



Fall 2019

Remembering a Legal Legend: Judge Joseph L. Tauro, LL.B. '56

> A Conversation with the "Trump Whisperer"

Curtain Call: Tom Bruce, Cofounder and Director of the Legal Information Institute, Retires

Faculty Essays by Valerie Hans and Muna Ndulo





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Fall 2019 Volume 45, No. 2











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Dear Alumni and Friends:

As you read through the articles in this issue of Cornell Law Forum magazine you'll likely be struck by the farreaching impact of our faculty, alumni, and students who are practicing law at the highest levels. This issue focuses on the relationship between Cornell Law School and courts. Wherever you look, you see Cornell lawyers at work, from clerkships to the judicial-selection process to cases argued and won by Cornell Law School clinics at the highest court in the land. While not everyone takes part in clinics or seeks out clerkships, we are constantly striving to create more of these opportunities for our students because we know how valuable they can be.

As I've noted before, students in clinics gain practical legal skills and they learn to be advocates, to speak for those who can't speak for themselves, and to stand up to injustice. And this was certainly a great year to participate in one of thirteen clinics or ten practicums,

with significant victories in our Asylum and Convention Against Torture Appellate Clinic and the successful launch of our new First Amendment Clinic and Entrepreneurship Law Clinic. But the highlight was surely Professor Sheri Lynn **Johnson's** decisive victory at the U.S. Supreme Court in Flowers v. Mississippi, overturning Curtis Flowers's death sentence due to racial bias in the jury selection process. Our cover story for this issue gives a behind-thescenes look at how this

Chapablanco '19 and Sam Macomber '20. Their achievement is further proof that we are home to one of the best capital punishment clinics of any elite law school.

This was also a year in which we set another record with seventy students and alumni receiving judicial clerkships, including one at the Supreme Court, eighteen at U.S. Courts of Appeals, and twenty-seven at U.S. District Courts. In recent years, we've placed more emphasis on helping students secure clerkships and it's encouraging to see

Wherever you look, you see Cornell lawyers at work, from clerkships to the judicial-selection process to cases argued and won by Cornell Law School clinics at the highest court in the land.

momentous win came about and introduces the team of students and faculty in the Capital Punishment Clinic that made it possible. The 7–2 vote is about as close to consensus as one is likely to see in a death penalty case before this Court, which speaks to the powerful persuasiveness of Sheri's advocacy and the effectiveness of her team, which included Professor Keir Weyble, who was cocounsel, and students Pablo

our efforts pay off. Clerkships provide remarkable opportunities for our graduates to sharpen their skills, especially in legal research and writing, and they provide opportunities for lifelong mentorship and networking. Cornell Law School alumni judges have been a crucial part of our clerkship success.

The second feature article in this issue explores the deep and lasting legacy of Judge Joseph Tauro '56, who





served on the U.S. District Court for the District of Massachusetts for more than four decades. Over his tenure, Tauro hired forty-rwo Cornell Law School graduates as clerks, more than any other judge ever has. Following his death earlier this year, there was an outpouring of gratitude from many of our graduates who considered him a lifelong mentor and friend. The article on page 12 is a compilation of recollections and memories of Judge Tauro from many of our alumni, his daughter Beth Tauro '87, and his good friend Supreme Court Justice Stephen Breyer

You'll find more evidence for the importance of mentorships and clerkships in our Profile article on **Brett Mull** '15. Mull's hard work and perseverance took her a long way, but having the guidance and encouragement of **Bradley Wendel**, associate dean for academic affairs and professor of law, gave her the extra boost she needed to excel academically and in her career. She recalls how she and Wendel struck up a conversation after class during her 1L year that "basically continued for the next two years. He quickly became a friend, mentor, and sponsor." As the article explains, one mentorship lead to another as Mull was able to secure a clerkship with Judge Richard Gabriel of the Colorado Supreme Court, who was, and still is, a mentor and source of inspiration.

Also in this issue is an article about a unique and compelling discussion of the judicial selection process at Reunion 2019 between Leonard Leo '89 and Ari Melber '09, two high-profile alumni from different sides of the political spectrum. Leo is executive vice president of the Federalist Society and is nicknamed the "Trump Whisperer" for his role as the president's adviser on Supreme Court and judicial nominations. Melber is host of MSNBC's The Beat with Ari Melber and is the chief legal correspondent for NBC News. The pair treated the overflow crowd of returning alumni to a respectful and wide-ranging conversation about "Judicial Philosophy and Advising U.S. Presidents." The event was

further proof that the Law School remains committed to maintaining an environment of intellectual curiosity and civil engagement across a diversity of viewpoints.

As we reflect on the achievements in the pages that follow, I am grateful for the extraordinary engagement of alumni who play such a vital role in advancing our work. On behalf of everyone at the Law School, I thank you for your steadfast interest and support.

Respectfully,

Eduardo M. Peñalver

Allan R. Tessler Dean and Professor of Law law.dean@cornell.edu

Cornell Law School Team Wins Supreme Court Victory for Curtis Flowers

by Sherrie Negrea



In June, the U.S. Supreme Court overturned the 2010 conviction of Mississippi death row inmate Curtis Flowers, who was represented by Professors Sheri Lynn Johnson and Keir Weyble. Flowers, who is black, had been tried six times by the same white prosecutor for a 1996 quadruple murder that he says he did not commit.



the morning of July 16, 1996, four employees of the Tardy Furniture store in downtown Winona, Mississippi, were shot in the head, their bodies left sprawled on the floor or slumped over the counter.

Seven months later, **Curtis Flowers**, who had been fired from the store two weeks before the murders, was arrested and charged with the quadruple homicide. Flowers, twenty-six at the time, had no criminal record, and there was no forensic evidence linking him to the killings.

Yet over the next fourteen years, the Montgomery County prosecutor, **Doug Evans**, tried Flowers, an African American man who had grown up in Winona, six times for the executionstyle slayings. The first three trials ended with a conviction and death sentence but were overturned by the Mississippi Supreme Court because of prosecutorial misconduct or because prospective jurors had been excluded based on their race. The next two were mistrials, and the sixth resulted in a conviction and death sentence.

In 2011, after Flowers was found guilty in his last trial, two Cornell Law School professors— Sheri Lynn Johnson and

Keir Weyble—agreed to take over the appeal of the case. Working with two students from the Law School's capital punishment clinic, they took the case to the U.S. Supreme Court, which on June 21 overturned Flowers's conviction. In a 7–2 decision, the Court concluded that Evans had violated the U.S. Constitution by repeatedly excluding African Americans using peremptory challenges during jury selection.

While Flowers is imprisoned and may face a seventh trial in Mississippi, the Supreme Court decision will have a significant impact on the issue of racial bias in the selection of jurors. "The Supreme Court has had a number of cases in the past four or five years where they've had prosecutors primarily striking black jurors," said John Blume, the Samuel F. Leibowitz Professor of Trial Techniques and director of the Cornell Death Penalty Project. "I think the Court is trying to send a message: 'Don't do this. Take your peremptory challenges in terms of whether there are legitimate reasons to strike jurors, but don't cheat to win."

APPEAL TO THE MISSISSIPPI SUPREME COURT

The Flowers case landed at Cornell when **David Voisin**, a Mississippi lawyer, asked Johnson and Weyble whether they would handle the defendant's appeal. In the close-knit network







TOP: Curtis Flowers in court in September 2008. **BOTTOM:** Curtis Flowers is lead away from the Montgomery County Courthouse in 2004 after an unsuccessful motion for a retrial.

The numbers are extraordinary all by themselves. For whatever reason, Evans wanted a white jury and did whatever he could to get his white jury.

— Sheri Lynn Johnson

of capital defense lawyers, Cornell Law School is well known because it is one of fewer than ten law schools nationwide that offer a capital punishment clinic fully staffed by faculty.

"I think it's very hard to pull off," said Eduardo M. Peñalver, the Allan R. Tessler Dean and Professor of Law. "You have to have the right people, and they have to have a profile within death penalty advocacy to maintain a flow of cases through the law school. And that requires exceptional commitment on their part."

Voisin knew Johnson and Weyble because they both have deep ties to the capital defense community. Johnson, the James and Mark Flanagan Professor of Law, is a renowned expert on the interface of race and issues in criminal procedure. And Weyble, clinical professor of law, is a nationally known expert in postconviction litigation and has represented prisoners in capital cases across the South for more than twenty years.

When Voisin suggested they take on the Flowers' appeal, both were attracted to the case because of its focus on racial issues in jury selection and the sheer number of trials involved. "I'd never encountered another case that went to trial six times," Weyble said. "That alone made my ears perk up."



As they began researching the case, they found the evidence that racial discrimination had occurred during jury selection to be overwhelming: Out of the forty-three African Americans in the jury pool for Flowers's six trials, Evans struck forty-one. And in the sixth trial, he struck five out of six.

Not only did Evans eliminate nearly all prospective jurors who were African American, he also engaged in disparate questioning of the potential jurors. In the last trial, Evans asked each struck black prospective juror twentynine questions, while asking each seated white juror one question.

"The numbers are extraordinary all by themselves," Johnson said. "For whatever reason, Evans wanted a white jury and did whatever he could to get his white jury."

Another issue that became a focus in their initial appeal was the weak evidence Evans used in the case. For example, a witness who was near the crime scene the day of the murders could identify the perpetrator only as being black and initially named someone else as the suspect, Johnson said.

"He only made identification of Mr. Flowers after there were various suggestive comments made," Johnson said. "So a variety of factors made this an unreliable identification and in our view should have meant that the identification should not have gone to the jury at all."

When the Mississippi Supreme Court reaffirmed Flowers's conviction in his sixth trial, Johnson and Weyble appealed to the U.S. Supreme Court, but it remanded the case back to the lower court. The justices asked the Mississippi Supreme Court to reconsider the case in light of the U.S. Supreme Court's 2016 decision in Foster v. Chatman, which overturned the conviction of a Georgia death-row inmate after he obtained documents showing that prosecutors had highlighted the race of prospective black jurors and written "definite NO!" or "No Black church" after their names.



The line for the oral argument in Flowers v. Mississippi on March 20, 2019.

Capital Punishment Clinic

Started in 1996, the Capital **Punishment Clinic provides** representation to indigent deathsentenced inmates, primarily in the South. Since its inception the clinic has represented approximately thirty death-row inmates and seven individuals charged with capital crimes. Students in the clinic participate fully in the litigation of death penalty cases. Clinic projects vary from year to year, but students have worked on cases at all stages of the criminal process including at trial, on direct appeal, and in state post-conviction and federal habeas corpus proceedings.

Under the supervision of faculty members experienced in capital litigation, clinic students work as

members of legal teams assembled to meet the needs of individual clients. For example, students take part in formulating case theories and strategies; they learn to review court issues, and develop legal arguments; and they often have opportunities to attend and observe court proceedings in clinic cases. Some students will be involved in case investigation, a task that frequently involves meeting with and interviewing clients or potential witnesses, such as mental health experts. In addition to client representation, the clinic also has a classroom component designed to enhance students' knowledge of the law and skills relevant to capital litigation.



TOP AND BOTTOM: Journalists for the podcast "In the Dark" interview people waiting in line to attend the oral argument on March 20, 2019.



The Mississippi Supreme Court, however, did not find Foster relevant to Flowers's conviction in his sixth trial. "They pasted in their previous opinion that ignored the prosecutor's history," Johnson said. "They pasted it in word for word."

SECOND APPEAL TO THE U.S. SUPREME COURT

As they prepared their second appeal to the U.S. Supreme Court, Johnson and Weyble enlisted Pablo Chapablanco '19 and Sam Macomber '20—students in the Capital Punishment Clinic—to work on the case. During the fall '18 and spring '19 semesters, Chapablanco and Macomber worked late into the night, poring over the jury selection records and preparing a 600-page research document that would become an essential part of the arguments made to the Supreme Court. "They did extraordinary work on behalf of Curtis Flowers, combing through the voir dire and all of the statistics," Johnson said.

Chapablanco, now a clerk for a U.S. district court judge in El Paso, remembers being pessimistic that the Supreme Court would grant their petition for a writ of certiorari. Each term, the Supreme Court receives between 7,000 and 8,000 new cases and selects only about eighty of them to review with oral argument.

But during the summer of 2018, Chapablanco changed his mind when American Public Media began airing a series on the case on the podcast "In the Dark." "When we started listening to the podcast and people started to say how good it was and how it was going to win an award, that's when we realized that we're going to be in the spotlight and the work we're doing is actually going to be scrutinized," he said. "It was just a huge help because it opened up a lot of possibilities for us."

What also helped attract the justices' attention was the circumstance of a defendant having been tried for the same crime six times. When they filed their petition to the Supreme Court, however, it focused on a single issue: whether the prosecutor deliberately used race to exclude prospective jurors in the sixth

In its 1986 decision in Batson v. Kentucky, the Supreme Court had ruled that prosecutors may not use peremptory challenges to exclude jurors solely on the basis of race because it violates the equal protection clause of the 14th Amendment.

In their petition, Johnson and Weyble pointed to another hallmark of racial discrimination in jury selection: the disparate questioning. While Evans asked both African Americans and whites about their relationships to Flowers and witnesses in the case, he asked only prospective African American jurors details about those relationships.

"The prosecutor dug very deep to find those potential biases in the jurors, but he did not ask those probing questions of white potential jurors," said Macomber. "So the whole point was the prosecutor was striking jurors and giving some reason, and that was a pretext for race."

On November 2, 2018, the Supreme Court agreed to hear Flowers's appeal, five months after the legal team had filed its petition. The decision started the clock ticking on a deadline to file the brief on the case in forty days.

While they had accumulated a set of written arguments over their six years of work on the case, preparing a brief for the Supreme Court "requires a deeper dive" on the key issues, Weyble said.

"When the Supreme Court decides to hear a case, you're often starting, briefing-wise, from scratch, or nearly from scratch," he said. "You're building a new written product, and that was the case, here. That takes a huge amount of time, especially in a case like this where so much turns on granular factual detail."

On December 27, the team filed the brief, and began waiting for its day in court.



A rendering by Arthur Lien of Sheri Lynn Johnson arguing at the Supreme Court on March 20 on behalf of Curtis Flowers.

THE SUPREME COURT HEARING

The line outside the Supreme Court steps began snaking around the block at 3:00 a.m. the morning of the hearing on March 20. Among the hundreds of people waiting for a coveted seat at the oral argument were Cornell Law students, supporters of Flowers, and avid listeners of the podcast.

At 10:06 a.m., Johnson, who had focused on the issue of race bias from the start of the appeal, began presenting her argument and quickly delved into the numbers in the case. "The only plausible interpretation of all of the evidence viewed cumulatively is that Doug Evans began jury selection in Flowers VI with an unconstitutional end in mind, to seat as few African American jurors as he could," she said.

Making her first appearance before the Court, Johnson was then interrupted by Associate Justice **Samuel A. Alito Jr.**, who asked if she thought she would have a chance of winning the case solely on the basis of the striking of African American jurors in the sixth trial, without the history of the previous trials. Johnson replied, "The evidence still is clear and convincing that Mr. Evans acted with discriminatory motivation in this case, even if we set aside his history, and his—the reasons that he was unwilling to tell the truth in previous cases."

Later in the argument, another answer to Alito's question came from an unlikely corner of the Court—Associate Justice

Cornell Death Penalty Project

In addition to running the Capital Punishment Clinic, the Cornell Death Penalty Project conducts empirical research on capital cases and sponsors periodic symposia related to capital punishment. Areas of particular interest include race and the death penalty, mental impairment and the death penalty, and the law of federal habeus corpus.

Leadership

- John H. Blume, director of the Cornell Death Penalty Project, is a graduate of the Yale Law School. He is the former director of the South Carolina Death Penalty Resource Center, and has been counsel of record in numerous capital cases argued before the United States Supreme Court, the federal courts of appeal and state supreme courts.
- Sheri Lynn Johnson, assistant director of the Project, is also a graduate of the Yale Law School. Her research has focused on the influence of race on the criminal process.
- Keir M. Weyble, director of death penalty litigation, is a graduate of the University of South Carolina School of Law. He has represented prisoners in capital cases in the state and/or federal courts of Alabama, Indiana, Mississippi, South Carolina, Texas, and Virginia, and has served as cocounsel for the prisoner in four habeas corpus cases decided by the Supreme Court of the United States.

Brett M. Kavanaugh, who in a remark to the opposing lawyer, **Jason Davis**, a special assistant attorney general for Mississippi, said, "We can't take the history out of the case."

Over the course of the hourlong hearing, the questions posed by Kavanaugh and Alito are what surprised Johnson the most. "They're very conservative justices, and so I would not have expected them to be sympathetic to any claim of a criminal defendant," she said.

Before the hearing was over, Weyble said it was apparent that the decision would turn in their favor. "This case was not one of those where we had no idea," he said. "It seemed pretty clear early on in the argument that the Court understood what was going on in the case."

For the students who had worked on the case, the hearing gave them the opportunity to watch Johnson's superb skills in oral argument. "She was absolutely amazing," Chapablanco said. "She was really poised and she really addressed each part of the argument. She knew the facts back to back."

What struck Macomber about the hearing was the contrast between the intimate setting of the courtroom and the starkness of the issues in the case. "Professor Johnson was so close to the justices, and they are just nine humans asking questions," he said. "The room is so small, it feels almost conversational, but it was dehumanizing because during an hour of oral argument,

no one after the introduction of the case mentioned Curtis Flowers's name and no one noted the result of this decision is about life and death."

THE DECISION

When the decision was released last June, neither Weyble nor Johnson was surprised that it was written by Kavanaugh. In his thirty-one-page decision, he wrote, "In sum, the state's pattern of striking black prospective jurors persisted from Flowers's first trial through Flowers's sixth trial." He concluded that "we break no new legal ground. We simply enforce and reinforce Batson by applying it to the extraordinary facts of this case."

The Supreme Court remanded the case back to Mississippi for "further proceedings," which could result in a seventh trial. Evans hasn't publicly stated whether he will try Flowers again, but has stated he remains convinced of Flowers's guilt.

"There's no question about [Flowers's] guilt," Evans said in an interview with reporters from the podcast "In the Dark."
"Courts are just like me and you. Everybody's got opinions."

If he does try Flowers again, however, he will have fewer witnesses to prove his case. In the past two years, a jailhouse informant who claimed that Flowers had confessed and a woman who claimed that she saw Flowers running from the murder scene have both recanted their testimony.

"The case has certainly gotten much weaker in the nine years

since it was tried last," said Weyble, who along with Johnson believes Flowers is innocent.
"If I were a prosecutor, I would think pretty seriously about whether I'm just going to embarrass myself by trying this case again."

