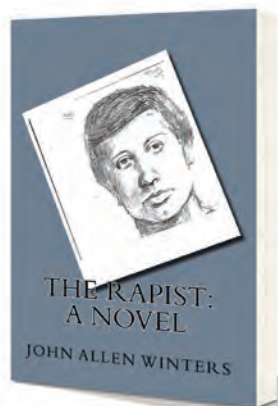
Phillips holds an A.B. from Dartmouth in addition to his J.D. from the Law School. From 1950 through 1988 Phillips practiced law with Phillips Nizer, the prestigious law firm founded by his father, where he initially served as associate and later as partner. At the same time, Phillips was an employee and then vice president of the United Artist Corporation and a chair of the Legal Committee for the Motion Picture Association of America. In his various professional roles, Phillips reviewed thousands of monthly billing statements from outside counsel to United Artists on matters on which he'd worked. In more recent years, Phillips taught law as an adjunct professor at the Straus Institute at Pepperdine University School of Law and has continued his work as full-time mediator and arbitrator. He has also served as an expert witness in billing disputes between clients and their attorneys, lectured and

consulted on client billing, and written extensively on the subject.

Phillips' book may be ordered online at Amazon.com.

John A. Winters '64 is the author of *The Rapist*. The first book in a two-book series, it follows the detailed court proceedings of a sex offender, Jose Garcia, as he becomes progressively more violent. Its sequel, *Return of the Rapist*, picks up the story twenty-six years later upon Garcia's release from prison.

Winters retired in 2003 after practicing law for thirty years in a small town in northern Minnesota. In addition to his



John A. Winters '64

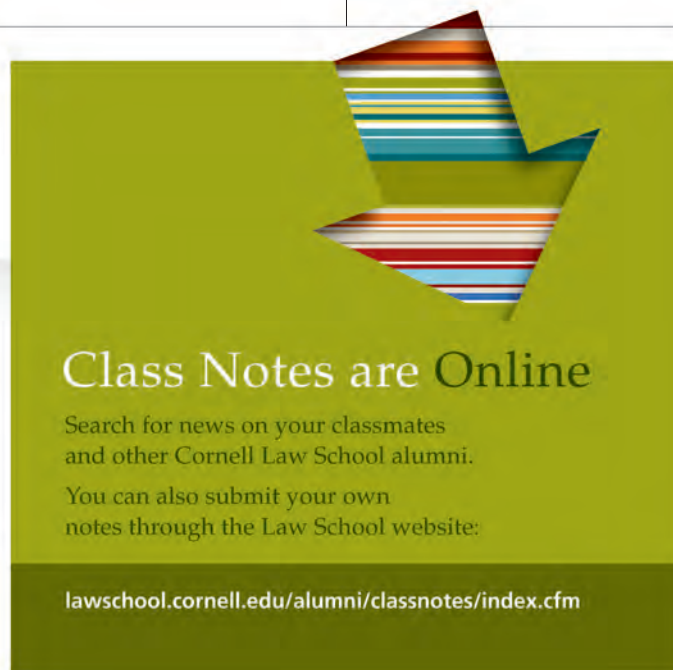


Hard-to-put-down story of the arrest and prosecution of a rapist based on a true story. A fascinating behind-the-scenes look at the tactics of defense and prosecutors and the reasoning of juries. Gives a penetrating look into human nature and the operation of the justice system.



general law practice work, Winters also served as the county attorney for six years. In retirement, he has written the two-volume novel based in part on one of his criminal cases. A reviewer of the first volume described it as follows: "Hard-to-put-down story of the arrest and prosecution of a

rapist based on a true story. A fascinating behind-the-scenes look at the tactics of defense and prosecutors and the reasoning of juries. Gives a penetrating look into human nature and the operation of the justice system." Both volumes are available through Amazon.com. ■



Class Notes are Online

Search for news on your classmates and other Cornell Law School alumni.

You can also submit your own notes through the Law School website:

lawschool.cornell.edu/alumni/classnotes/index.cfm

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Arnold Irwin Burns '53

Jan C. Cheezem '81

Lois L. Crissey '47

Louis D'Amada, LL.B. '61

Lisa S. Dumaw '94

Milton Edelman '48

James T. Embser LL.B. '61

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Susan B. Greenberg '92

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LL.B. '50

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Jr. '42

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John L. Truscott, LL.B. '53

Donald G. Uremovic '93

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Kimber Kay Wheeler, M.B.A.
'88/J.D. '89



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Being a scholarship recipient has changed my life.

Like many students, I needed help to attend an institution like Cornell. Coming from a single-parent household meant that for me, scholarships were a decisive factor in choosing a college and a law school. Thankfully, Cornell was able to provide me with the financial resources that made it possible for me to attend.

Scholarships are crucial in helping to shape each class by providing access to students from all walks of life and different socioeconomic statuses. What I loved most about Cornell Law School was the small class sizes and learning from my dynamic peers.

I will forever be grateful to the Weiss and Lewis families for helping me achieve my professional goals. I would not be where I am today if it were not for the generosity of alumni like them."

”

Marihug Cedeño, B.S. 2007, J.D. 2013

Associate, Weil Gotshal & Manges LLP

Recipient, Herman Lewis Scholarship and
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