

JUSTICE SONIA Sotomayor

VISITS THE
LAW SCHOOL

INSIDE:
The Second
Decade
of the
CLARKE
BUSINESS
LAW
INSTITUTE



Cornell Law School

Lawyers in the Best Sense

Spring 2019

Introducing the
Entrepreneurship Law Clinic

The Lynn Stout
Memorial Conference

Faculty Essays by Robert Hockett
and Charles Whitehead

Cynthia Farina and
Gregory Alexander Retire

Remembering Robert Summers

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Support Scholarship at Cornell Law School

My scholarship allows me to pursue my dream of being an attorney, while lifting some of the financial pressure that comes with law school. I am able to focus my attention on my studies, not my finances.

Obtaining this scholarship solidified my decision to attend Cornell Law School and pursue my interest in international law. Being a student here has allowed me to form bonds with professors who inspire me, and find a community of support from my peers.

”



Destiny Reyes '21
Recipient of the
Serafini Family Scholarship



FORUM

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Dear Alumni and Friends:

As we finished producing this issue of the *Cornell Law Forum*, we received the sad news that **Jack G. Clarke, LL.B. '52**, had passed away. Jack, a deeply devoted Cornellian, was one of the most transformative and visionary figures in the history of Cornell Law School.

Jack's love for the school inspired him to make extraordinary philanthropic investments here, naming centers and programs in international law and in business law, as well as several professorships and scholarships. But Jack's support of the people at Cornell went beyond his financial support and reflected his own personal passion and respect for the academic enterprise and for the intellectual life of the Law School.

Coincidentally, we had already planned to focus this issue of the *Forum* on the tremendously successful Jack G. Clarke Institute for the Study and Practice of Business Law, which was created in 2007 following a \$5 million gift

from Jack. That gift remains "the largest single investment in business law in the history of the Law School" as former Dean **Stewart J. Schwab** noted in a *Forum* article at the time. It has been enhanced over the intervening years by numerous significant gifts from other Law School alumni who shared Jack's vision for the Institute. We devote the bulk of this edition to exploring how that "investment" has grown over the past twelve years.

Through a series of articles, sidebars, and essays, organized under the theme "The Second Decade of the Clarke Business Law Institute," this issue demonstrates how the Law School has become a business law powerhouse thanks to the visionary philanthropy of Clarke and his fellow alumni. Since 2007, we've gone from one untenured faculty member in business law to four tenured professors who are leaders in their fields and expanded from a smattering of business law courses to several dozen in the business law concentration.

With its exceptional faculty, innovative and cutting-edge programs and clinics, and dynamic and innovative curriculum, the CBLI has established its place among the preeminent programs in the nation. However, it is just one part of a much broader foundation of support that Jack has built at Cornell Law School over the past few decades.