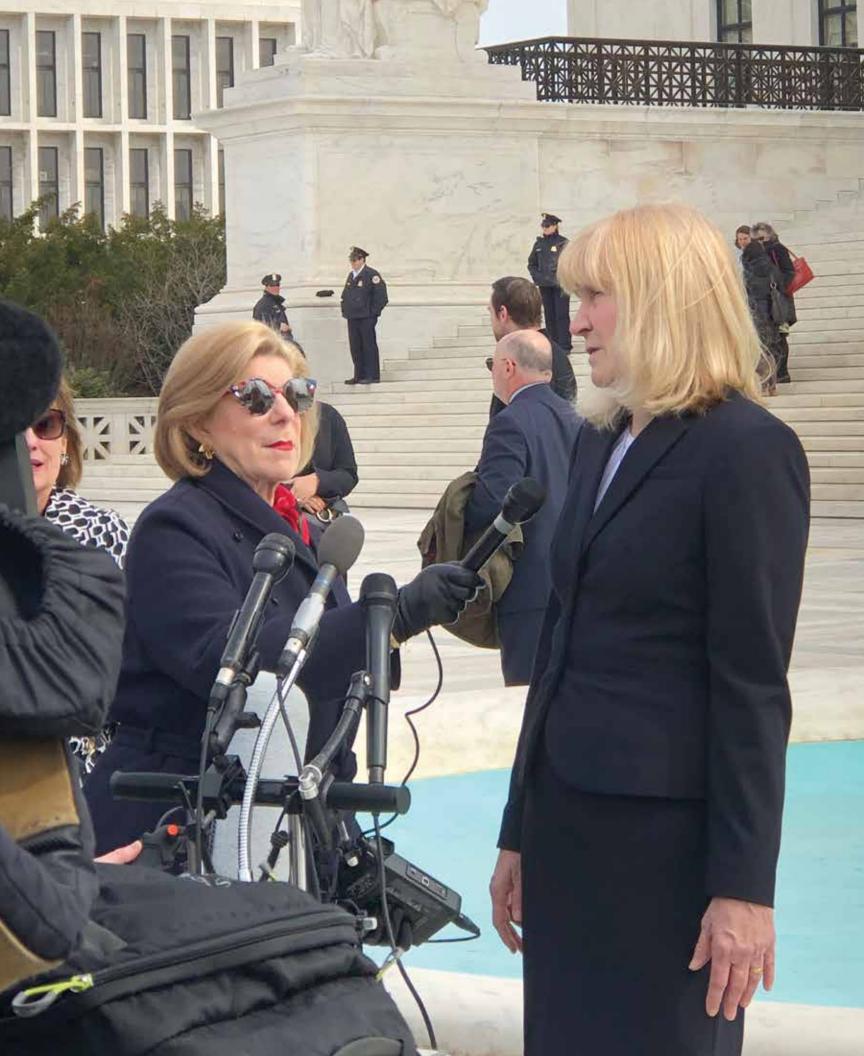
The Supreme Court decision was not only a victory for Flowers but was also celebrated at the Law School, reaffirming the faculty's commitment to representing death-penalty inmates. "There's a lot of commentary from the profession that law schools are out of touch and not engaged with the profession," Peñalver said. "I think Cornell's distinction is that we can theorize and produce scholarship with the best of them, but also our most academically inclined scholars are deeply respective of practice. I think that's something that all of the members of the community—current students, alumni, and faculty—can take pride in."

Cornell Center on the Death Penalty Worldwide

The Cornell Center on the Death Penalty Worldwide is the only center in the United States devoted to research, advocacy, training, and litigation on the application of the death penalty around the world. It promotes transparency through its public database on countries retaining capital punishment, fills gaps in research by issuing groundbreaking reports, and builds the capacity of capital

defense lawyers, particularly in sub-Saharan Africa, through the Makwanyane Institute.

Professor Sandra Babcock is the faculty director of the Cornell Center on the Death Penalty Worldwide. She was the principal architect of the Malawi Resentencing Project, which has led to the release of more than 140 prisoners who had been sentenced to death.



REMEMBERING A LEGAL LEGEND:

Judge Joseph L. Tauro, LL.B. '56



Introduction by Eduardo M. Peñalver

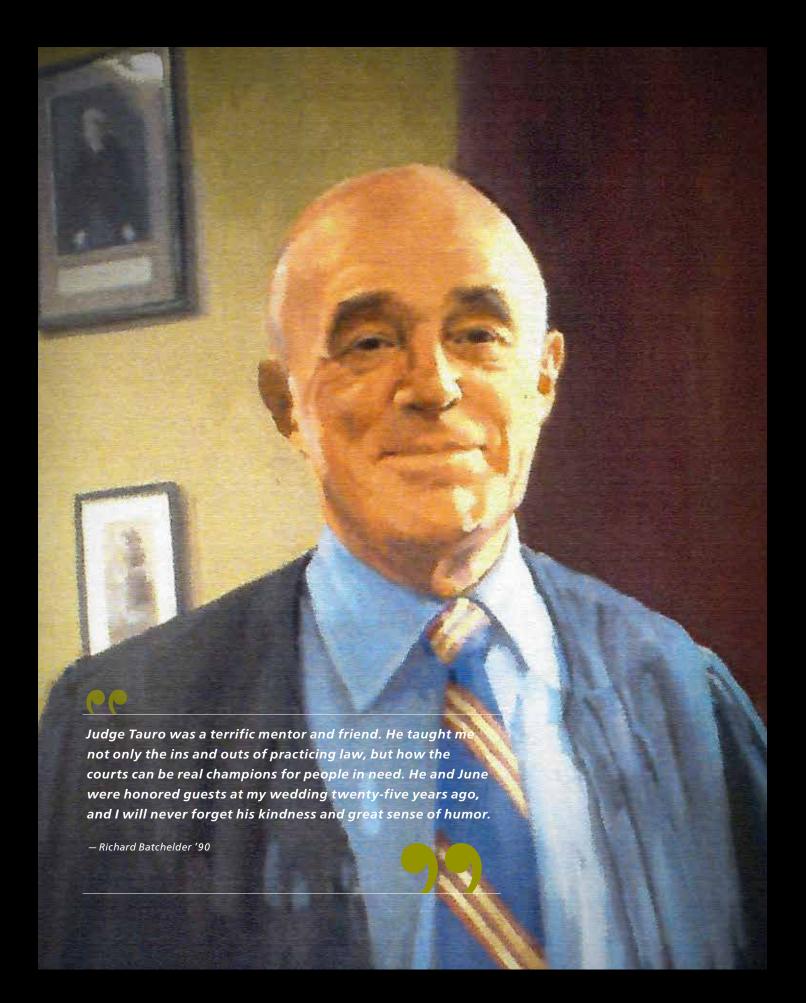


udge Joseph L. Tauro, LL.B. '56, served on the bench of the U.S. District Court for the District of Massachusetts for more than four decades, enjoying the longest tenure of any judge on that court since Congress created the district

in 1789. Appointed by President Richard M. Nixon in 1972, Judge Tauro became chief judge in 1992 and continued in that capacity until he took senior status in 2013. Among his many notable decisions, he was the first judge to hold the Defense of Marriage Act unconstitutional because it violated the equal protection rights of gay and lesbian citizens. He was also a champion of the rights of the most vulnerable, crafting decisions such as the Belchertown consent decrees that created national models for the treatment and care of those with developmental disabilities and mental illness.

When Judge Tauro passed away in November at age eightyseven, he left behind a deep and lasting legacy at Cornell Law School. During his tenure, he hired forty-two Cornell Law School graduates as his clerks on the federal bench—more than any other judge ever has. Our graduates speak of him as a lifelong mentor and friend. Many have reached out to me with words of gratitude to honor him.

In the article that follows, we have compiled the recollections and memories of many of our alumni who clerked for Judge Tauro. In addition, his daughter, **Beth Tauro '87**, has generously provided photographs of her father with his clerks and family members, as well as a short piece describing the moving memorial service for her father held in Boston this past June. Among the many luminaries who spoke at the memorial was Tauro's longtime friend retired Supreme Court Justice **Stephen** Breyer, who graciously agreed to let us include excerpts from his tribute in this article.





Although I clerked for Judge Tauro more than forty years ago, he remains one of the most important and influential people in my life. As a mentor and a friend, he taught me so many things. The Judge taught me to love being a lawyer. He taught me legal and life strategy. He taught me to relish interacting with people. He taught me the effectiveness of humor. He taught me the importance of loyalty. He taught me to enjoy life. And, I think, he taught me to mentor and how to teach others to mentor. I feel very fortunate to have known him and grateful for all that he taught me.

- John Nadas '76

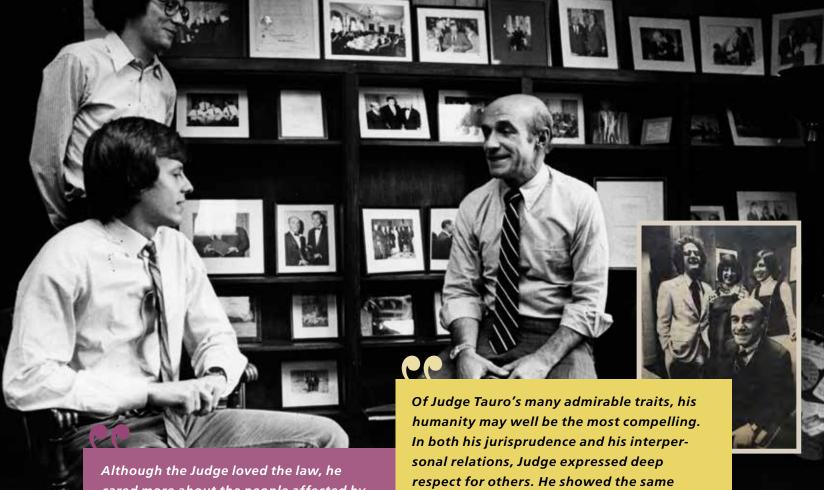


LEFT: John Joseph Moakley U.S. Courthouse in Boston, site of the memorial service for Judge Tauro TOP RIGHT: Judge Tauro poses with former clerk Matthew Rita '92 (right) and his daughters воттом: Judge Tauro (right) with his father G. Joseph Tauro, chief justice of the Massachusetts Supreme Judicial Court from 1970 to 1976



Clerking for Judge Tauro was a wonderful experience for many reasons. He wanted to give his clerks insight into the jurisprudential process. He made clear the importance of compassion and understanding when making rulings that affected people's lives, whether in large seminal cases or in small individual actions. His rulings have had a tremendous effect on issues as diverse as the living conditions of the mentally disabled, the method of medicating patients in psychiatric wards, the rights of the LGBT community, and the censorship of materials in school libraries. He also had a wonderful sense of humor and an infectious love of life, qualities that made life in chambers memorable and taught his clerks the need for balance in a profession that is often off-kilter. He was a unique judge as well as a loyal, generous, and unforgettable mentor.

- Marion Bachrach '77



cared more about the people affected by it, even if it was an anonymous child on a Social Security appeal which would never be written about or noticed by anyone other than the parties involved. Extraordinary things can happen when we care; I'm so glad I clerked for someone who could teach me that."

— John Sander '80

Judge of course was a learned jurist. But he was also ultimately practical, and had an instinct for the law's limitations . . . Early on in my clerkship, two litigants ended up in Judge's courtroom: Mr. Universe and Mr. World, both insisting that they were entitled to claim the title as the "strongest man." As you can imagine, we didn't find anything in the United States Code that readily addressed the issue. After gently, but unsuccessfully, encouraging the parties to resolve their disagreement out of court, he came up with a solution: fight it out—in his courtroom. The winner would be crowned the strongest. The litigants, initially stunned, declined, but, well, the point had been made. The parties settled out of court shortly thereafter.

- Peggy Samson '83

warmth and dignity to the janitor as he did to Justice Stephen Breyer, who often accessed his First Circuit office through a side door in the Tauro chamber.

- Timothy Webster '86

I have thought a lot about Judge Tauro since I got word of his death. There are not many people who have had as much influence on me as a person, and there aren't any who have more influence on me as a lawyer. He was an effortless mentor and a wonderful human being.

— Roberto Finzi '94

TOP: Judge Tauro talks with law clerks John Sander '80 (seated) and Howard Pearl in his office in 1981 **RIGHT**: Clockwise: Howard Pearl (clerk), Dale Berthiaume (long-time assistant), Marion Bachrach '77 (clerk), and Judge Tauro

EXCERPTS FROM Justice Stephen Breyer's Tribute

Joe Tauro was my friend. His office in the old courthouse was across the hall from mine. We would have coffee in the morning. We would talk. We would gossip. We would joke with each other. We would plot...

Joe taught me what it is to be a good judge...

A trial judge, he thought, helps people resolve their disputes after other methods have failed. He believed this

> strongly. It moved him. He managed to settle case after case, probably setting a world settlement record.

He believed that the basic purposes of the law are humane. And he was highly practical. That, as we well know, is why one day he left his courtroom and traveled to the Belchertown mental hospital, where he found the most appalling conditions.

He returned, and then, from the bench, entered order after order, eventually transforming what he had seen into dramatically improved care for the mentally ill.

No one will deny that Joe Tauro was strong willed. But he knew how to put his own strong desires and wishes to the side, in order to bring people together. That is not such an easy thing to do when those people are a group of Article III judges. But Joe had a special talent for doing so. And he invoked that talent when he was chief judge of the District of Massachusetts. He would listen to his colleagues, find common solutions, and help them to discover that they could and would work well together. That is why he was a great chief judge...

He used his own abilities, his heart and his head, to help his community. He did so, not so much through what he said, but through what he did.



Cornell Law School Alumni Who **Clerked for Judge Joseph Tauro**

Peter Bogle '73 Mark Nozette '74 James McGuire '80 John Nadas '76 Marion Bachrach '77 Hon. Mitchell Kaplan '76 Jonathan Oblak '99 Donald Frederico '79 John Sander '80 Steven Kolyer '81 Margaret Samson '83 Geoffrey Oliver '85 Benjamin Marcus '86 John Kassel '86 Jane Pomerance '87 Harry Davis '88 Kenneth Doroshow '89 John Moustakas '89 Richard Batchelder '90 Pamela Moreau '91 Matthew Rita '92

J. Richard Doidge '94 John Bueker '97 David Grable '98 Katherine Ma '98 Gayle Littleton '99 Jason Jones '01 Jonathan Francis '02 Christopher Harwood '03 Scott Bridge '04 Brad Weinstein '05 Susan Hensler '06 Peter Sax '06 Timothy Webster '06 Jason Frasco '07 Kyle Taylor '08 Elizabeth Pignatelli '09 Zsaleh Harivandi '10 Michael Klebanov '10 Ron Ghatan '11

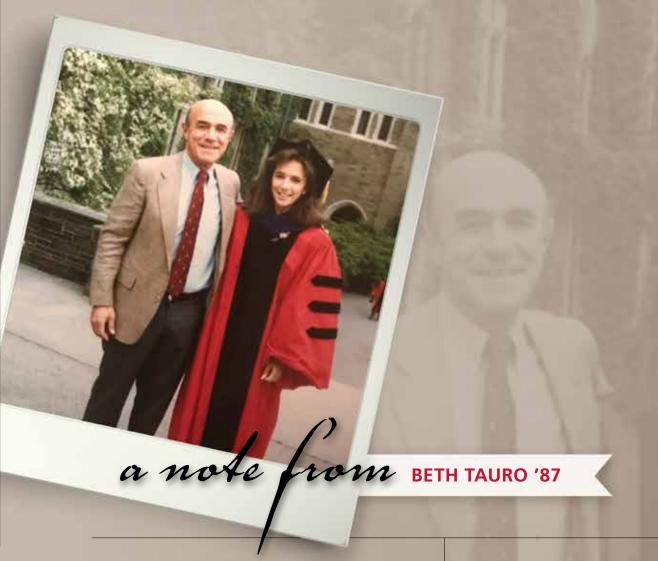
Joe Tauro, the judge, was always essentially the same figure as Joe Tauro, the man, exhibiting the same humanity, worldliness, and generosity of spirit. His jurisprudence was sensitive to the people who were affected by his decisions, and his decisions were often anchored in his personal outrage at how specific people were treated.

— Hon. Michael Ponsor, Senior U.S. District Judge, District of Massachusetts

It was a privilege to clerk for and to know Judge Tauro. He taught me how to practice law with both intellectual curiosity and compassion, and to never lose sight of how the actions taken by lawyers impact the lives of others. He serves as an example of everything a lawyer, and a human being, should be. Everyone should be so lucky to have a mentor and friend like Judge."

— Ron Ghatan '11

Kimberly Hult '93 Roberto Finzi '94



One of the first calls I made when my dad died was to John Nadas '76. He said, "Remember we law clerks are 100 strong and ready for anything your family needs." My father's law clerks were his family and they became part of our family. Visits and lunches at Dad's office were a highlight for his children and grandchildren. We witnessed his love and respect for his job, his law clerks, judicial colleagues, and staff. Together we gathered on June 7, 2019, at the glorious John Joseph Moakley U.S. Courthouse in Boston to celebrate the man we called Dad or Gramps, and they called Judge. As his family, we were surrounded by the incredible energy of over 500 law clerks, judges, friends, family, and people whose lives were impacted by my dad's decisions. Chief Judge Patti Saris, supported by her colleagues, planned an incredible celebration. Patti recalled my dad's many lessons when she joined the court as "a baby judge," from the importance of an independent judiciary and its role in protecting the U.S. Constitution to the value of collegiality.

Each speaker represented a moment in my dad's judicial career: Justice Stephen Breyer, his colleague and dear friend; Governor Michael Dukakis, governor during the

Belchertown consent decrees; Michael Ponsor, a law clerk and later judicial colleague; Mark Brodin, his first law clerk; Rob Manfred, B.S. '80, law clerk and baseball soulmate; and Meg Larkin and Ron Ghatan '11, clerks who met in chambers and later married. Their stories conveyed the impact of my father's many decisions that changed the world for so many, interpreting the law and its constitutional protections to secure rights for people who otherwise did not have a voice. They captured his integrity, humor, fire, care, dedication, ability, spirit, and how very much he meant to them. My dad's portrait stood next to the podium. As each spoke, I could imagine his painted smile come to life because of the words he heard, the people he saw, and the honor and humility he felt to be remembered in this most magical manner. The special session of court adjourned to a reception outside on Boston Harbor. My dad would have loved this party filled with his favorite people, smiling, laughing, chatting, eating a Brown Bear cake, serenaded by big band and Frank Sinatra music, and feeling the sea breeze on a gorgeous summer day. I am very confident he was there in spirit watching over us all!



A Conversation with The "Trump Whisperer"

by IAN MCGULLAM



Leonard Leo '89 and Ari Melber '09 Discuss Judicial Philosophy and Advising U.S. Presidents at 2019 Reunion.



y some accounts, Leonard Leo '89 is responsible for almost half of the justices on the U.S. Supreme Court. Leo has been nicknamed the "Trump Whisperer" thanks to his unparalleled role advising President **Donald Trump** on judicial

appointments, as he previously advised George W. Bush, and his influence on the Court will persist for decades.

This past June as Cornell Law alumni returned to campus for Reunion, Leo sat down with Ari N. Melber '09 in front of an engaged—and at times vocally skeptical—audience in Myron Taylor Hall to discuss Leo's judicial philosophy and what happens behind the scenes as presidents, lawyers, activists and wonks determine the future of our judiciary.

"Leonard is such a fascinating person for us to hear from today," Melber said. "Although there is debate about his work, some might even say controversy, there's no debate about the enormous commitment he has to his work . . . , as well as his influence."

Leo and Melber come from opposite ends of the political spectrum, which made for a lively and pointed discussion. Leo is the executive vice president of the Federalist Society, the nation's most prominent organization of conservative and libertarian jurists and attorneys and a major voice for limited government and an originalist reading of the Constitution. After his time at Cornell, during which he founded the university's chapter of the Federalist Society, Leo got his first taste of the Supreme Court confirmation process when he helped his close friend Clarence

Thomas through his notoriously contentious fight to become a high court justice. Leo subsequently played key roles in the selection and confirmation of Chief Justice John Roberts and Justices Samuel Alito, Neil Gorsuch, and Brett Kavanaugh. Melber is an Emmy-winning journalist and the host of MSNBC's The Beat with Ari Melber, and is also MSNBC's chief legal correspondent and a legal analyst for NBC News.

The speakers were introduced by **Eduardo M. Peñalver**, the Allan R. Tessler Dean of the Law School and Professor of Law. "Today's event is a reminder of the importance at the Law School of our core values of engagement and civility, something that seems increasingly rare in our hyperpartisan and bitter national discourse," Peñalver said. "Our long-standing tradition of civility and collegiality and our commitment to diversity of belief and viewpoint served us well during these past few years, and, indeed, they make today's event possible."

Peñalver also took the opportunity to give a shout-out to Cornell University alumni Peter Coors and Dr. Marilyn Coors, present in the audience, for enabling further such discussions between public figures with divergent viewpoints. The Peter and Marilyn Coors Conversation Series kicked off in September with a talk on executive power between Neal Katyal, the Paul and Patricia Saunders Professor of National Security Law at Georgetown University and a partner at Hogan Lovells, and **George T. Conway III**, of counsel in the Litigation Department of Wachtell, Lipton, Rosen & Katz. "I think today's event would be right at home in that Coors Conversation Series," Peñalver said.



Leo's role in the Trump and Bush administrations isn't exactly something that he got by answering a job ad. As Melber noted, "You basically fashion this role, and nominees of the Republican Party and presidents . . . come to you." During the **George W. Bush** years, Leo had served in a sort of unofficial brain trust on judicial appointments—sometimes dubbed the "four horsemen" together with religious conservative advocate Jay Sekulow; C. Boyden Gray, President George H. W. Bush's White House counsel; and Reagan-era Attorney General Edwin Meese III. "This was really the first time we had a well-funded, wellorganized outside movement to support the confirmation of judges," Leo said.

Leo got the call that would eventually make him Trump's judicial consigliere in 2016 on the day of Justice Antonin Scalia's death, just hours before Trump was set to go up against the other Republican candidates in the GOP's first primary debate. **Don McGahn**, the Trump campaign counsel at the time and later the White House Counsel, was on the other end of the line.

"He says, 'Look, this is going to come up in the debate. And Trump wants to mention a couple of names of people who would be the types of folks he would nominate to the Court," Leo remembered. This was something new, "downright edgy" as Leo put it—while George W. Bush had promised to appoint justices in the mold of Thomas and Scalia, no president had ever actually named prospective nominees like that beforehand. The resulting discussion ended with Trump mentioning two reliably conservative U.S. Court of Appeals judges, Diane Sykes of the Seventh Circuit and Bill Prior of the Eleventh Circuit, as exemplars of his type of potential Supreme Court nominee.

Candidate Trump already had a theoretical idea of how much the Supreme Court mattered, Leo said, but as he went out on the campaign trail, Trump started to realize that a large portion of voters cared deeply about the courts, especially with the vacancy caused by Scalia's death and the ongoing Merrick Garland controversy. Then, in April, Leo was invited to Washington, D.C., and ended up in a room with Trump and McGahn. After Trump spent some time picking Leo's brain on the high court—on everything from the battles over the Affordable Care Act to why conservatives had been so mad about David Souter the candidate sprung the idea that would develop into "the list": what if Trump named every person he would consider nominating to the Supreme Court. It had never been done before! "And so he said, 'Well, is that a reason for not doing it?'" recalled Leo. "I said, 'Well, no. Why do you want to do it?' And he said, 'Well,

nobody knows who I am on this issue. And this is a way of explaining to people what it is I would do in a very clear way."

Of course, Leo hadn't gone into the meeting blind. He had gotten a tip-off about Trump's idea and had done some list-making of his own. At one point, he said, 'So what kinds of people would you put on that list?" Leo said with a smile. "I said, 'Well, I happen to have a . . . You know, would you like to see it?" Although Trump didn't immediately commit to the eight judges Leo recommended at the time, the list would eventually swell to more than two dozen names, including Gorsuch and Kavanaugh, over a series of revisions to which Leo and others contributed, and would play a significant role in convincing skittish traditional conservatives that Trump shared their priorities.

Despite the president's infamously brash Twitter persona, Leo said Trump seems genuinely inquisitive about the intricacies of the Supreme Court. In contrast to George W. Bush, who Leo says was not preoccupied with the judiciary in between appointments, Trump is always turning potential appointees over in his head and keeping track of the score, according to Leo.





During the Q&A portion of the event that followed his conversation with Melber, Leo pushed back at pointed questions about the Trump-era Supreme Court appointments. He rejected as "incredibly offensive" the idea that Justice Anthony Kennedy was pressured to retire in order to clear space for another Trump appointment. And, he portrayed Senate Majority Leader Mitch McConnell's decision to deny Garland a confirmation vote as a natural outgrowth of the growing politicization of the confirmation process stretching back to the 1980s. "There was no question that if the shoe was on the other foot, Senator [Chuck] Schumer made it very clear, as did Senator [Joe] Biden some years ago, that they would do the same thing that Senator McConnell did," Leo said. "What you were doing is asking the leader of the Republican Party to unilaterally disarm, where, over a period of over twenty-five years, Democrats consistently made very tactical decisions about hardball tactics they wanted to engage in in the confirmation process."

Leo's influence is undeniable, and it's tempting to think of him as an éminence grise wielding power over appointments from behind the scenes. But he cautioned that there are limits to the influence of outside forces like himself. No matter whom advisers and senators and the White House Counsel are pushing for, the president makes the final decision and bears the final responsibility for judicial nominations.

Likewise, a nominee will have access to all of the handlers and advisers and moot courts that they want, but they will ultimately be the one faced with answering questions in the confirmation hearing.

Brett Kavanaugh's hearing was the most contentious Supreme Court confirmation process since that of **Clarence Thomas**, and Leo's championing of a candidate who was confirmed to the high court despite sexual assault allegations against him was bound to come up.

When questioned by Melber on what he thought had happened, and if the accusations were disqualifying if true, Leo demurred at first, saying, "I'm not going to judge the people who made the allegation. All I can tell you is the issue was put into play. And it was incumbent upon the nominee to explain himself and to defend himself."

Melber pressed him further, noting that if sufficiently problematic allegations were brought against a candidate, defenders of the nominee like Leo might reconsider. "I would clarify that in one way, though," responded Leo. "We're not just fighting to defend.

We're fighting to figure out the truth. I mean, there is a point, this was the case during the Thomas confirmation, as well as the Kavanaugh confirmation. When an allegation is made, you take it seriously. And you have to ask certain questions, you have to obtain certain information, you have to make certain decisions, you have to put the nominee on the spot. And you have to make sure that everyone is comfortable with where things stand."

"So yes, there comes a point where you say, 'Okay, it's time to defend.' But there is that interregnum period," Leo said. The publication of a *Washington Post* article in which **Christine Blasey Ford** accused Kavanaugh of sexual assaulting her while they were both in high school, four days before a scheduled Senate



vote on Kavanaugh's confirmation, prompted some reflection. "Between then and a couple of days later, there's a lot of explaining to do, and there's a lot of analysis that has to be done," Leo said.

Kavanaugh passed Leo's test. And Leo got back to the task of nudging the Supreme Court ever toward his liking, one justice at a time. ■

Curtain Call: Tom Bruce, Cofounder and Director of the Legal Information Institute, Retires

by owen lubozynski



This June, Tom Bruce retired after nearly three decades at the helm of the Legal Information Institute. During that time, LII has thrived under his visionary leadership, delivering free legal information to millions of people around the world.



ithin five years of the founding of the Legal Information Institute (LII), more people were visiting the online resource than had attended Cornell Law School in its entire history. The first internet site to provide free access to legal information,

the groundbreaking LII has been directed by **Tom Bruce** from its inception to his retirement this year. On June 4, in Washington, D.C., friends and colleagues gathered at the offices of Fastcase, Inc., to, as Bruce put it, break a bottle of champagne over his head and send him down the slipway.

Bruce joined the Law School in 1988 as the director of education technologies. In 1992, along with then-dean **Peter Martin**, he founded the LII. Bruce wrote much of the original software used at the Institute, including Cello, the first Web browser for Microsoft Windows.

Speaking at the retirement celebration, **Eduardo M. Peñalver**, the Allan R. Tessler Dean and Professor of Law, noted, "I think Tom knows this about me: I like to mark time in Whitesnake years. So 1988 is . . . the second year of Whitesnake; that was the year they released their second huge hit —I'm sure you all know —'Is This Love?'"

He added, "I also like to mark gradations of success in terms of Whitesnake . . . I'll come back to [that]."

Cornell and LII have been very fortunate to have Tom at the helm of LII for its first twenty-five years," said Peñalver. "LII has thrived under his leadership, growing from the simple idea of free access to legal information for all people into a powerhouse that delivers free legal information to millions of people around the world.

— Eduardo M. Peñalver

"Cornell and LII have been very fortunate to have Tom at the helm of LII for its first twenty-five years," said Peñalver. "LII has thrived under his leadership, growing from the simple idea of free access to legal information for all people into a powerhouse that delivers free legal information to millions of people around the world. At the time LII began, there were only 22 million



Tom Bruce is the center of attention at his retirement celebration on June 4 in Washington, D.C.

users on the Internet worldwide. These days, it's visited by over 30 million users every year from over 200 countries."

Peñalver noted that incoming codirectors Sara Frug and Craig Newton would be building on the firm foundation established by Bruce—and aided by LII's first endowment, a fellowship created in Bruce's honor with generous support from Justia.

"And where will Tom be while Sara and Craig and the fellows are steering LII through the shoals of innovation in a fast-moving world of legal tech? He will be enjoying his retirement, secure in his knowledge that—unlike most of us—[he] really is bigger than Whitesnake. Whitesnake's greatest triumph, the 1987 hit 'Here I Go Again,' has been viewed on YouTube a mere 56 million times over the past ten years. In that same period, LII has lapped Whitesnake four times over."

In his own remarks, Bruce drew parallels between his tenure at LII and his previous work as a stage manager (though not for Whitesnake), noting of the Institute, "In the end, what has made it rewarding is what it does for other people. That makes it an awful lot like putting on a big show that reaches an audience of millions, and I have been a stage manager for that, just as I worked on other, much shorter-running shows in my first career, including, God help me, one called 'Got Tu Go Disco.'"

Bruce's theater experience, he said, fueled his collaborations first with Martin and more recently with his successors. "Collabora-

tion has continued to be the secret sauce that has made us successful in building a big website. But that was never the hardest or largest part of the work."

The hardest part, he said, was establishing and maintaining the creative and innovative conditions under which the work of LII could be done. "That is what I am the second-most-proud of having done for the last twenty-seven years."

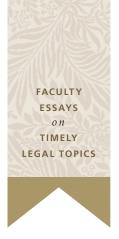
"I am most proud," he continued, "of the way in which we have managed the transition. I have extraordinary successors. . . . This is the most talented and capable roster that we have ever had."

As for his own future plans, Bruce said that he has "started to organize unusual noises into something that can occasionally claim to be music." At this point, he broke out a ukulele and mentioned a few upcoming live and radio performances—as well as, of course, some collaborations.

Next, Frug and Newton shared some remarks, as well as a video compilation of messages from scholars around the world who had collaborated with Bruce. These far-flung colleagues expressed their appreciation, admiration, and affection for the trailblazer with whom they have worked to make the law accessible to all.

Legal Expertise and the **Human Condition**

by Valerie P. Hans



On April 18, the Law School held the third annual 3L dinner in the Law Library's Gould Reading Room to celebrate the soon-to-be graduating Class of 2019. Following is the speech delivered that evening by Valerie Hans, Charles F. Rechlin Professor of Law.



'm delighted to be here at this special dinner celebrating the accomplishments of the Class of 2019.

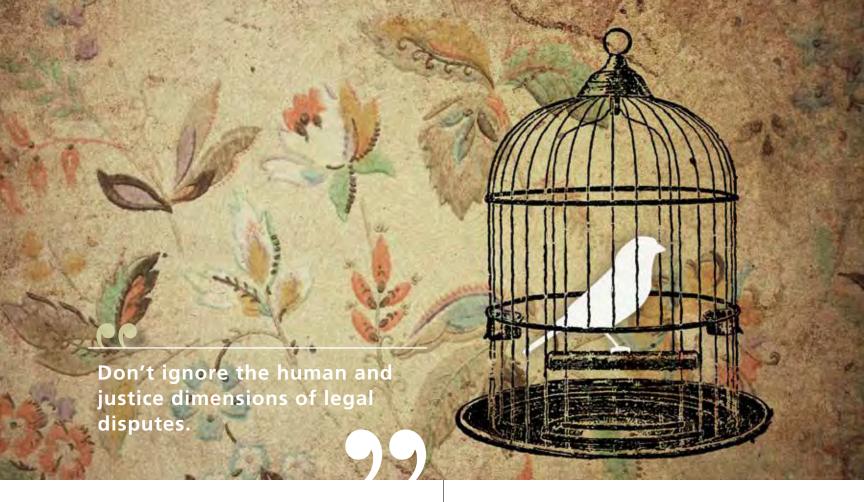
I'm going to tell you a story—a story written by Susan Glaspell in 1917, a time when women in the United States were demonstrating for the right to vote and the right to serve on juries.

Called "A Jury of Her Peers," it features a sheriff and a county attorney who are investigating a mysterious killing in an isolated rural area. A woman's husband has been strangled to death in his sleep. His wife, Minnie, claims to have slept soundly right next to her husband as he was murdered in their bed. It must have been an intruder, she asserts. Nonetheless she has been jailed as the likely killer. The motive, though, is unclear.

The sheriff and county attorney arrive at the house to search for evidence that will implicate Minnie, bringing along their wives to gather some items for the jailed woman. The two women had not seen Minnie since she married and moved to this remote house, but they recall her as a lively and spirited young woman. The county attorney proposes that the men go upstairs to the bedroom—the scene of the crime—then outside to the barn and the yard to search for evidence. He looks around the kitchen, and asks the sheriff, "You're convinced there was nothing important here?" The sheriff replies, "No, nothing here but kitchen things," with a derisive laugh about the insignificance of kitchen things.

The men depart on their search for clues upstairs and outside, leaving their wives in the kitchen. Immediately the women notice unsettling signs. Dirty pans are underneath the sink; the kitchen table is only half wiped clean; a sugar bucket is left open, almost as if someone had been interrupted in the middle of something. A quilt in progress reveals patches with erratic stitching, suggesting distress. The stove has a broken lining. In a closet they see Minnie's clothes, shabby and heavily mended. They conclude that Minnie's husband was tightfisted with his money and ungenerous to his wife. What must it have been like to live so isolated with such an ungenerous man, they wonder. Why hadn't the two of them been better neighbors and reached out to Minnie?

The women continue their search and discover a birdcage, imagining how Minnie must have enjoyed the bird's cheerful company. But—the birdcage is empty and has a broken door. In Minnie's sewing basket, they find the bird, strangled dead. Now they understand Minnie's motive—her husband had strangled her bird, as he had strangled her spirit.



As the men approach from their fruitless search for evidence, the county attorney can be overheard saying, "It's all perfectly clear, except the reason for doing it. If there was some definite thing—something to show. Something to make a story about." One of the women quickly grabs the box holding the strangled bird—the evidence of motive—and shoves it in her pocket, hiding it from the men. And with that, Minnie is judged not guilty by a jury of her peers.

We can debate whether their verdict is right or wrong, but the story illustrates the significance of women's distinctive life experiences. Their knowledge and appreciation of kitchen things lead them to otherwise hidden clues, to the motive for the crime, and to a fuller appreciation of the human suffering underlying this tragedy. At the time of its publication, the story was employed to show what women might contribute as legal fact-finders and voters.

I, however, also see it as a cautionary tale about legal expertise. Tonight we are celebrating three years of the fabulous legal training you have had at Cornell Law School. You will be using the knowledge and skills that you have acquired during your time in Ithaca in legal jobs that are just around the corner. Some of you will work in the private sector, helping to resolve pressing and urgent legal matters of businesses and individuals. Others will work with judges, government, and nonprofit groups, helping our country and those in need.

But will you, like the sheriff and the county attorney, be looking in the wrong places for clues about how to resolve the legal dilemmas of your clients? First, will you have a broad-enough perspective to find all the clues?

But even more, will you bring a broad-enough perspective to your legal work to serve justice? As we who teach in the Law School have tried to convey during your time here, the resolution of many pressing legal problems requires not only a high degree of technical legal competence but also a deep understanding of the human condition and how different legal resolutions will serve the interests of justice.

As you embark on what promise to be outstanding legal careers, I urge you to bring together the barn and the kitchen, if you will.

Don't ignore the human and justice dimensions of legal disputes.

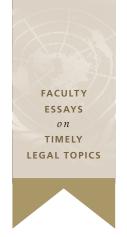
Don't dismiss them as the sheriff dismissed the insignificant kitchen things.

Combining them with your legal training will allow you to observe clues that others cannot see—indeed, this combination will create a lawyer in the best sense.

Thank you and congratulations. ■

Author's note: All of the details and quotations are drawn from Susan Glaspell's short story, "A Jury of Her Peers," originally published in 1917. The plot of the short story, and of the related play *Trifles*, was based on an lowa murder trial Glaspell had covered for the *Des Moines Daily News* around the turn of the century. Cornell professor J. Ellen Gainor has written about Glaspell's creation of the short story in her book, *Susan Glaspell in Context* (2001).