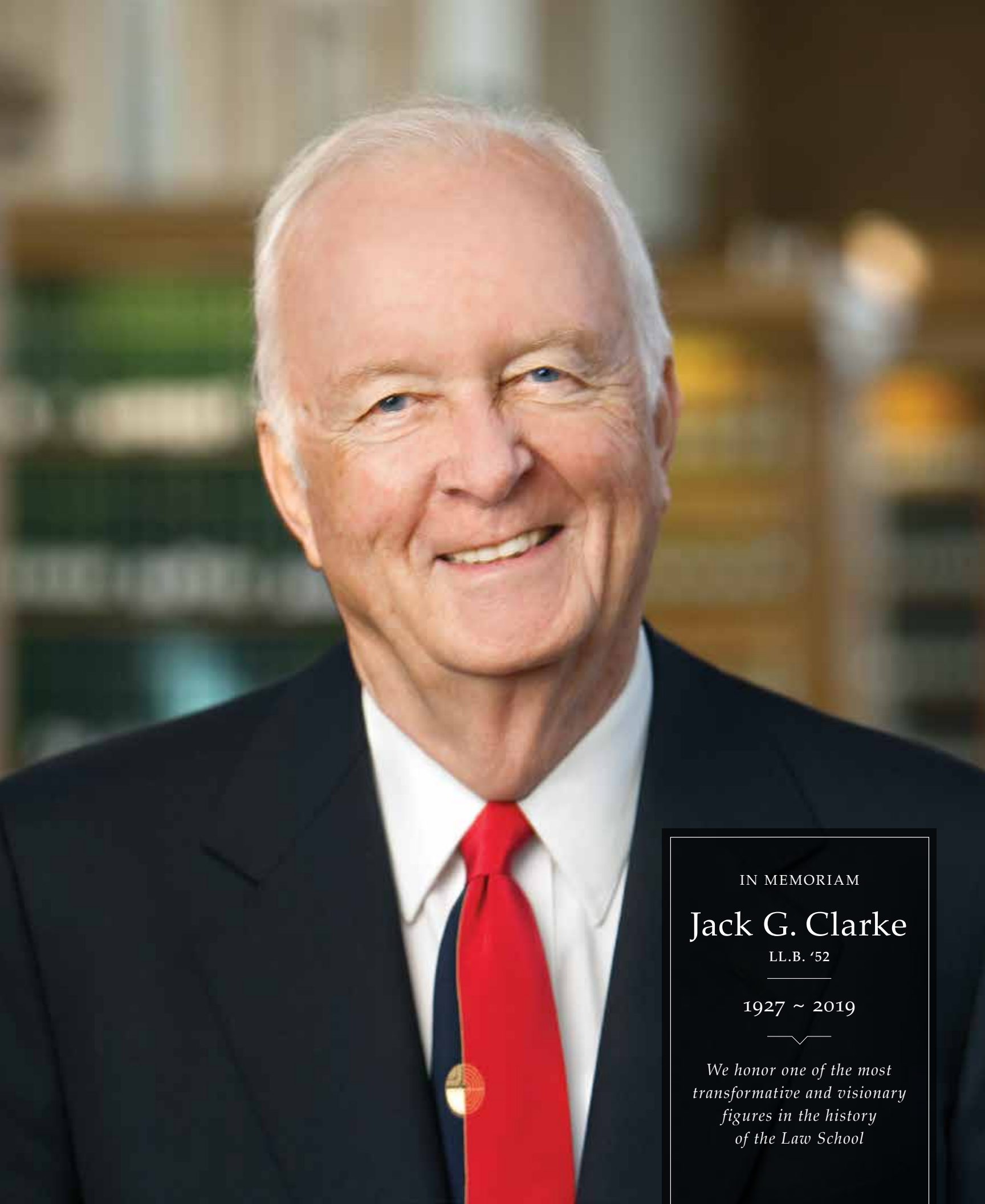
No one has done more to cement Cornell Law School's commitment to global engagement than Jack, who developed a passion for international law while at Cornell. During his career, he spent thirty-five years in international business law with Exxon Corporation, which took him to South America, Europe, Africa, and the Middle East. As a negotiator with representatives of oil-producing states, he found it enjoyable and instructive to learn about other cultures and he discovered it was essential to the successful practice of law on a global scale. Starting in 2000, Jack made a series of exceptional gifts that have funded the bulk of our international programs.

The entire Cornell Law School community mourns Jack Clarke's passing, and celebrates his life's many achievements and his steadfast dedication to Cornell. I will miss talking with Jack about what is happening in Myron Taylor Hall. Cornell Law School was never far from his heart. I hope the same can be true for all of us who have been fortunate enough to become part of this remarkable institution.

Respectfully,

Eduardo M. Peñalver

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



IN MEMORIAM

Jack G. Clarke

LL.B. '52

1927 ~ 2019

*We honor one of the most
transformative and visionary
figures in the history
of the Law School*

Justice Sotomayor Dazzles Law Students in Daylong Visit

by SHERRIE NEGREA



As the presiding judge of the final round of the 2018 Cuccia Cup Moot Court Competition, Justice Sonia Sotomayor was the first sitting Supreme Court justice in over thirty years to participate in a moot court at Cornell Law School.