Security Sector Reform: Local Participation, and Ownership of Reform Efforts



by Muna B. Ndulo

Following is an edited version of remarks delivered by Professor Muna Ndulo on June 21, 2019, at the United Nation's Security Council meeting on Security Sector Reform. Ndulo is the William Nelson Cromwell Professor of International and Comparative Law, Elizabeth and Arthur Reich Director, Leo and Arvilla Berger International Legal Studies Program at Cornell Law School, and Director of the Institute for African Development, Cornell University.



context of United Nations peacekeeping missions dramatically changed, prompting the UN to shift and expand its field operations from "traditional missions" involving strictly military tasks to complex "multidimensional" enterprises designed to ensure the implementation of comprehensive peace agreements, and to assist in laying the foundation for sustainable peace and development. The transformation of peacekeeping missions reflects in the UN's own words more of a "hybridization": "[Thus] the goals of peacekeeping missions have . . . changed significantly: from assisting in the maintenance of

ceasefires during the cold war [to] PKOs during the 1990s increasingly becoming peacebuilding missions."

The broad and complex mandates of today's multidimensional peace operations are reflected in the varied civilian, military, and police capabilities required to provide support to the challenges of modern-day peacekeeping and conflict prevention. These include tasks such as promoting political transitions, assisting in the development of political structures, demobilizing armed forces, reintegrating ex-fighters into the community, providing humanitarian relief during emergencies to refugees and internally displaced people, establishing and promoting the rule of law and security, supporting disarmament, holding elections, and jump-starting economies. As a natural corollary, the expansion of goals has also expanded the frontiers of responsibilities.

Conditions That Affect the Success of an Intervention

Most conflicts in the world are characterized by a combination of internal and international factors with serious human rights violations and large-scale suffering among the civilian population, which inevitably results in large numbers of refugees and displaced persons. Very often, conflict is a symptom of an intrastate crisis that is deeply rooted in the following conditions:



authoritarian rule, exclusion of minorities from governance, socioeconomic deprivation, and weak state structures that lack the capacity to process and provide remedies for normal political and social conflict. Against this background—and cognizant that generalizations can be dangerous—a number of factors seem to determine the success of a peacekeeping intervention: cooperation of the parties implementing the mandate; continuing support of the Security Council; readiness of member states to provide financial, technical, and material resources to the mission; recognition and redress of past and current human rights violations; efforts to deal with gender discrimination and other forms of social exclusion; and the leadership of the mission.

Security Sector Reform

Security Sector Reform (SSR) is an important and generally very challenging issue for UN peacekeeping operations. It is a complex military, political, economic, and social matter that needs to be envisaged as a long-term process. The politics are complex as a postconflict state develops a national security vision and moves forward on SSR. A delicate balance is needed, with the government playing a lead and central role with support from the UN and development agencies that can provide assistance in a range of ways.

The UN is well placed to provide leadership in a coordinating and facilitating role while also providing substantive technical support. The various donors, including intergovernmental organizations—particularly the African Union (AU), European Union (EU), North Atlantic Treaty Organization (NATO), Organization for Security and Cooperation in Europe (OSCE)—and individual donor countries, have important roles to play and can provide much-needed technical and material support. Diplomatic and political interventions are often needed to address the array of challenges and to help keep the process moving forward. This process is often difficult, and good leadership and well-qualified personnel are required to successfully carry out the mandate. Care must be taken to ensure that support focuses on meeting the most urgent needs in individual situations rather than spreading "foreign"-focused processes and mechanisms that may not connect to the people. The processes must be reasonably tailored to match the individual situations being addressed.

A range of challenges often confront governments and security services, including lack of national policy instruments, and various concerns within the security services themselves about moving forward, such as threats to entrenched interests. In postconflict situations, the integration of armed groups into the

armed services and police is often a contentious issue. An effective integration strategy will be critical for breaking the ties of fighters to their political masters.

There needs to be a continuing and strengthened shift regarding security assistance and SSR from a principally military-centric approach to one focused more on meeting human security concerns. A more integrated and holistic approach is needed, as countries emerging from conflict face a range of nonmilitary threats. In many conflict situations, the contest may be over such things as access to water or other shared resources within the state.

There needs to be a continuing and strengthened shift regarding security assistance and SSR from a principally military-centric approach to one focused more on meeting human security concerns.

There is a need to rebuild institutions of governance. Conflict results in weakened and collapsed institutions. Developing institutions of governance and public administration is complex. The discussion must include institutions that facilitate collaboration, involvement, consultation, and participation of all stakeholders in all sectors (public, private, and civil society) in the act of governance.

One of the most important political and legal conceptions of good governance is the concept of the rule of law. In today's world, nations in virtually every region in the world recognize that the rule of law and the protection of human rights are critical factors in nation-building and governance. Peace processes should prioritize the strengthening of institutions that play critical roles in ensuring the rule of law, such as courts, law enforcement agencies, and so on, and should include taking measures to improve access to these institutions.



Furthermore, there is a need for an effective mechanism for ensuring that armies and officers are accountable. Effective civilian oversight is also essential and should be an integral part of SSR. Security services need to operate in accordance with national and international legal norms. Military abuses of rights thrive in opacity, and civil involvement undoubtedly limits the potentially lax attitude of security forces toward human rights.

Local Participation and Ownership of Reforms

Engaging with local nonstate actors provides opportunities for peacebuilding, especially in places where the state is absent, and solutions should be sought within communities. Most conflicts revolve around local disputes such as land or water allocation, legal poverty, and unemployment. Finding local solutions to these issues can form the foundation of peace interventions.

It is important to be specific about the objectives being pursued by including civil society in peace processes. Being aware of the exact objective will help in being more strategic about civil society inclusion in the peace process. Civilian actors need to be consulted, and more than by just listening to their perspectives; they also need some leverage so that their concerns are reflected in any program being implemented and so that the reform includes ongoing attention to their concerns..

Engaging People at the Local Level Can Be Costly and Carries Risks

It must be noted that there is also no room for naiveté in the process. SSR is a long-term and complicated process. In this regard, it is vital to ensure that local actors' voices are heard and that they have input in and ownership of the process and outcomes of SSR. Ensuring local input is important for the legitimacy and long-term effectiveness of SSR in protecting people and preventing a recurrence of violence. Of course, this enlarged scope of involvement not only has cost implications but can also create logistical problems and difficulties in managing the flow of information and resources, which can make a huge difference in SSR processes.

Ways to Get Local Actors Involved in Peace Operations

Peacekeeping missions should hold public hearings, consultative workshops, and debates on issues affecting the mission. Use local perception surveys to identify local security sector challenges. Discuss issues of community policing and armed-violence reduction with local communities. Encourage input on sensitive causes of grievances and issues that ignite violence and those that promote reconciliation.

Support and use local community structures such as local security committees in the planning and design stages of SSR. For example, in the South African peace process (1992–94), peace accord structures were created in various communities throughout South Africa. In these structures, all stakeholders, including the UN and local army and police commanders, were represented. Issues of violence and policing were discussed, and concerns were transmitted to the national peace structures, which then engaged stakeholders at the leadership level on issues submitted to them by local committees. These structures ensured that no party was asked to place itself at the mercy of others in the application, interpretation, and organic development of the peace agreements, and each retained ownership of and commitment to the process.

Another example is the Democratic Republic of the Congo (DRC), where the UN peacekeeping operation has community liaison officers, who are in close contact with local communities, and community security systems have been developed. The communities have lines of contact with the mission that they can use if they feel threatened by armed groups.

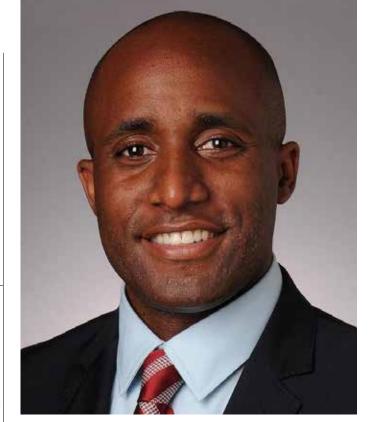
Conclusion

The success of a peace intervention will depend to a large extent on the adoption of a clear mandate. In order to structure a clear mandate, there must be a clear understanding of the nature of the problem and the underlying cause or causes of the conflict. Peacebuilding that leaves the causes of the conflict intact is not effective. The strategic implication of this is that in elaborating mandates and structuring missions we must (a) focus on the structural causes of the conflict, (b) distinguish between the symptoms and causes of intrastate crises, (c) realize that political stability requires structural accommodation of diversity, and (d) understand that peacemaking and peacebuilding are primarily the responsibility of local rather than international actors. Peacemaking and peacebuilding are not sustainable unless their form and content are shaped and enhanced by local actors.

ROFILES

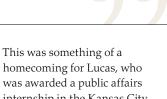
Quinton Lucas, the New Mayor of Kansas City

"There is no opportunity I have not been able to seize with hard work and a Cornell Law diploma," says Quinton Lucas **'09**. For an example, look no further than Lucas's new job title: mayor of Kansas City, Missouri. He won the mayoral race on June 18, 2019, beating opponent Jolie Justus by eighteen points.



There is no opportunity I have not been able to seize with hard work and a Cornell Law diploma.

— Quinton Lucas



internship in the Kansas City mayor's office while an undergrad. Lucas grew up in Kansas City's urban core, raised alongside his sisters by their single mother. The family moved often, experienced homelessness, and had unreliable transportation, but Lucas's mother managed to get him across town to the charter school where he had earned an academic scholarship.

Two more scholarships brought Lucas to Washington University and then Cornell Law School. From there, he considered continuing on to a law practice in Washington,

D.C. He'd done a summer associateship at WilmerHale and enjoyed both the intellectually stimulating corporate law work and the bustling setting of the nation's capital. Come graduation, however, he instead headed back to the Midwest.

Back to Kansas City

One reason for this decision was an encounter, at the Law School, with Judge Duane Benton of the U.S. Court of Appeals for the Eighth District, in St. Louis. "He encouraged me to come back to Missouri and make a difference," says Lucas. "What place do I know better, know the challenges better, than Kansas City?"

He went on to clerk for Judge Benton before joining Kansas City firm German May, where he represented Fortune 500 businesses as well as local start-ups. In 2012, he joined the University of Kansas faculty at age twenty-eight, making him one of the youngest tenure-track law professors in the country. He also volunteered extensively in area schools and organizations, including providing mentorship in area prisons.

Lucas soon dove back into local politics as well, winning election to the Kansas City's City Council, where he served from 2015 to 2019. As chair of the City Council Housing Committee, he worked with



issues related to affordable housing and the future of the city's housing policy. He was also a member of the committees on Planning, Zoning, and Economic Development; the Airport; Transportation and Infrastructure; Neighborhoods; and Public Safety.

A Passion for Justice

Lucas's decision to run for mayor, he says, stems ultimately from his time at Cornell Law, particularly his experiences in the Capital Punishment Clinic and while teaching constitutional law to inmates at the Auburn Correctional Facility. Working with incarcerated people, he repeatedly found that their predicaments were linked to challenges in their younger years that hadn't been addressed in their communities. Knowing this, he decided that he should work to create better opportunities in his own community, to give people in his hometown a shot at a better life from the very beginning.

Sheri Lynn Johnson, the James and Mark Flanagan Professor of Law, was Lucas's professor in the Capital Punishment Clinic. She observes, "Quinton did extremely valuable work on a Georgia clemency case. His voice is the one you can still hear on the YouTube clemency video protesting the injustice of racial discrimination. I am happy to see that Quinton's passion for justice continues, and I know he will make the most of his position as mayor of Kansas City."

The Basics

While his clinical experiences convinced Lucas to undertake his run for mayor, he mentions some of the more routine courses he took at Cornell Law as crucial to his work on the city council, on the campaign trail, and in his new role. "You'd be surprised," he says, at how much he has used constitutional and administrative law, as well as contracts law, a course he has also taught at the University of Kansas. Of course, the Law School-honed ability to quickly digest complex issues has been a boon at every step along the way.

Jeffrey J. Rachlinski, Henry Allen Mark Professor of Law, recalls that Lucas sat in the front row every day of his civil procedure and business organization classes. "His colleagues informed me he did that in every class. He told me that he sat there, and attended every time, because he got more out of the class that way. He said it in a way that suggested that he was baffled why everyone did not try to sit in the front. He simply does what it takes to accomplish his goals. He exudes the kind of confidence that comes only with thorough, intelligent preparation."

A Time of Renewal

At his inauguration on August 1, Lucas made it clear that public safety would be a top priority.

"For almost every year of my life, Kansas City has been on

the list of America's most dangerous cities," he said. "For almost every year of my life, I have lived in neighborhoods where young lives, particularly young Black lives, were cut short... I don't want [us] to be a city where we have ribboncuttings about stadiums or big infrastructure projects but simply shrug about the violence in our streets; the mental illness we deal with, particularly among the homeless; and the drug addictions that plague our city every day. And all I can say is this: public safety is expensive, but the value of human life is much greater."

"Although some have called this a time of change, I call this a time of renewal. Today we renew our promise to voters, to our citizens, to our neighbors, to do what they expect of us, to run an efficient government focused on good service delivery, like picking up the trash, and improving everyday quality of life for Kansas Citians; to remember that momentum has to include us all, to not forget where we came from, and to never forget who needs help."

A Drive for Public Service

Speaking at the beginning of September, Lucas describes his first few weeks in office as "everything: exhilarating, stressful, exciting." He observes that it's a pivotal time to be a mayor in the Midwest, whose affordable cities are drawing new people, businesses, and opportunities. He has already begun work to ensure that Kansas City is in fact affordable for all: one of his first acts as mayor was to establish the City's Special Committee on Housing Policy, chaired by Lucas himself, to help create sound policy solutions to housing problems across the city.

He also notes that he has received a great deal of support both from the community and from fellow public servants, including Kansas City's U.S. Congress members Emanuel Cleaver and Sharice Davids.

In 2018 Davids '10, a classmate of Lucas's, became one of the first two Native American women and the first openly gay representative from Kansas ever elected to the United States Congress. Speaking at his inauguration, Davids noted that both she and Lucas were raised by single mothers and had to push through many obstacles to achieve public office. "It's incredible to see my fellow law school classmate[...] take that skill and that drive to push through and turn it into public service," she said.

"I'm committed to working with you, Mr. Mayor," she added. "I know you're going to serve this city with all of your heart, and we are all going to benefit from it."

~OWEN LUBOZYNSKI

Brett Mull Makes Her Own Good Fortune

As a second-year law student at Cornell, Brett Mull '15 figured she would be a shoo-in for a summer associateship back home in Colorado. "Not quite," she remarks now. "Denver is a unique and, in some ways, challenging market. It's midsized and growing more popular for out-of-staters, but there are already two good law schools in the Denver area. As a result, a lot of firms draw directly from the local law schools, and it can be hard to break into the market."

"Without the benefit of oncampus interviews, I had to do a lot more legwork on my own to build connections in the market to get a job," she says. "Despite my best efforts, I didn't get a summer job at a Denver firm. I was devastated. I had no idea what I would do and wasn't sure this whole 'law thing' would work out."

Making Connections

This is when Mull's hard work, and some help from mentors at the Law School, made all the difference. Mull went to talk with Elizabeth Peck, assistant dean for judicial engagement and professional development, who encouraged her to explore other opportunities, leading to an internship at the Colorado U.S. Attorney's Office during her 2L summer. She loved it so much that she decided to stay through the fall.

During this externship,
Mull was not only gaining
experience but also networking
up a storm. "Coffees, networking events, lunches, you name
it," she recalls. "I started with
Cornell alums and, on Dean
Peck's advice, asked each of
them to connect me with two
to three other people. Then I
met with those people and got

out I took the initiative and opportunity to meet with Professor Wendel and talk through how I could do better—something I highly recommend to all law students. But I didn't. Mostly I was just frustrated and wanted to put it behind me. But I took more classes with Professor Wendel, and after class one day, we

It was always clear to me that Brett was going to be an excellent lawyer.

— Professor Bradley Wendel

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two to three more referrals from them. It got to the point where my network was so expansive that I created a spreadsheet to keep track of who I met, what they did, and who they referred me to." While still a student, Mull was already feeling like part of the Denver legal community.

A Two-Year Conversation

Mull's other great supporter at the Law School was Bradley Wendel, associate dean for academic affairs and professor of law, who was her Torts professor during her first year. "Although it was my favorite class, I didn't do particularly well in it," she recalls. "I'd love to say that after grades came struck up a conversation that basically continued for the next two years. He quickly became a friend, mentor, and sponsor."

Wendel says, "It was always clear to me that Brett was going to be an excellent lawyer. Students sometimes think what matters the most is good grades, or being smart (whatever that means). Brett was plenty smart, but she had other, intangible qualities that are way more important in practice, such as drive, determination, grit, maturity, a positive attitude, and the ability to take constructive criticism."

He continues, "For example, when her first-year grades weren't what she had hoped they would be, she didn't complain, try to blame someone or something else, or become discouraged. Instead she went through a process of self-criticism and reflection to try to do better. When I'm recommending someone for a job or a judicial clerkship, that's something I'm going to zero in on. There's a steep learning curve in the first few years of practice, and employers (including judges) really appreciate someone who won't become discouraged but instead will seek help and try to do better. She also didn't just mindlessly work harder, but made an effort to work smarter, which is also kind of unusual. Unsurprisingly, Brett did improve—in fact, to the point that I had colleagues in her third year spontaneously telling me what a great student she was."

Onward and Upward

As Mull began preparing for her post-law school career, Wendel wrote a letter of recommendation for her clerkship applications. With this in hand, and the continued support of Peck, Mull applied to clerk with a number of federal and state judges in Colorado. She landed interviews with several judges on the Colorado Court of Appeals, ultimately clicking with then-Judge Richard Gabriel, who offered her a position. Then, shortly before



the clerkship began, Gabriel was appointed to the Colorado Supreme Court, and Mull suddenly found herself working at the highest court in the state.

"She got lucky when her court of appeals judge was elevated to the Colorado Supreme Court," notes Wendel, "but really she made her own good fortune by getting to know lawyers in the community, and by working hard and impressing her employers."

"Justice Gabriel was and still is an incredible resource and mentor for me," says Mull. "He's passionate about mentoring. He worked oneon-one with each of his clerks to improve their skills; he strongly encouraged us to attend oral arguments, and he talked with us before and after arguments about what we thought, what was persuasive, and what issues we thought needed to be addressed. It was an incredible learning experience."

The clerkship gave Mull a chance to hone her legal research and writing skills and to observe the presentation and argument skills of a variety of lawyers. Additionally, she notes, "perhaps an under-

rated benefit is that clerkships give you time to connect with more people in the legal community and to learn more about firms and other opportunities in the market. It opens a lot of doors."

The Deep End

Justice Gabriel helped Mull figure out her next step after clerking and ultimately put her in touch with partners at Wheeler Trigg O'Donnell (WTO), a respected Denver firm that specializes in trial work across the country. It was a match: Mull has been working at WTO for the past three years.

"WTO is unique in that it strives to give associates substantive experience and ownership over cases," she says. "From the outset, I've been in direct communication with clients, arguing motions, taking and defending depositions, participating in trials, and leading mediations. Our cases are leanly staffed, so I have a lot of opportunities to handle things on my own and take the initiative to run with my cases. It's exciting, challenging, and rewarding."

Wendel observes, "When she completed her clerkship, she could have gone pretty much anywhere in the state. She ended up working for a sophisticated litigation boutique that is well known in the region for high-quality work. It's also the kind of place where you have to be ready to be thrown in the deep end. She

has already done work, such as briefing and arguing motions, and taking and defending key depositions, that an associate in a NYC law firm would not do until years four or five. The thing is, that kind of work comes only to new lawyers who are self-starters like Brett."

"I think some of the best advice Professor Wendel gave me was not to worry too much about grades and class rank," Mull remarks. "Of course, everyone should do their best in law school, and good grades are a huge asset when you're looking for jobs, but there's a lot more to being a lawyer than knowing how to write a good exam answer."

She adds, "The old adage that 'it's all about who you know' is true. I highly recommend that law students and alumni put significant time and energy into building a network in the market in which they want to work. Clerking is a great way to do that. It's also critical to find mentors and sponsors who will have your back throughout your career. Build those relationships early and keep them going!"

~OWEN LUBOZYNSKI



Bridging Brooklyn and Big Law, Stephen **Robinson Joins the Cornell Board of Trustees**

Riding the Greyhound bus to Ithaca, Stephen C. Robinson, B.A. '81, J.D. '84, wasn't sure what to expect.

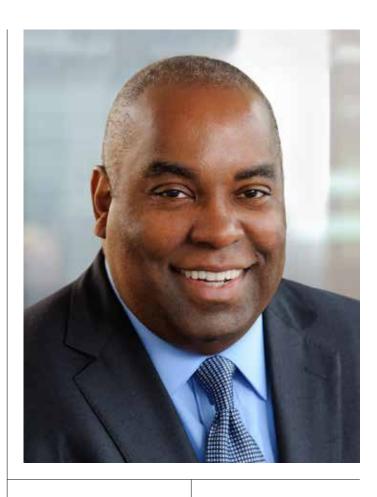
"I had a pamphlet with three or four pictures of campus, a campus map, and a trunk filled with basically everything I owned," says Robinson, talking from his corner office at Skadden, Arps, Slate, Meagher & Flom in New York City. "I'd still never visited Cornell, and that first day freshman year, I ended up taking a cab from the bus station and getting dropped on West Campus. Before I even went into my dorm, I walked up Libe Slope. It was just so different from where I grew up, in the Marcy housing projects in Bed-Stuy, and when I got to Willard Straight Hall, I called my mother, and said, 'It's so open! So clean!' I remember being taken by the majesty of it all, the greenery, but I wondered if anyone would understand where I was coming from."

Forty-four years later, Robinson is one of the newest members of the university's board of trustees, along with being a litigation partner at Skadden, where he focuses on commercial disputes, government enforcement, internal investigations, and white-collar crime. Before Skadden, he was a federal judge, and over the

course of his career, he's been a United States Attorney, chief executive officer of a nonprofit, and one of the lead litigators defending Toyota in one of the world's largest class action lawsuits. Along the way, he's investigated the 1995 bombing in Oklahoma City, war crimes in Kuwait, housing discrimination in Westchester County, Muslim surveillance in New York City, and the firing of Rutgers basketball coach Mike Rice.

"The breadth of Steve's experience is really without parallel," says Eduardo M. Peñalver, the Allan R. Tessler Dean and Professor of Law, who works with Robinson on the Dean's Advisory Council. "Steve has operated at the highest levels of public service and the private sector, and the energy he brings to everything is truly inspiring. He has this ability to move from criminal justice to the federal bench to private practice, and along with his intellectual firepower, he has a deep attention for people. He formed lifelong relationships here, and through all he's accomplished, he's always had an affection for Cornell as a place that had a profound impact on his life."

That first undergrad semester was as hard as anything Robinson had experienced growing up with two brothers and a single mother, and after struggling through a course load of calculus, English, Latin, and physics, all he had to show was a 2.2 GPA. He was taking



classes six days a week and thinking hard about transferring when an injury in a pickup basketball game changed his life, forcing him to spend winter break in bed reading books for the coming semester.

"I was stunningly lucky," says Robinson. "I was on a path to flunking out, and I had no idea what would happen if I did. But because I'd torn the ligaments in my ankle, I was able to divide up my work, reading x pages of English and y pages of economics, day after day, and I could talk about what I was

reading with my mother, who was one of the smartest people I have ever known. Over those weeks, I gained the discipline I needed, and by the time I came back, I'd done so much reading that my second semester changed radically."

Robinson began his senior year by taking courses at the Law School, and after almost two years as an assistant dean at the University of Chicago, he returned to Cornell, "the only law school I ever applied to and the only law school I ever wanted to go to." He started his life at Cornell Law School as a 1L

dreaming about being Perry Mason and defending only innocent people, especially poor black people, until a summer volunteering at the New York Legal Aid Society left him "devastated" to see the reality. Back on campus, Robinson received a boost from Professor Faust Rossi, who said, "You can be a great lawyer," another boost from winning the moot court competition, and a third from securing his first job at Alexander & Green, a boutique New York law firm founded a century earlier.

"Before graduation, I realized there was a place for me in the law outside of criminal defense. but I didn't know what it was," says Robinson, who was the first black lawyer hired by Alexander & Green, just as he'd been the first black student to win the moot court competition and just as he'd later become the first black lawver in the Securities and Commodities Fraud Unit of the U.S. Attorney's Office and the first black U.S Attorney for the District of Connecticut. "I didn't leave law school thinking, 'There's the brass ring I'm trying to grab and here's the path to get me there.' I thought perhaps I could be good at this. But I wanted to be really good, and that's what I said in my yearly review when I was at Christy & Viener: that I didn't just want to be a good litigator, I wanted to be a great litigator. And the partner said to me, 'The best way for that to happen is if you join the U.S. Attorneys Office.'"

Some months later this is exactly what he did, thanks in no small part to the professional relationships he'd developed with several assistant U.S. attorneys while his firm represented the lead defendant in the largest white-collar criminal investigation in the Southern District of New York."

Those four years working under Rudolph Giuliani at SDNY led to three years as managing director of Kroll Associates, three years as special assistant to FBI Director Louis Freeh, and two years as chief compliance officer for Aetna. By then, Robinson had married Kathleen A. Sullivan, who'd been a clinical law professor at Cornell, celebrated their daughter's eighth birthday, and moved the family to New Haven, where Sullivan taught at Yale Law School.

In 1998, Robinson was nominated as U.S. Attorney for the District of Connecticut by President Bill Clinton and confirmed unanimously by the Senate. For the next three years, Robinson's office investigated and prosecuted scores of highprofile cases, including a \$2M kickback scheme engineered by the state treasurer and corruption charges against the governor of Connecticut. But during the same period, Sullivan struggled with breast cancer and leukemia, and in 2001, Robinson became the single parent of eleven-year old Victoria.

As his term as U.S. Attorney came to an end, Robinson

promised his daughter they'd stay in New Haven until she graduated from high school, and took a job as chief executive officer of the nonprofit Empower New Haven. Still, offers kept coming his way. He turned down two invitations to return to New York and join the bench before finally accepting President George W. Bush's nomination as U.S. district judge in the Southern District of New York, a ninetyminute commute from his New Haven home.

"For peak experiences, being a federal judge, there's nothing like it," says Robinson, who served from 2003 to 2010. "It was incredibly thrilling. You get to make determinations that matter. You get to bring your life experience, your perspective, and your hard-won understanding of the world to everything you do. It was a fantastic job, and when Skadden initially came to me, I said no. I loved being a judge. But ultimately, there's something fundamental about me that enjoys change, some innate instinct to try something new. I'd never worked at a big law firm, and I knew Skadden was one of the very best in the world. I'd seen their lawyers appear before me, and I knew the quality of their work. I also knew that if I took the job, my daughter, who was at Stanford at the time and who is now a fourthyear medical student at Duke, could complete her academic journey with zero debt—one of the biggest gifts I could give

her. When all those pieces came together, it made perfect sense."

Following Sullivan's passing, Victoria said that they should find "ways to turn mommy's death into something good for someone else." They responded by creating the Kathleen A. Sullivan Fund to provide scholarships for women to go to college and grants for children to attend music, dance, and art classes in New Haven. Robinson recently established the Stephen C. Robinson Endowment to underwrite loan repayments for Cornell Law alumni in public service. At Skadden, where he often represents big corporations, Robinson also makes time to sit as the only civilian on the NYPD's terrorism committee, serve on the board of the Colin Powell School of the City College of New York and the Innocence Project's Lawyers Committee. He also serves on the Board of Trustees of Lincoln Center for the Performing Arts, the New York Community Trust—and now, the Cornell University Board of Trustees.

"I'm super-excited to see what happens," says Robinson, whose term started in July. "I really want to figure out how I can be of value. . . . This was the place that shaped me, it was the most intense academic experience I ever had, and it launched me into everything that's happened since."

~KENNETH BERKOWITZ



By the Numbers: The Cornell Law School Class of 2022

Class Size 203

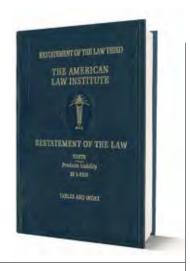






Minority Students





A Cornell Law faculty member for twenty-nine years, Henderson was considered a giant in tort law and products liability.



Remembering James A. Henderson Jr.

Renowned scholar, teacher, and mentor James A. Henderson Jr., the Frank B. Ingersoll Professor of Law Emeritus, died July 2 at the age of eightyone. A Cornell Law faculty member for twenty-nine years, Henderson was considered a giant in tort law and products liability.

"I remember Jim as a warm and generous colleague who took the time to read and comment on my work even as he was preparing to move south," said Eduardo M. Peñalver, the Allan R. Tessler Dean and Professor of Law.

Henderson made a lasting mark on the law as a coreporter for the American Law Institute's Restatement of the Law Third, Torts: Products Liability (1998) and as a special master in the 9/11 World Trade Center responders' litigation, the most complex masstort litigation in American history. Apart from sabbaticals, Henderson taught torts at Cornell Law every year since 1984, along with courses in products liability, insurance, and legal process. He testified numerous times before state legislatures and congressional committees, and published seventy articles and three casebooks that became standard texts at law schools around the country.

After retiring in 2013, Henderson continued his scholarship, averaging two publications per year since 2015. His most recent article came out in the Florida Law Review this past January.

"When I was first teaching torts [more than thirty] years ago, Jim was enormously generous with his time and insights," said Stewart Schwab, the Jonathan and Ruby Zhu Professor of Law and former dean. "He was the best creator of hypotheticals, and I incorporated so much of his thinking into my own that I no longer know what is Jim's and what is mine."





TOP: Professor Henderson at his retirement celebration in July 2013. BOTTOM: (from left) Judge Alvin Hellerstein, senior judge of the U.S. District Court for the Southern District of New York, Professor Henderson, Dean Emeritus Roger Cramton, and Professor Aaron Twerski discuss the 9/11 litigation with students.

He was the best creator of hypotheticals, and I incorporated so much of his thinking into my own that I no longer know what is Jim's and what is mine."

— Stewart Schwab

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In September 1983, Professor Henderson was on a plane bound for Syracuse when a fellow passenger attacked the pilot and cut off fuel to one engine, forcing a 700-foot nosedive during the approach for landing. Henderson and the copilot pulled the attacking passenger off the pilot. Henderson then kept the attacker restrained while the pilots regained control of the cockpit, preventing an imminent crash. All other passengers and crew members aboard the flight walked away unscathed.





Cornell Law School Alumnus Helps Battle Notre Dame Blaze

Frank Langrais '17 was one of the approximately 400 firefighters who battled the April 15 fire at Notre Dame Cathedral in Paris, which caused extensive damage to the historic structure.

"When I try to remember the whole thing, I still feel like all of it was just a bad dream," Langrais said. "This wasn't just a devastating blaze; I saw a thousand years of history burn right before my eyes. I am sure most Parisians, and French people in general, feel the same way."

Langrais lives in Paris and is a practicing attorney; he also works as a volunteer firefighter with the Yvelines Fire and Rescue Service, a department that responds to more than

110,000 calls per year across forty-two individual fire stations. The station where Langrais volunteers is about twenty minutes from Paris, and is staffed with about ninety career and volunteer firefighters. His was one of the many departments the Paris Fire Brigade called on for assistance on the day of the Notre Dame fire.

Langrais said the fire overall was challenging for many reasons, including the height and location of the cathedral, and the extreme heat combined with the risk of the entire centuries-old structure collapsing.

This "eliminated the possibility of an effective interior attack until later in the evening," he said, "although a firefighting

robot was sent inside quite early on to try to lower the intensity of the blaze."

Langrais is no stranger to volunteer firefighting while being occupied full-time elsewhere. As an undergraduate at NYU, he volunteered as a dispatcher with the West Hamilton Beach Fire Department in Queens; when he moved to Ithaca to attend Cornell Law School, he joined the Cayuga Heights Fire Department.

Langrais said that becoming a firefighter was a childhood dream. He remembers that, when his parents drove him to preschool, "I made them slow down or even stop in front of the fire station so I could see what was going on." Working as a volunteer firefighter was

"the beginning of [being] something bigger than myself," he said. "It ignited in me the desire to keep doing it for as long as I can."

His volunteer work at the Cayuga Heights Fire Department "was an extraordinary experience," he said. "I found a second family far away from home, made some of my best friends and got trained as a New York state firefighter and emergency medical technician." Most of his fellow firefighters there also were Cornell students, he noted.

George Tamborelle, chief of the Cayuga Heights Fire Department, said he usually looks for more than a two-year commitment from volunteer members, but Langrais "impressed us during the interview process, and we took a chance.

"We did not regret the decision," Tamborelle said. "Frank was an enthusiastic volunteer who gave as much of his time as law school would allow. We are proud that he was a part of the heroic effort to save Notre Dame."

When Langrais headed to Paris to complete his studies, he worked part-time for the Paris Fire Brigade for a year before transferring to the Yvelines department as a volunteer.

"Volunteering in that line of work is really like having a side job," he said. "You must be willing to commit the time not only to respond to calls, but to train as much as possible so you can become the best firefighter you can be." And while firefighting doesn't pay much (or at all for volunteers) "the satisfaction, the sense of accomplishment, and the experiences you get from that commitment make it all worth it," he said.

~JOE WILENSKY Cornell Chronicle



Frank was an enthusiastic volunteer who gave as much of his time as law school would allow. We are proud that he was a part of the heroic effort to save Notre Dame.

— George Tamborelle









Gift from Marshall Phelps '69 Will Bolster **Programming at Cornell Tech**

To succeed in the complex legal landscape of today, law school grads must be prepared to navigate the intersection of law, business, and technologyfamiliar territory for Marshall Phelps '69, a pioneer and leading figure in the field of intellectual property. Through a generous gift to support the Law School's programming at Cornell Tech, Phelps has ensured that Cornell Law students will have access to exceptional training and connections in these areas.

Early in his career, in the 1970s and 1980s, Phelps was in the vanguard of those integrating technology and the law, working for IBM first as a litigation attorney and then, after earning an M.S. from the Stanford Graduate School of Business, as an executive. His experiences in law and business convinced him of the important role technology would continue to play in both fields. "When

Cornell Tech came along, I thought, 'Well, we've finally institutionalized it," he remarks.

The Law School's programming at Cornell Tech received a major boost from the gift that Phelps made ahead of the 50th Reunion of the Class of 1969 this spring. Building on that gift, Phelps is also making a beguest that will establish the Marshall and Eileen Phelps Fund for Digital and Information Law, which will fortify the Law School's ability to provide instruction in the area of technology-related law, with a focus on topics including intellectual property, artificial intelligence, the regulatory environment, and fintech.

"When I was a law student, there wasn't really an intellectual property curriculum. Now, IP is at the forefront of legal practice. Every lawyer is in some sense an IP lawyer," says Phelps. "Law is not sitting in a library with a bunch of books. Tech and law are inextricable, and my hope is that the marriage of the two will really be taken seriously."

Phelps is and has been a consultant to many international companies, including General Electric, Price Waterhouse Coopers, SAP, Samsung, and Boeing. He has served on the Intellectual Property Committee of the National Academies of Science as well as seven boards and has written and spoken extensively at numerous business forums and universities. He also writes a monthly column for Forbes and is the author of Burning the

Farmworker Initiatives Earn Community Engagement Honor

The Law School is a leading partner in Cornell University's Interdisciplinary Farmworker Research and Collaboration Initiatives, which collectively benefit thousands of farmworkers in forty counties across New York state and beyond. In May, these initiatives were selected as a regional winner of the 2019 W.K. Kellogg Foundation Community Engagement Scholarship

Law is not sitting in a library with a bunch of books. Tech and law are inextricable, and my hope is that the marriage of the two will really be taken seriously.

— Marshall Phelps '69

Ships, Intellectual Property and the Transformation of Microsoft, published in 2009.

Phelps has received numerous awards, including IBM's Career Achievement Award and Distinguished Service Award, and a Doctorate of Humane Letters from Muskingum University. In 2006, he was elected to the initial class of the Intellectual Property Hall of Fame.

Awards. Given by the Association of Public and Land-grant Universities (APLU), the award recognizes extraordinary community outreach initiatives by its member universities.

Cornell's work with farmworkers began with the Cornell Farmworker Program, established in 1966 to support migrant farmworkers, a vital

part of New York's agriculture economy, through housing improvements, education, health and pesticide training.

Today, Cornell's support of farmworkers and farmworker-focused organizations involves faculty in the College of Agriculture and Life Sciences, Cornell Law School and the Cornell SC Johnson College of Business; Cornell Cooperative Extension associates; and twenty-four community partners. More than 300 students participate each year, through twenty-eight community-engaged learning courses across eleven departments.

Programming at Cornell includes the Farmworker Legal Assistance Clinic, based in the Law School; the Low-Income Taxpayer Program, a pioneering series of courses in which accounting and law students assist farmworkers and other low-income workers with tax returns; hands-on student-farmworker workshops; and the development of training materials and activities.

"Cornell's explicit attention to the needs of farmworkers occupies a unique place among the land grant universities because of its longevity, its comprehensive approach, and its deep student engagement," President Martha E. Pollack wrote in her nomination letter to the APLU.

The faculty group in the application sent to the APLU includes **Beth Lyon**, clinical professor and assistant direc-



Farmworker Legal Clinic students and faculty after obtaining a family court order for a youth farmworker in Wyoming County, New York. From left, Neethu Putta, Sarah Sloane, Briana Beltran, Beth Lyon, and Luis Lozada.

shocks." He also observed that it relies substantially on personal relationships and that it will be strongly influenced by China, as it was by Russia in the 20th century.