On October 18, 2018, **Ben Van Meter '20** was so nervous he couldn't eat anything the entire day, except for half a Clif Bar and a cup of coffee. After six weeks of preliminary arguments, he was about to present his case in the final round of the moot court competition. When the moment came to stand before the judges in the packed auditorium, Van Meter suddenly felt confident—until he was abruptly interrupted by U.S. Supreme Court **Justice Sonia Sotomayor**.

Her question: How do you expect a police officer just off the street to critically evaluate whether a suspect is intellectually disabled?

"I think I got to the second sentence of my introduction, and we were off to the races," Van Meter says, noting that he and his partner, **Morgan Anastasio '20**, had prepared for this scenario. "If you had to say two sentences to Justice Sotomayor and were then going to be hit by an opening question from her, what would they be?"

The presence of Justice Sotomayor at the final round of the Cuccia Cup Moot Court Competition last October raised the level of tension more than a few notches in the Elizabeth Storey

Landis Auditorium for two teams of students who had the chance of a lifetime to argue before a U.S. Supreme Court justice. Not only were they presenting their case in front of Justice Sotomayor, but their argument was based, in part, on a majority opinion she had written for the Supreme Court in 2011.

In that case, *J.D.B. v. North Carolina*, which involved the confession of a thirteen-year-old boy to two home break-ins, during a police interrogation at school, Sotomayor concluded that a

If you had to say two sentences to Justice Sotomayor and were then going to be hit by an opening question from her, what would they be?

— Ben Van Meter '20





Members of the Moot Court Board stand behind the judges for the Cuccia Cup Moot Court Competition
(L to R): Hon. Peter Hall '77, Hon. Richard C. Wesley '74, Justice Sonia Sotomayor, Hon. Steven M. Colloton, and Hon. Amy J. St. Eve '90

child's age should be considered in a custody analysis under *Miranda v. Arizona*. The case before the moot court, *Hector Zeroni v. State of Myrontana*, went a step further, considering whether a defendant's intellectual disability was a relevant factor in a Miranda custody analysis and whether the defendant's confession had been voluntary.

Having a Supreme Court justice judge a moot court at Cornell Law School is a rare event. The last Supreme Court justice to preside over a competition was **Sandra Day O'Connor**, who had already retired when she judged the Cuccia Cup Moot Court Competition in 2007.

"There have been a number of Supreme Court justices who have judged moot court competitions in the past," says **Eduardo M. Peñalver**, the Allan R. Tessler Dean and Professor of Law. "Obviously it's something they enjoy doing. But it happens once a decade or every fifteen years at the Law School."

The invitation to Justice Sotomayor to spend a day on campus was carefully orchestrated by Peñalver and **Judge Richard C. Wesley '74** of the U.S. Court of Appeals for the Second Circuit. At a dinner honoring the 125th anniversary of the Second

Circuit in October 2016 in New York City, Judge Wesley, a close friend of Justice Sotomayor's who chaired the event, arranged for her to sit between him and Peñalver.

"Between the two of us, that sealed the deal," Peñalver says. "We had invited her every year since I became dean. She accepted the invitation when Judge Wesley got involved."

Judge Wesley had become friends with Justice Sotomayor in 2003, when he joined her on the Second Circuit, and they heard cases together for the next six years. In his first year on the court, Judge Wesley remembers sitting with Judge Sotomayor half of the time during arguments, and he and his wife often met her for brunch in the West Village on weekends.

Their friendship continued over the years, despite their contrasting backgrounds—Judge Wesley lives in Livonia, New York, is a former Republican New York State Assemblyman, and was appointed to the appellate court by **President George W. Bush**, while Justice Sotomayor grew up in the Bronx, was appointed to the Supreme Court by **President Barack Obama**, and became the first Hispanic to serve on the Court.



"I don't think our backgrounds really played much of a role in our friendship," Judge Wesley says. "They played a role in who we are, but she's a very thoughtful person. She was very much interested in my life and background, and I in hers."

Although it took two years to find an opening on her calendar, both Judge Wesley and Peñalver persisted in encouraging Justice Sotomayor to visit Cornell because of her unique background and accomplishments, her interest in students, and the message she brings to young people.