The Cornell India Law Center is dedicated to promoting the study of Indian law and policy in the U.S. legal academy and to fostering international collaborations among legal scholars. Guided by a distinguished

tor for the Clinical, Advocacy and Skills Program in the Law School; **Mary Jo Dudley**, director of the Cornell Farmworker Program, and **John McKinley**, director of the Low-Income Taxpayer Program.

~DANIEL ALOI Cornell Chronicle

India Law Center Launches with Lecture from Ambassador Verma

"If there was ever a time when a center like this was needed, it's now," observed Ambassador Richard Verma on September 27. The vice chairman and partner at the Asia Group, who served as U.S. Ambassador to India from 2015 to 2017, was delivering a lecture to mark the launch of Cornell Law School's Cornell India Law Center.

In his lecture, Verma noted that the current diplomatic relationship between the two countries is young and fragile, and "can't withstand a lot of The Cornell India Law Center is dedicated to promoting the study of Indian law and policy in the U.S. legal academy and to fostering international collaborations among legal scholars.



Ambassador Richard Verma at the launch of the India Law Center

advisory board and affiliated faculty from law schools in the United States and India, the center will offer programming including a speaker series, conferences, and a visiting scholar program. The Law School will also offer a fully funded summer internship for Cornell Law students to work at a public interest organization in New Delhi, starting in the summer of 2020.

Sital Kalantry Testifies before New York State Judiciary Committee on Surrogacy Bill

Though surrogacy is permitted in most states in the United States, it is banned in New York under a 1992 law. That could soon change. The state legislature is now considering a bill, the Child-Parent Security Act, that would permit and

States and abroad. In 2017, her International Human Rights Clinic conducted a large comparative study of surrogacy law and policy in India and the United States and also produced a report evaluating the Child-Parent Security Act. The New York Senate's Judiciary Committee heard testimony from clinic student Rachael Hancock '18 last year.





Sital Kalantry (third from left) with intern Anu Subramanium, B.A. '20 (far right) pictured with reproductive and family law specialists at the testimony.

Yorkers to distinguish ideological arguments from facts and not to be persuaded by arguments that inappropriately refer to other countries.

I encourage New

—Sital Kilantry

"We are extremely excited for this next chapter of Cornell Law School's engagement with Indian law and legal institutions," said **Sital Kalantry**, faculty director of the center and clinical professor of law. "We hope the center will encourage legal scholars and lawyers to consider India as a rich source for comparative studies going forward." regulate surrogacy. On May 29, 2019, **Sital Kalantry** testified on the topic before the New York State Senate's Judiciary Committee.

Together with her students, Kalantry, director of the International Human Rights Policy Advocacy Clinic and codirector of the Migration and Human Rights Program at Cornell Law School, has reviewed surrogacy laws throughout the United In her testimony, Kalantry placed the Act in a national, comparative, and international context, focusing on the rights of women who choose to be surrogates. She addressed, in particular, anti-surrogacy arguments that emphasize the exploitation of surrogates in other countries.

"I encourage New Yorkers to distinguish ideological argu-

ments from facts and not to be persuaded by arguments that inappropriately refer to other countries," she said. "No one can guarantee that every surrogate will feel she was treated fairly, but the proposed New York law gives surrogates a number of very important protections and rights. Legalizing surrogacy would allow for many people in New York to fulfill their dream of becoming parents."



Seventy-six-year-old Harrison Botso leaves prison thanks to the work of the Malawi Resentencing Project.

judiciary, the project also proposed creative strategies to streamline the resentencing process and conserve resources.

Thanks to these efforts, Malawi courts have thus far held 158 resentencing hearings. After hearing the life stories of the prisoners and weighing the circumstances of the offences, the courts reduced the sentence of every single prisoner. None were resentenced to death. As of June 2019, a total of 142 prisoners have been released into the care of their

the award is an important recognition of our collaborative, long-term approach to overcoming barriers to justice."

Each of the World Justice Challenge winning projects received a \$10,000 prize in recognition of its achievement and impact. Babcock notes, "The grant monies will be held by the Malawi Legal Aid Bureau to support the defense of prisoners unjustly sentenced to death."

Enhancing Care and Advocacy for Immigrants and Asylum-Seekers

A partnership between the Weill Cornell Center for Human Rights and Cornell Law School aimed at enhancing care and advocacy for immigrants and asylum-seekers was one of four collaborative, cross-disciplinary faculty projects to receive funding support through the New York City Visioning initiative. The projects were selected by President Martha E. Pollack from a group of finalists recommended by the President's Visioning Committee on Cornell in New York City. Pollack announced the awards, totaling \$265,000, on June 6.

Submitted by Dr. Joseph Shin, assistant professor of medicine and WCCHR comedical director, the Weill-Law School partnership builds on recent sharing of information and expertise between two success-

Cornell Center on the Death Penalty **Worldwide Wins World Justice Challenge**

On May 2, the Malawi Resentencing Project was announced as one of the five winners of the World Justice Challenge 2019: Access to Justice Solutions, a competition to identify, recognize, and promote good practices and successful solutions to improve access to justice. A partnership between the Cornell Center on the Death Penalty Worldwide, the Malawi Legal Aid Bureau, and Reprieve, the Malawi Resentencing Project seeks justice for death-row inmates in the country.

In 2007, the High Court of Malawi issued a judgment striking down the country's mandatory death penalty for homicide and entitling every The Cornell Center on the Death Penalty Worldwide joined a coalition of stakeholders in devising an innovative plan to train paralegals, lawyers, judges, and mental health workers.

person then on death row to a new sentencing hearing. Due to the meager budget of Malawi's justice system, however, this undertaking presented a formidable challenge.

The Malawi Resentencing Project was launched in 2014 to address this challenge. The Cornell Center on the Death Penalty Worldwide joined a coalition of stakeholders in devising an innovative plan to train paralegals, lawyers, judges, and mental health workers. Working with the

families and communities, where paralegals trained through the project have conducted "community sensitization" to ease the former inmates' reintegration and reduce their risk of recidivism.

"I was thrilled to learn that the Malawi Resentencing Project had won the World Justice Challenge award," says Center Director Sandra Babcock. "I spent several years working with local partners in Malawi to implement the project, and



ful programs working on behalf of immigrants. A joint leadership team recommended creating a formal program to continue this work.

Weill Cornell Center for Human Rights students and faculty have assisted asylumseekers and other detainees with human rights abuse cases through more than 500 pro bono forensic examinations since 2010, and Law School students have engaged in advocacy for real clients with real legal problems since the 1960s. The Law School's Clinical Programs have served communities with clients subjected to deportation, trafficking, worker exploitation, persecution, torture and capital punishmentrelated proceedings.

The partnership will provide interprofessional training and opportunities for experiential service-based learning, and produce research and realworld outcomes impacting health equity, human rights and legal scholarship.

~DANIEL ALOI Cornell Chronicle

Mary-Kathryn Smith '19 and Adena Wavne '17 **Awarded Public Interest Fellowships**

Mary-Kathryn Smith '19

will work to challenge executions of death-row prisoners that are conducted in secret. And Adena Wavne '17 will represent transgender defendants who have faced employment discrimination.

Smith and Wayne are the recipients of two public interest fellowships from Cornell Law School that allowed them "These fellowships are an incredibly important way for our graduates to get into public interest organizations," said Akua Akyea, assistant dean for public service at the Law School. "A lot of public interest organizations can't hire right out of law school so this is an important way for our students to not only do great and needed work, but also to get an entry into public service work."

In her yearlong fellowship, Smith will create resources for the Philadelphia Capital



Mary-Kathryn Smith

to pursue legal projects they are passionate about this fall.

The Robert B. Kent Public Interest Fellowship was awarded to Smith, who will work at the Federal Community Defender Office for the Eastern District of Pennsylvania—Capital Habeas Unit in Philadelphia. And the Frank H.T. Rhodes Public Interest Fellowship was given to Wayne, who will work at New York Legal Assistance Group in Manhattan.



Adena Wayne

Habeas Unit to use to file First Amendment challenges for transparency in pending executions for death row inmates.

"It is truly life-changing to receive this fellowship," she said. "This is really just one of the most incredible experiences that I've ever had and I'm so excited about the project."

The Robert B. Kent Public Interest Fellowship was established through a \$1 million gift made possible by Robert D.

Ziff '92 in honor of the legendary teacher and mentor, Robert B. Kent, a former professor at the law school.

In her two-year fellowship, Wayne will represent clients in litigation against employers to ensure that gender identities are respected and to seek compensation for any discrimination they have experienced. She also plans to train transgender workers by offering workshops focusing on employment rights.

Wayne is currently completing a clerkship with Judge Frederic Block of the U.S. District Court for the Eastern District of New York, in Brooklyn. She hopes to continue working with the LGTBQ community after her fellowship.

"Since my first year in law school, I had hoped to do a fellowship after law school and serve this community," she said. "I'm so grateful to Cornell for helping me make that happen." ■



SCHOLARSHII ACULTY







Emad H. Atiq, Assistant Professor of Law and Philosophy

"There Are No Easy Counterexamples to Legal Anti-Positivism" (July 2, 2019), Journal of Ethics and Social Philosophy (forthcoming)

Legal anti-positivism is widely believed to be a general theory of law that generates far too many false negatives. If antipositivism is true, certain rules bearing all the hallmarks of legality are not in fact legal. This impression, fostered by both positivists and antipositivists, stems from an overly narrow conception of the kinds of moral facts that ground legal facts: roughly, facts about what is morally optimific-morally best or morally justified or morally obligatory given our social practices. A less restrictive view of the kinds of moral properties that ground legality results in a form of anti-positivism that can accommodate any legal rule consistent with positivism, including the alleged counterexamples. In this article, Atiq articulates an "inclusive" form of anti-positivism that is not just invulnerable to extensional challenge from the positivist. It is the only account that withstands extensional objections, while incorporating, on purely conceptual grounds, a large part of the content of morality into law.



Sandra Babcock, Clinical Professor of Law

"Navigating the Moral Minefields of Human Rights Advocacy in the Global South," Northwestern University Journal of International Human Rights, vol. 17, no. 1 (2019)

Human rights advocacy in foreign countries raises complex ethical, moral, and political questions. Legal scholars have challenged the legitimacy and accountability of international human rights activists who impose foreign agendas on local partners in the Global South. Development economists have raised related concerns about the impact of foreign assistance on government accountability. In this article, Babcock uses narrative storytelling techniques to illustrate the fraught strategic judgments and moral choices that permeate human rights advocacy. These narratives are drawn from Babcock's international human rights clinic's twelve-year engagement in justice reform work in Malawi, where she and her students and I have been instrumental in the release of nearly 300

prisoners from Malawian prisons. Over more than a decade, we have periodically fallen prey to cultural misperceptions and ethical dilemmas that threatened to derail our success. The lessons derived from these experiences underscore the value of a long-term, incremental approach to human rights advocacy that prioritizes deep collaboration over shortterm success.





John H. Blume, Samuel F. Leibowitz **Professor of Trial** Techniques; Director of Clinical, Advocacy and Skills Programs; **Director of Cornell** Death Penalty Project

"Death by Numbers: Why **Evolving Standards Compel** Extending Roper's Categorical Ban Against Executing Juveniles from 18 to 21" (February 25, 2019), Texas Law Review (forthcoming)

Nearly fifteen years ago, the Supreme Court held in Roper v. Simmons that the Eighth Amendment prohibits the execution of people who were under eighteen at the time of their offenses. The Court justified the line it drew based on

legislative enactments, jury verdicts, and neuroscience. In the intervening years, however, much has changed in juvenile sentencing jurisprudence, the legal treatment of young people, and neuroscience. These changes beg the question: Why eighteen? Is the brightline rule that the Court announced in Roper still constitutionally valid or do the changes since 2005 now point to a new cutoff at twenty-one?

To answer those questions, this Article considers post-Roper developments in the relevant domains to make the case that the eighteen-year-old constitutional line should be extended to age twenty-one. It does so by applying the Supreme Court's evolvingstandards-of-decency methodology. Specifically, the Article examines all death sentences and executions imposed in the United States post-Roper and looks at the current state of neuroscientific research that the Court found compelling when it decided Roper.

Two predominant trends emerge. First, there is a national consensus against executing people under 21. This consensus comports with what new developments in neuroscience have made clear: people under twenty-one have brains that look and behave like the brains of younger teenagers, not like adult brains. Second, young people of color

are disproportionately sentenced to die—even more so than adult capital defendants. The role of race is amplified when the victim is white. These trends confirm that the logic that compelled the Court to ban executions of people under eighteen extends to people under twenty-one.

States from 2016 to 2018, to determine whether they were subjected to torture upon arrival in Somalia. Of the twenty deportees interviewed, 55 percent suffered torture at least once, with the highest percentage—66.7 percent—experienced by individuals deported in 2018. The abuse, which included kidnapping, stabbings, and beatings with truncheons

power wielded by the majority clans, and the lack of protection for the Somali Bantu, there is a high likelihood that any individual Somali Bantu will suffer torture if deported to Somalia. This survey is empirical evidence that removals of the Somali Bantu violate Article 3 of the Convention Against Torture.



Much has changed in juvenile sentencing jurisprudence, the legal treatment of young people, and neuroscience. These changes beg the question: Why 18?







Estelle M. McKee, Clinical Professor of Law (with coauthor Daniel J. Van Lehman)

"Removals to Somalia in Light of the Convention Against Torture: Recent Evidence from Somali Bantu Deportees," Georgetown Immigration Law Journal, vol. 33, no. 3 (2019)

This paper presents the results of a survey of Somali Bantu deported from the United

and whips, meets the definition of torture under Article 3 of the Convention Against Torture. Individuals were intentionally subjected to severe pain and suffering for an unlawful purpose: ransom. Further, most of the abuse was inflicted by public officials or others acting in that capacity, primarily uniformed governmental security officials. Somali police also acquiesced to Al Shabab's torture of Somali Bantu. These results are consistent with the extreme marginalization and mistreatment that majority clans have inflicted on the Somali Bantu since the 19th century. Given the political and military





Saule Omarova, Beth and Marc Goldberg Professor of Law

"New Tech v. New Deal: Fintech As A Systemic Phenomenon," Yale Journal on Regulation, vol. 36, no. 2 (2019)

Fintech is the hottest topic in finance today. Recent advances in cryptography, data analytics, and machine learning are visibly "disrupting" traditional methods of delivering financial services and conducting financial transactions. Less visibly, fintech is also changing the way we think about finance: it is gradually recasting our collective understanding of the financial system in normatively neutral terms of applied information science. By making financial transactions easier,



faster, and cheaper, fintech seems to promise a microlevel "win-win" solution to the financial system's many ills. This article challenges such narratives and presents an alternative account of fintech as a systemic, macro-level phenomenon. Grounding the analysis of evolving fintech trends in a broader institutional context, the article exposes the normative and political significance of fintech as the catalyst for a potentially decisive shift in the underlying public-private balance of powers, competencies, and roles in the financial system. In developing this argument, the article makes three principal scholarly contributions. First, it introduces the concept of the New Deal settlement in finance: a fundamental political arrangement, in force for nearly a century, pursuant to which profit-seeking private actors retain control over allocating capital and generating financial risks, while the sovereign public bears responsibility for maintaining systemic financial stability. Second, the article advances a novel conceptual framework for understanding the deep-seated dynamics that have eroded the New Deal settlement in recent decades. It offers a taxonomy of core mechanisms that both (a) enable private actors to

continuously synthesize tradable financial assets and scale up trading activities, and (b) undermine the public's ability to manage the resulting system-wide risks. Finally, the article shows how and why specific fintech applications cryptocurrencies, distributed ledger technologies, digital crowdfunding, and roboadvising—are poised to amplify the effect of these destabilizing mechanisms, and thus potentially exacerbate the tensions and imbalances in today's financial markets and the broader economy. It is this potential that renders fintech a public policy challenge of the highest order.



Jed Stiglitz, Professor of Law, Iia Ionathan Zhu and Ruyin Ruby Ye Sesquicentennial **Fellow**

"Regulatory Bundling," Yale Law Journal, vol. 128, no. 5 (2019)

Regulatory bundling is the ability of administrative agencies to aggregate and disaggregate rules. Agencies, in other words, can bundle what would otherwise be multiple rules

recent executive order directing agencies to repeal two regulations for every new one promulgated. Agencies now have a greater incentive to pack regulatory provisions together for every two rules they can repeal.

This article explores the positive determinants and normative implications of regulatory bundling. The empirical analysis reveals that agencies have been increasingly engaging in regulatory bundling for the last two decades. More generally, bundling behavior varies widely across different administrative agencies, and agencies appear to include more subjects in their finalas opposed to proposedrules. These findings, in turn, raise significant normative concerns that could be addressed through a suite of tools novel to the administrative state: single-subject rules, line-item vetoes, and innovative uses of more traditional doctrines of judicial review. Whether some of these tools should be adopted, however, requires further empirical assessment of regulatory bundling's causes and consequences.

Regulatory bundling is the ability of administrative agencies to aggregate and disaggregate rules. Agencies, in other words, can bundle what would otherwise be multiple rules into just one.



into just one. Conversely, they can split one rule into several. This observation parallels other recent work on how agencies can aggregate adjudications and enforcement actions, but now focuses on the most consequential form of agency action: legislative rules. The topic is timely in light of a



Nelson Tebbe, Professor of Law (with coauthor Lawrence G. Sager)

"The Reality Principle," Constitutional Commentary, vol. 34, no. 1 (2009)

Many liberals have received the Supreme Court's decision in Masterpiece Cakeshop. Ltd. v. Colorado Civil Rights Commission (1) as narrow and regrettable. (2) On this view, Justice Anthony M. Kennedy sought to escape a conflict between two of his paramount commitments, to religious freedom and to equal citizenship for LGBTQ people, by writing a majority opinion that was specific to the peculiar facts in Colorado and therefore limited in its precedential effect. But this reading overlooks aspects of the Court's ruling that may well be consequential. Some of these are salutary, while others are more troubling.

In this article, Tebbe and Sager address both the promising and the problematic aspects of the opinion. In Part I, they identify three constitutional principles that were established or reaffirmed in Masterpiece: that there is no constitutional right to religious exemptions from neutral and generally applicable public accommodations laws; that the government's interest in avoiding dignitary harm is

sufficient to defeat most claims for religious exemptions; and that courts should be sensitive to evidence of government animus against vulnerable groups. In the course of that analysis, Tebbe and Sager emphasize the Court's recognition that for these purposes sexual orientation discrimination and racial discrimination are structurally parallel.

In Part II, the authors turn to the mistaken interpretation of the Court's opinion that worries them. At points, Kennedy's language has been read to suggest that Colorado's civil rights practices violate the state's obligation of neutrality toward religion. Colorado's law protects gay couples and religious believers alike from discrimination in the marketplace, of course. And the state allows any baker—including religious objectors to gay marriage—to refuse to write messages with which they disagree on their cakes, including messages that affirm marriage equality. Yet some are arguing that these commonplace civil rights practices are somehow biased against religion. Tebbe and Sager explain why this is mistaken. Colorado's enforcement of its public accommodations law rightly protected groups that were subject to structural injustice, including both religious denominations themselves and the LGBTO community, and its actions should not signal any hostility toward religion.





W. Bradley Wendel, Associate Dean for Academic Affairs and Professor of Law

"Law and Nonlegal Norms in Government Lawyer's Ethics: Discretion Meets Legitimacy," Fordham Law Review, vol. 87, no. 5 (2019)

This essay is about the role of unwritten norms in the ethical decision-making of government lawyers. Because the ethical obligations of lawyers, including government lawyers, are closely tied to the legal rights and obligations of clients, this analysis necessarily depends on understanding the relationship between written law and unwritten norms. As we all know, however, written law leaves gaps, ambiguities, and zones of unregulated discretion. Prosecutors in the

United States, for example, have virtually unreviewable discretion to decide who to investigate and charge, what charges to bring, and whether to offer immunity in exchange for cooperation. No one has a legal entitlement not to be prosecuted, nor does anything else – official or private citizen - have the power to compel a prosecutor to grant clemency to people convicted of offenses.

The question is, what standards, norms, or ethical values, if any, constrain the actions of lawyers advising government officials who exercise their power within discretionary unwritten areas of the law? What is the relationship to positive law and its claim to legitimate authority? The claim to be defended in this essay is that the value of legality—that is, a political ideal aimed at safeguarding against abuses of power, which emphasizes a relationship of mutual respect. between citizens and those who governinforms the exercise of discretion in the spaces left unregulated by positive law. ■



Our legal system demands that third-party litigation financiers refrain from interfering with a client's decisions in their matter, and traditional third-party litigation financing is merely a passive profit-making opportunity.

– W. Bradley Wendel



ALUMN

Alumni Return to Campus for Reunion

It was the perfect summer afternoon, sunny and 75 degrees as President Martha Pollack spoke to the lunchtime crowd at Purcell Courtyard.

"We have a lot to celebrate," said Pollack, serving up a short list of reasons: The Law School's new First Amendment Clinic. Its new master's degree in law, technology, and

It was the perfect summer afternoon, sunny and 75 degrees as President Martha Pollack spoke to the lunchtime crowd at Purcell Courtyard.

entrepreneurship. Its new program in information and technology law. The growing global impact of its Center on the Death Penalty Worldwide Clinic and the Migration and Human Rights Program. The work of law students in the Campus Mediation Practicum. A record year for Reunion fundraising. "No wonder Cornell law graduates are proud to support their school. It's not only widely respected for offering superb preparation for legal careers—it has a much broader impact, across the university and in the wider world."

Attendees nodded, raised their glasses, and nodded again. Arriving on campus the day before, they'd reunited with classmates they hadn't seen

in years, toured the administrative offices in renovated Hughes Hall, marveled at the summer sunset, and relaxed until late at night, sharing memories in the Student Commons. That made Friday's Alumni and Faculty Luncheon the ideal time to gather again under the shade of the Reunion tent, think about all they'd done since 1L, and remember the reasons why they came here all those years ago.

"Cornell has long been a place that welcomed students from all backgrounds," said Eduardo Peñalver, Allan R. Tessler Dean and Professor of Law, emphasizing a sense of diversity in the university's original mission. "Cornell was founded to be a school





Members of the Class of 1994 at a Reunion wine tasting event.

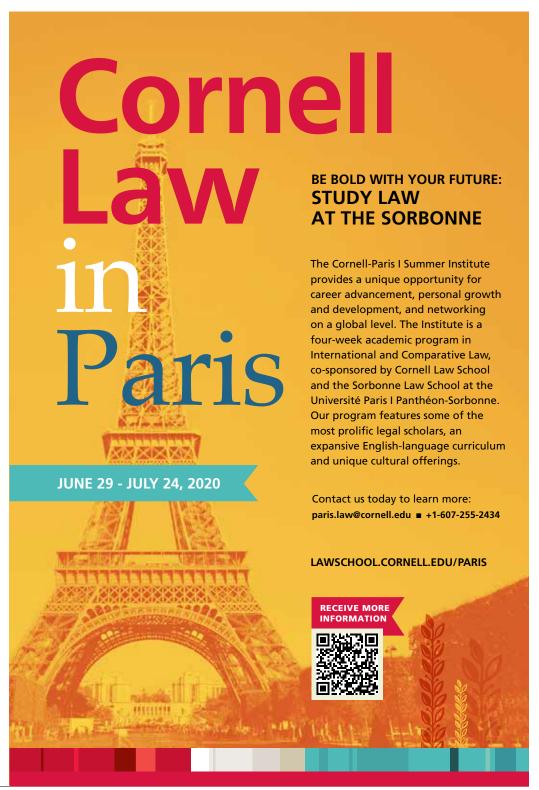


whose only orthodoxy is inclusiveness. From its founding, the university espoused a radical openness to people of all backgrounds and beliefs. It aspired to be a place where, in the words of A.D. White, 'the most highly prized instruction would be available to anyone, regardless of sex or color.'"

Peñalver quoted Ezra Cornell's vision of founding an institution free from sectarianism and free from political preferences, offering "a hearty and equal welcome" to anyone who walked through its doors for instruction in any study. For Peñalver, that goal remains central to the Law School: "By examining complex legal questions in an environment characterized by diversity—racial and gender diversity, to be sure, but also economic diversity and diversity of viewpoints—our students and faculty learn to understand and collaborate with people of all backgrounds."



Stephen Robinson '84



Looking around a tent big enough to hold Clinton appointees and Trump appointees, Peñalver talked about a commitment to diversity that's "matched by our commitment to civil engagement across that diversity." In one example, Reunion 2019 hosted "The 'Trump Whisperer': Judicial Philosophy and Advising U.S. Presidents," a conversation between MSNBC's Ari Melber '09, and the Federalist Society's Leonard Leo '89, who's played a significant role in

confirming five current Supreme Court justices. In another example, much of the lunch crowd had just come from a CLE program on "Immigration in the Time of Trump: Caravans, Crises, and Citizenship," which finished with a lively question-andanswer session about how alumni lawyers can help.

"Frankly, for those of us who have been practicing law for a very long time, we know there is always going to be an overlap in topics," said Michael Schenker '74, who focuses on bankruptcy and probate, after engaging with panelists Stephen Yale-Loehr '81 and Estelle McKee. "There was a lot of information here about the lack of available resources







Nick Robfogel '59 (left) and Daniel Brownstein, LL.B. '59, talk with E.F. Roberts, Edwin H. Woodruff Professor of Law, Emeritus



for the people who need them most, and even if all we gained was a better sense of understanding, a deeper sensitivity to the issues, you never know where that information is going to make a difference. And I got a kick out of the energy in the room."

Following lunch, when Schenker headed to Bailey Hall for Reunion 2019's Olin Lecture, fellow law alums toured the A.D. White House gardens, attended a continuing legal education (CLE) program on "Litigation Analytics: Comparing and Contrasting what is Available from Bloomberg, Lexis, and Westlaw," and raised a glass (or two or three) at the Law School Wine Tasting Event in Myron Taylor Hall. That night, alumni gathered for dinner, with the Classes of 1954, 1959, 1964, and 1974 rubbing elbows in Statler Hotel's Taverna Banfi while the Class of 1979 held court in the Law School atrium.

"We told a lot of stories at dinner, and I'm sure most of them were true," said Mark J. Bennett '79, sharing one about 1970s dorm life: "I loved being a law student, and I loved Cornell. My first year, when I was in Hughes Hall it's been forty years, so hopefully the statute of limitations has run out—we played hall hockey and hall baseball in our suite, with our

own idiosyncratic rules. And we used the courtyard as our wiffleball field. When I came back for reunion fifteen years ago, I actually stayed in Hughes Hall—not the room I was in, but in the suite of rooms. It was like, 'How did I live here for a year?' I feel old saying things like '40 years ago,' but time passes quickly, as everyone who gets to my age realizes."

"For two years, I lived in Hughes Hall," said Diane Clarke Streett '74, who attended Reunion 2019 with 1L roommate Rosemary Pye '74. "It was incredibly scenic, for one thing, overlooking the gorge. And it was part of a very full experience, because when I was here as a student, I just wanted to concentrate on schoolwork, not think about fixing dinner or having to live

on my own. I learned so much here, and it was wonderful, the most wonderful education. That's what Cornell did for me. Everything I absorbed here made me confident that I could aspire to do things once I graduated."

Looking back on Saturday afternoon, Streett remembered the inspiration of professors John Barcelo III, William Hogan, Peter Martin, and

Helping Hands

Arriving on campus minutes before Friday's Alumni and Faculty Lunch, Derrick Moore '09, happened to sit next to Professor Estelle McKee, whose clinic focuses on immigration appeals. For introductions, Moore talked about the law firm he recently founded, and McKee recapped the CLE panel she'd just co-led on "Immigration in the Time of Trump."

"Professor McKee was interested in the work I was doing to start my own practice, and I was interested in getting back into immigration law," said Moore, who represented immigrants pro bono at White & Case. "It was one of the most rewarding experiences I've had in law. There was a genuine emotional interaction, and when you were actually able to succeed, it was a great feeling."

Sitting nearby, Robert Falck '99, remembered that feeling. Before coming to Cornell Law, he worked as a refugee caseworker with the International Rescue Committee. Now, he's ready to begin again. "As part of Reunion, I thought I'd reconnect with these issues," said Falck, who focuses his practice on estate planning. "It's my twentyyear marker, and I'm trying to dig a little deeper into what I can do with my Cornell Law degree. I've hovered here and there, but sitting through this program, I felt, 'I have to do this. I have to do something."

Following the panel discussion, Falck is drafting a brief to the Board of Immigration Appeals, and Moore is working to clear his schedule for a return to immigration court. "We all received a very good education here, and it set us up for excellent jobs coming out of law school," says Moore, urging alumni to assist any way they can. "Giving back lets you help someone who can't afford good legal representation while helping you become a better lawyer."

Faust Rossi. Then, talking about the Dean's State of the Law School address earlier in the morning, and taking in the crowd at the Dinosaur Barbecue Lunch & Reunion Campaign Celebration, Streett felt inspired again. "Look around at the people here," she said. "They are healthy. They're vibrant. They're engaged. They're interested in what's going on, and I think that reflects part of Cornell's legacy. There's a spirit here that you don't see in a lot of places."

On the dais, **Stephen** Robinson '84, reflected that spirit in sharing the good news about Reunion 2019 fundraising, which reached several new milestones for donors and dollars, and set a few new records (details appear in the column, "Development News"). The Class of 1969, in particular, enjoyed exceptional success: its giving topped every other Cornell Law class in its 50th Reunion year.



Cornell President Martha Pollack

"We have an unusual bond in our class, and I think that has to do with the era we were in," said Jack L. Lewis '69, who hosted the class dinner at his home on Cayuga Lake. Between speeches, he talked about taking classes from Ernie Roberts ("Probably the most well-read law professor in the world") and playing squash with Al Neimeth ("We

"It's a very energetic class, and now that we're in a position to give back, whether it's a lot or a little, we're happy to be counted," agreed Dick Wallach '69, a third-generation Cornellian who chaired the class's reunion fundraising. "We've had a remarkable journey for the past fifty years, and I think Cornell has helped a lot of us in our careers and in the quality of education we had. We're looking back fondly on the experiences we had, the friendships we made. Celebrating our class. Celebrating the

The 50th is a milestone, so there's a lot of positive sentiment here, a real attachment to the Law School. Real gratitude, which is what I think it's all about. To me, my financial support is simply repaying a debt.

— Jack L. Lewis '69



Members of the Class of 1979 and Class of 1965 at the BBQ lunch on Saturday

were pretty even, sometimes he'd get the best of me"), who was honored by the Class of 1969 with a named scholarship. "The 50th is a milestone, so there's a lot of positive sentiment here, a real attachment to the Law School. Real gratitude, which is what I think it's all about. To me, my financial support is simply repaying a debt."

Law School. Celebrating Cornell, a place where you could get a good education and meet with interesting, smart, capable people. And I'm very grateful that I'm one of them."

From there, with the last bit of barbecue sauce wiped clean, alumni rose to their feet, headed to the Law Library for a hands-on exhibit in the Dawson Rare Book Room, a hike through the gorge, and a

standing-room-only conversation with Trump-whispering Leonard Leo. Then, with a perfect day leading to a perfect evening, it was time to get ready for the All-Class Celebration and Buffet Dinner.

"To me, coming back to campus is like heaven on earth," said Judy Richter Levy, LLB '59, one of five women to graduate out of a class of more than one hundred students. "We had a dinner last night, and I brought a friend who could not believe the camaraderie between us. There were about fifteen people who returned, plus some spouses, and hearing the things everybody said about the Law School, he was really amazed.

"Being here brings back so many happy memories," she continued. "And who knows? This might be my last reunion, so I'm going to drink it all in."

Dean's Advisory Council Welcomes New Members

The Law School Dean's Advisory Council welcomed five new members in 2019-2020. Joshua Eisenberg `00, Eric Fastiff `95, Zellnor Myrie `16, Annie O'Toole `16, and Chuck Rosenzweig `88 began the four-year term on July 1, 2019.

Joshua Eisenberg `00 is executive vice president and general counsel of Urban American, an owner and operator of apartment units in New York City, Westchester County, and New Jersey. Eisenberg was previously an associate of Heller Ehrman; and of Brown, Raysman & Steiner, LLP. He served eleven-and-a-half years



Joshua Eisenberg

in the U.S. Army Reserve and Army National Guard, attaining the rank of captain, and in 2001 was battery commander with the World Trade Center Site Recovery and Homeland Security Mission, in New York City. Eisenberg's volunteer service to Cornell includes past membership to Cornell University Council; membership to his Law School 15th Reunion Committee; and membership to the Law School Young Alumni Committee.

Eric B. Fastiff `95 is a partner of Lieff Cabraser Heimann & Bernstein, LLP, in the firm's San Francisco office, and chair of its Antitrust and Intellectual Property Practice Group. Fastiff joined Lieff Cabraser in

2003 and has worked on many cases involving the food, technology, finance, home furnishing, natural resources, and music industries. He also represents businesses in commercial disputes with their suppliers and competitors. His clients include governments, businesses, individuals, and consumer groups.

Fastiff's great-grandfather, Marcus Barmon, LL.B. 1898, and great-great uncle, Daniel Webster Barmon, LL.B. 1894, were graduates of Cornell Law School. His volunteer service



Eric B. Fastiff

to Cornell Law includes membership to the Law Association Board of Directors, Dean's Special Leadership Committee, Mock Interview Program, and Law Alumni Helping Alumni. He has served twice as his class's Reunion Campaign Chair.

Zellnor Myrie '16, a Brooklyn native, is a New York State Senator serving the state's 20th Senate District. In his previous position as an associate of Davis Polk & Wardwell, Myrie dedicated more than 600 hours of pro bono work to immigrants seeking asylum, victims of police brutality, and illegal stop-and-frisks, special education students not receiving services from the Department of Education, and survivors of domestic violence. At Cornell Law, he was an editor of the *Journal of Law & Public Policy*, as well as student



Zellnor Myrie

body president, and his status as a pro bono scholar made it possible for him to take the New York bar exam early and devote his last semester to working at Justice 360, a criminal justice reform organization. His volunteer service to Cornell Law includes membership to the Young Alumni Committee, the Law Association Board of Directors, and the Law Alumni Shadow and Mock Interview programs, respectively.

Annie O'Toole '16 is a judicial law clerk at the U.S.
District Court for the Southern
District of New York. She was
previously an associate of Paul,
Weiss, Rifkind, Wharton &
Garrison, LLP. At Cornell Law,
she served as managing editor

of the *Journal of Law and Public Policy* and was a graduate/ professional student trustee on Cornell University's Board of Trustees. She was also a teaching assistant and a member of the Women's Law



Annie O'Toole

Coalition and the 3L Class Gift Committee, respectively. Her volunteer service to Cornell includes membership in the Law School Alumni Mock Interview Program.

Chuck Rosenzweig '88, is founder and managing partner of Criterion Real Estate Capital, a private investment firm focused on providing debt and equity for commercial real estate transactions throughout the United States. Prior to founding the firm, Rosenzweig was a practicing attorney at Kaye Scholer Fierman Hays & Handler, with one year (1993) at Mayer Brown & Platt. In 1995, he left legal practice to begin a career in finance as a managing director at Capital Company of America. He subsequently worked at CDC Mortgage Capital, Perenson

Minella & Co., and RBS Greenwich Capital, respectively. More recently, he was a consultant for Gotham Organization, a real estate, construction, and development company. A longtime member of Cornell's



Chuck Rosenzweig

Real Estate Council and currently a member of its Advisory Board, Rosenzweig is currently serving his second term on Cornell University Council. He is a trustee on the Real Estate Subcommittee and is a parent representative on the College of Arts & Sciences Advisory Council. Previously, he was a member of the Atkinson Center for a Sustainable Future's Advisory Board, served on the Class of 1985's 30th Reunion Campaign, and his Law School class's 25th Reunion Campaign Committee.

Awarded annually to the law student or students who have made the greatest contributions during his or her law school career to civil-human rights: Shelby Garland '19, Joon Lee '19, Lindsey Ruff '19

Development News

The Law School Annual Fund needed each and every donor in fiscal 2019 to touch \$3M for the first time. When the books closed on June 30, 2019, cash gifts to the Annual Fund totaled \$3,095,970.92, including more than \$440,000 designated to the Law Annual Fund for Scholarship. Especially important were donors of multiple gifts: more than \$805K came to the Annual Fund as "follow-on" gifts from current donors who had already given. The Law Annual Fund has enjoyed robust support during the

Fund makes legal education possible at Cornell by supporting everything from tuitionassistance grants to facilities operation and maintenance. With fiscal 2020 well underway, the Annual Fund aims to increase donor participation and again reach \$3M in total cash. Every gift has a role: A Dean's Circle gift of \$10,000 could mean that much in tuitionassistance for a J.D. candidate, and a gift of \$100 in combination with fifteen others could deliver a Public Interest Fellowship grant to a 1L or 2L student interning in the nonprofit legal sector. There is

When the books closed on June 30, 2019, cash gifts to the Annual Fund totaled \$3,095,970.92, including more than \$440,000 designated to the Law Annual Fund for Scholarship.

deanship of Eduardo Peñalver, the Allan R. Tessler Dean since 2014. Our donors' generosity has enabled Dean Peñalver to increase the value of scholarship grants and student tuition-assistance significantly. More than 80 percent of the Law School's total financial aid budget comes from sources other than endowed scholarships, including the Annual Fund. The Annual

power in numbers: If each and every Law alum made a "follow-on" gift of just \$100, Annual Fund would become more than \$900,000 richer. If each and every Law alum made an initial Annual Fund gift of at least \$1,000, total cash would exceed \$9,000,000—triple the FY20 goal. A gift to the Law School Annual Fund always comes at the right time and is always appreciated.

Alumni Association

Six alumni are welcomed as new members of the Cornell Law School Alumni Association Executive Board of Directors: Nathanial Isaacson '07; Daniel S. Jo '03; Kris Kully '94; Cynthia Liao, LL.M. '07; Kimberly Taylor '05; and Geoff Young '06. A complete listing of the board of directors can be found online at www. lawschool.cornell.edu/alumni/executive committee.cfm.

Cornell Law School is grateful to these alumni who give voice to the interests of all Law School alumni. They work to ensure alumni participation is a key component of the Law School while fostering a closer association between the Law School and its alumni and among its alumni. They promote the interest and welfare of the Law School and promote the practice of law and the highest standards of learning and ethics in the legal profession.



NATHANIAL ISAACSON '07 CHICAGO, ILLINOIS

Nate Isaacson leads the legal function of Sloan Valve Company as its vice president of legal. Before that, Isaacson served as the divisional vice president, assistant general counsel, and data privacy officer for Sears Hometown and Outlet Stores, Inc. He has also served in senior legal and regulatory compliance roles with Sears Holdings Corporation and practiced law with Fulbright & Jaworski and Thacher, Proffitt & Wood in New York City and Houston, Texas, respectively.



DANIEL S. JO '03 STAMFORD, CONNECTICUT

Daniel Jo joined Silver Golub & Teitell as an associate in 2011. Prior to joining the firm, he worked at several prominent law firms in New York, including Fried, Frank, Harris, Shriver & Jacobson. Jo has represented both individual and institutional clients in various civil and complex commercial matters, including contract and partnership disputes, negligence and breach of fiduciary duty claims, securities litigation, governmental investigations, shareholder derivative actions, and intellectual property disputes. His experience also includes representation of clients in employment litigation involving compensation and severance disputes, wrongful termination claims and violations of labor laws. Jo has represented clients in federal and state courts as well as in arbitration and mediation.



KRIS KULLY '94 WASHINGTON, D.C.

Kris Kully is a partner in Mayer Brown's Washington, D.C., office and a member of the Consumer Financial Services group. She concentrates her practice on federal and state regulatory compliance matters affecting providers of consumer financial products and services. Her practice includes advising clients on compliance with licensing, consumer protection, and other practice requirements facing mortgage and consumer lenders/brokers, servicers, and investors, as well as other participants in the real-estate finance and consumer credit industries. Kully is a former lawyer for the Department of Housing and Urban Development. In that role, she provided legal counsel to the department on the mission oversight of Fannie Mae and Freddie Mac, the interpretation of the Real **Estate Settlement Procedures** Act and the implementation of the department's various housing assistance and community development programs. She also worked in the financial services industry for a number of years. Kully has served on the board of directors of Women in Housing and Finance for a number of years, and currently serves as president.

Cornell Law School is grateful to these alumni who give voice to the interests of all Law School alumni. They work to ensure alumni participation is a key component of the Law School while fostering a closer association between the Law School and its alumni and among its alumni.













CYNTHIA LIAO, LL.M. '07 WASHINGTON, D.C.

Cynthia Liao currently serves as a business immigration attorney at Maggio Kattar Nahajzer + Alexander, P.C. in Washington, D.C. Her practice focuses on employment-based immigration, including helping employers across diverse industries obtain visas for foreign national employees. She also advises companies on all aspects of processing employment-based immigrant and nonimmigrant visas. Liao received an LL.M. degree from Cornell Law School in 2007 and a Bachelor of Laws degree (LL.B.) and a Bachelor of Social Work degree from National Taiwan University in Taiwan in 2003. In 2018, she was president of the National Taiwan University Alumni Association in the Washington-Baltimore Area and currently serves as an advisor to its Board of Directors.



KIMBERLY TAYLOR '05 SAN FRANCISCO, CALIFORNIA

Kimberly Taylor is in-house counsel at Charles Schwab where she supports the banking and trust entities. Prior to joining Schwab, Kimberly was a litigator in private practice focusing on class actions, securities enforcement, and trust and probate contests; she also served as a law clerk for the United States District Court for the District of Hawaii. Taylor is active within the Bay Area legal community and has been involved with the Boards of Directors of the Barristers Club and the Justice & Diversity Center. While at Cornell Law School, she was a vice chancellor of the Moot Court Board and the editor in chief of the Cornell International Law *Journal*. Taylor lives in the San Francisco Bay area with her husband (also a Cornell graduate) and young son.



GEOFF YOUNG '06 NEW YORK, NEW YORK

Geoff Young is a partner in the Global Commercial Disputes Group at Reed Smith, LLP. His practice comprises litigating and providing counsel for complex business disputes across a variety of industries that cover a wide range of the firm's specialties, including complex commercial litigation, products liability (especially aviation litigation), financial services litigation, energy and natural resources, advertising/ trademark litigation, and international arbitration. In addition, Young has experience within the areas of internal and governmental investigations, including under federal and state false claims statutes.



Class Notes are Online

Search for news on your classmates and other Cornell Law School

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

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



They promote the interest and welfare of the Law School and promote the practice of law and the highest standards of learning and ethics in the legal profession.

Reunion Campaigns of Law classes ending in "4" and "9" were instrumental in carrying the Annual Fund over the \$3M threshold. Reunion gifts totaled \$8,955,053 and supported Law scholarships, chaired professorships, the Hughes Hall construction project, the Legal Information Institute, the Tom Bruce Legal Innovation Fellows Fund, and other designations in addition to the Annual Fund. Participation among the members of these respective classes rose to 28 percent (from 25 percent five years ago), with a combined total of 642 of the "4" and "9" contingent making a gift. Highlights abound, as every Reunion Class Campaign made its mark:

60th Reunion, Class of 1959, set a new 60th Reunion donor record with thirty-five donors (exceeded 50 percent participation)

55th Reunion, Class of 1964, raised the second-most total dollars in honor of a 55th Reunion: \$1,876,308

50th Reunion, Class of 1969, set new records for donors and dollars for a 50th Reunion class: total donors, sixty-four (exceeded 50 percent participation); total dollars, \$5,566,846—the second-most dollar amount of any Cornell Law class celebrating any Reunion year

45th Reunion, Class of 1974, set a new 45th Reunion donor record: seventy-five donors (exceeded 50 percent participation)—the seventh highest donor count of any Cornell Law class celebrating any Reunion year

40th Reunion, Class of 1979, set a new class best for gift dollars: \$207,955 from fifty-seven donors

35th Reunion, Class of 1984, had its second-best totals for donors and dollars: sixty-one donors gave \$486,743



30th Reunion, Class of 1989, had its best dollar total, \$176,150, from forty-six donors, which equaled its previous best participation total

25th Reunion, Class of 1994, reached its high-water mark for donors at fifty-eight, who together gave \$215,597—the fifth highest dollar total of any Cornell Law class celebrating its 25th Reunion

20th Reunion, Class of 1999, hit new highs for donors and dollars, with forty-three donors giving \$66,988

15th Reunion, Class of 2004, stepped up with a 70 percent increase in donors from five years ago—a best-ever thirty-four donors from the Class of `04 gave \$68,145, the third highest dollar total of any Cornell Law class celebrating its 15th Reunion

10th Reunion, Class of 2009, delivered its best-ever donor total of thirty-one, an increase of 55 percent from five years ago, who gave \$24,450 – the fourth highest dollar total of any Cornell Law class celebrating its 10th Reunion

5th Reunion, Class of 2014, established its best dollar total at \$8,501 from forty-seven donors – the third-most donors of any Cornell Law class celebrating its 5th Reunion

Many thanks to all our 2019 Reunion classes and their respective Campaign Committees, chairs, members, and donors.

The Law School's Public **Interest Fellowship** program attracted needed support in the form of both current-use and endowment gifts from Chuck Rosenzweig `88. The Rosenzweig Public Interest Fellowship Fund will provide "enhanced summer stipends to students who wish to pursue summer employment in the government and non-government organizations, with a preference for students in the 2L summer." The current-use gift will provide PIF grants immediately, at the discretion of the Allan R. Tessler Dean of Cornell Law School. Chuck Rosenzweig, a 1985 graduate of Cornell's School of Industrial and Labor Relations, is managing partner of Criterion Real Estate Capital, in New York City. He became a member of the Law School Dean's Advisory Council this year.

Gifts to Law School Scholar**ships** were again a popular form of alumni philanthropy. Four new scholarship endowments were created during the second half of fiscal 2019. Victor J. Paci `80 and Jennifer Miller Paci `80 established the Miller Paci Family Scholarship for "deserving law students enrolled at Cornell Law." Vic Paci is Managing Director of Equity Resource Investments, LLC, in Cambridge, Massachusetts, and Jennifer Miller Paci is chief business sustainability officer at Sappi North America, in Boston. **T. Thomas** Cottingham `76, managing partner of the Charlotte, North

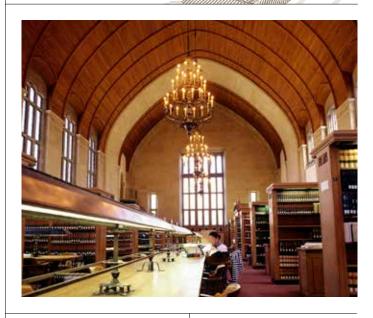
Carolina, office of Winston & Strawn, LLP, and his wife Jeanie endowed the Faust Rossi Scholarship, in Cottingham's words, "to recognize his forty-seven-year commitment to teaching at Cornell Law School, the excellent legal education he gave thousands of lawyers, and the profound impact he had on my legal career." Cottingham noted that Faust Rossi was "one of the most dynamic, popular, and accessible professors" at Cornell Law. "In my forty-two years of law practice, I was involved in litigating well over 1,000 cases in about half the U.S. jurisdictions and tried more than 100 cases," he said. "I found that when I wrote pleadings and briefs, I often wrote the words Professor Rossi had said in class. When I was in court, I found that I was often saying the same words I had heard Professor Rossi say in class. I served as a Bar Examiner on Federal Civil Procedure at one time during my career. I found that I wrote exam questions using parts of hypotheticals Professor Rossi had used in class." The Rossi Scholarship is a permanent tribute to a teacher who imparted abiding knowledge in an unforgettable way.

Members of the Law Class of `69 stepped up with some extraordinary gifts in honor of their 50th Law Reunion. Marshall Phelps `69 renewed his support for the Law School's presence at Cornell NYC Tech with a new currentuse gift to the Dean's Discretionary Fund for Cornell NYC Tech Partnership. His gift will support the Law School's curriculum and students at Cornell's campus on Roosevelt Island, including the LL.M. degree in Law & Technology and the J.D. Semester at NYC Tech. Anthony Radice `69 provided funding and a gift to endowment, through a future bequest, to create the Radice Family Professorship in the Law School. The inaugural Radice Family Professor, appointed by Allan R. Tessler Dean Eduardo M. Peñalver, is Chantal Thomas. Finally, the Law Class of 1969 as a whole "adopted" the Albert and Doris Neimeth Law Scholarship and re-established it, with enhanced funding, in honor of the class's 50th Law Reunion. The Cornell Law School Class of 1969 Al and Doris Neimeth Scholarship honors stalwart "Double Red" Cornellian and Law Associate Dean Al Neimeth `52 and his wife Doris for their dedication to Cornell Law School and its students. Class of `69 Reunion Cochair Richard "Dick" Wallach `69 led the drive to attract new gifts to the Neimeth Scholarship, motivated by his fond memories of Al and his appreciation of Al's approach to Law School admissions. "Al Neimeth was looking for young men and women with character and grit, as well as academic credentials," said Wallach. "He wanted law students with a strong

desire to walk the extra mile to

He wanted law students with a strong desire to walk the extra mile to become Cornell lawyers. He believed that character and grit were essential to excellence and success.

— Richard Wallach '69



become Cornell lawyers. He believed that character and grit were essential to excellence and success." Classmate Derick Betts `69 shared just such a story about himself and Reunion Cochair Jack Lewis 69: "We both had decent LSATs in the high 80s percentile but Al said Cornell's target was mid-90s percentile, so we were not in the 'admit' rangebut he said if we were willing to take the LSAT again, he would be willing to reconsider

us. We both took the LSAT again and both of us got a lower score than our first one. But he took us and neither Jack nor I could figure out why. At our 40th Reunion, Al came back as our featured speaker at our Class dinner and someone asked him about factors that made a difference to him in deciding to accept an applicant. He said something to the effect of determination and grit, and he pointed to Jack and me and said our willingness to retake the LSAT was a deciding factor

in admitting both of us. I remember raising my hand in response—did he remember that our scores the second time were worse than the first? He said he never looked at them and didn't care the slightest what the second scores were! He said the only thing that mattered to him was that, in the face of a noadmit, we wanted to clear the hurdle to get into Cornell and took the damn LSAT again! What a guy! A unique Admissions officer willing to go beyond the grades and scores and take chances on the intangibles he valued in people." Al Neimeth served Cornell Law for some forty years in the respective associate deanships of Admissions, Financial Aid, Alumni Affairs, and Placement. The Class of 1969 was the first that Al admitted to Cornell Law and among its members he had many friends. By supporting the Neimeth Scholarship, those friends celebrate the spirit and ethics of Al and Doris Neimeth and their abiding presence at the Law School—a fitting tribute that, for many, is personal. "I think it is obvious that, without Al, I would not have had the opportunity to become a Cornellian, which means a great deal to me," said Wallach. "My grandfather, Class of 1914, was dying in 1966. When I called to tell him about my acceptance to his school, he cried. My grandfather loved Cornell. The Alma Mater was the only song at his funeral. Al made that happen, and I am

forever grateful and happy that my class has chosen to honor him."

The retirement of **Tom Bruce** as director of the Legal Information Institute inspired a "lifetime achievement" gift to the LII from **Timothy Stanley** and Stacy Stern, creators of the legal information website, Justia.com. The Tom Bruce Legal Innovation Fellows Fund is intended to support and promote innovation in digital technologies within a context of "Free Law organizations," including the LII. Innovation Fellows will work with the LII's permanent staff to solve the most urgent problems in getting law, and information about the law, on the internet and maintaining it there in a form that is authoritative, comprehensive, freely accessible, and secure. Additionally, the Fund will enable LII Staff Fellows to visit other legal-information entities in a mutual learning experience about new technologies and techniques that might benefit the ongoing work of the LII and the host organizations. Tom Bruce cofounded the LII in 1992 with then-Dean (and now Dean Emeritus) Peter Martin. The LII was the world's first website to offer free access to legal information, and under the twenty-five years of Tom Bruce's directorship it garnered a global reputation for excellence, reliability, accessibility, and integrity among lawyers, judges, journalists, teachers,

rank-and-file citizens, and everyone who ever used it to learn something about the law.

Bequest Gifts, both realized and prospective, played a leading role in making Law School fundraising successful. Michael T. Tomaino `62, formerly a partner of the Wolford Law Firm in Rochester, New York, advised Cornell Law of a future bequest from his estate that will endow the Michael T. and Beverly A. Tomaino Scholarship. A future bequest from the estate of Roger J. Weiss 64 will endow two funds: the Roger and Caren Weiss Dean's Building Fund, intended to "provide support for the construction, upkeep, and related capital expenses associated with Cornell Law School's facilities"; and the Roger and Caren Weiss Fund for Cornell Law School, to address new, ongoing, and/or emergent needs. Roger Weiss was most recently senior managing director of Robeco Investment

Management, in Rye Brook, New York. He is a six-decade benefactor of Cornell Law as well as the University, and has directed his philanthropy to many of Cornell's schools and units, including the College of Arts & Sciences, Weill Cornell Medicine, Athletics, the College of Agricultural and Life Sciences, the Johnson Graduate School of Management, the Johnson Art Museum, and others. A third gift from the estate of Elizabeth Storey Landis `48 delivered some \$873,000 to Cornell Law for the purpose of providing tuition-assistance grants to current Law School students. This gift brought Ms. Landis's bequest to her alma mater to more than \$4.3M—all of which has been devoted to financial aid for J.D. candidates. In recognition of her extraordinary generosity, Cornell Law School named the Elizabeth Storey Landis LL.B. 1948 Auditorium in her honor.



Cornell Law School held its Homecoming Tailgate Bash in conjunction with University Homecoming on October 5. There were nearly 300 students, alumni, and faculty in attendance who enjoyed a lovely fall afternoon filled with fun, food, drinks, and Cornell football.

Morton L. Bittker '60

Robert W. Brown '67

James A. Cashen Sr., LL.B. '58

Richard J. Cummins '55

William R. Delaney '61

Samuel Crawford FitzPatrick, LL.B. '63

Paul M. Ford, LL.B. '55

Hon. Betty Bregman Friedlander, LL.B. '59

George H. Getman '48

Jean R. Goldman '49

Barton D. Graham '67

Timothy M. Hall '87

Gilbert Henoch '58

Michael B. Hess, LL.M. '91

James W. Kambas, LL.B. '64

John F. Kennedy, LL.B. '52

Lawrence E. Larson, LL.B. '59

Henry S. Mather '70

Philip E. McCarthy '65

Raymond J. Minella '74

John P. Mulhern '80

T. David Mullen, LL.B. '54

Donald J. O'Connor, LL.B. '58

Brian Michael Olmstead, LL.B. '64

John T. Pattison '76

J. Edward Penick Jr., J.D. '75, M.B.A. '75

Barry M. Portnoy '71

Phyllis L. Read '47

J. William Reeves, LL.B. '56

Donald P. Reynolds '55

Hon. Richard M. Rosenbaum '55

Raymond L. Sciarrino '61

William P. Smith Jr. '90

Michael A. Snyder '77

Honorable Richard T. Spriggs, LL.B. '61

Douglas S. Stuart, LL.B. '62

Carolyn J. Swift '79

W. Wells Talmadge '83

Sanford P. Tanenhaus, LL.B. '53

Jonathan Minot Weld '67

Kevin A. Wiggins '96

Robert I. Williamson, LL.B. '51

Judith A. Yanello '67

FORUM

Volume 45, No. 2

Sherrie Negrea, Eduardo Peñalver, Ian McGullam, Owen Lubozynski, Valerie Hans, Muna Ndulo, Kenny Berkowitz, Christopher Brouwer, Joe Wilensky, Daniel Aloi, John Lauricella, Georgina Selenica

Rediscover the Law School

Reunion Weekend 2020 will be a wonderful opportunity for you to return to Ithaca to visit with the professors and classmates you remember with great fondness and to see the changes that the Law School has made since you were last here.

There is a great selection of programs for you to choose from during this special weekend. Please visit our website or call to make your reservations now. The Law School community looks forward to welcoming you back to Myron Taylor Hall.







REUNION WEEKEND 2020

JUNE 4~6

get connected at

www.lawschool.cornell.edu/alumni/reunion/index.cfm or call 607.255.5251 for more information





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