"She has a significant sense of responsibility to the community from where she came and to young people, regardless of their ethnicity or national heritage," Judge Wesley says. "Eduardo and I knew if we could get her to come, it would be a terrific experience for the students and the university, and it would be something a lot of young people would long remember."

She has a significant sense of responsibility to the community from where she came and to young people, regardless of their ethnicity or national heritage. Eduardo and I knew if we could get her to come, it would be a terrific experience for the students and the university, and it would be something a lot of young people would long remember.

— Judge Richard C. Wesley '74



TOP: Justice Sotomayor and her longtime friend Judge Wesley '74 share a laugh during the public event at Bailey Hall



When she walked onto the stage at Bailey Hall shortly after arriving on campus that fall morning, Justice Sotomayor received a standing ovation from the crowd of 1,200 students, staff, and faculty members. During an informal conversation with Judge Wesley, the justice walked through the aisles of the auditorium, shaking hands with anyone she could reach and calling students to stand next to her as she answered questions they had submitted before the talk.

In her hourlong talk, Justice Sotomayor discussed her struggle after being diagnosed with diabetes at the age of seven, the influence reading had on her education, her love of the legal profession, and her life on the Supreme Court. Her message to the students was clear and forthright.

“The reason I’m here today and speak publicly is because I’m trying to engage every student in this room to remember that your most important job in life as a member of this community is to be involved in bettering it, to be a voice for change, to take action when you see things you don’t like, and to be civically involved in making this a better union,” she said.

“It won’t happen by anything the Supreme Court does alone. It won’t happen by any President or any Congress acting alone. It happens when we work together to make a perfect union. That’s what the law did for me.”

The talk, attended by an estimated 500 students from the Law School, ended with a discussion of how often she socializes with the other justices (she eats lunch with them about six times during each two-week period of hearing cases), her feelings about being in the media spotlight (she still isn’t used to it), and her embrace of optimism.

“I know how much pain there is in life,” she said. “The girl who was eight, who was taking injections and thought it was a pin needle—that girl is now sixty-four and knows there’s nothing easy about life. But it hasn’t taken away my innate optimism. I really do see the glass always half full, and I don’t let it overwhelm the goodness that I see in the world.”



Justice Sotomayor holds a copy of her book *Pasando Páginas: La History de Mi Vida* (*Turning Pages: My Life Story*).



ABOVE AND LEFT: Justice Sotomayor with fellow judges during the final round of the Cuccia Cup Moot Court Competition

Justice Sotomayor then headed to the Statler to eat lunch with students enrolled in Federal Appellate Practice, a course taught by Judge Wesley and **John Blume**, the Samuel F. Leibowitz Professor of Trial Techniques. The students asked her about the differences in serving as a district court and an appellate court judge, her experience at Yale Law School, and her summer internships.

One student in the class, **Rahul Krishnan '19**, the chancellor of the student-run Moot Court Board, says Justice Sotomayor's visit was one of the most memorable experiences he's had at law school. "I think it was one of those times when I'm reminded of what it is to be at a place like Cornell," he says. "Obviously Supreme Court justices are pretty generous with all the schools they visit, but to have it happen while I was here—it was one of the days I was just most impressed with what Cornell can do."



The reason I'm here today and speak publicly is because I'm trying to engage every student in this room to remember that your most important job in life as a member of this community is to be involved in bettering it, to be a voice for change, to take action when you see things you don't like, and to be civically involved in making this a better union.

— Justice Sotomayor



The fifty-one-page case at the center of the Cuccia Cup competition was prepared last summer by three executive bench editors on the Moot Court Board. Krishnan, who helped advise the students, says they chose a case that involved a Miranda rights issue because they knew Justice Sotomayor had championed the expansion of protections under Miranda.

By September, forty-three teams of students had registered for the Cuccia Cup, which typically attracts about thirty competitors. After six preliminary rounds, two teams had moved ahead to compete in the finals: Van Meter and Anastasio for the petitioner, and **Lauren Fairman '20** and **Corby Burger '20** for the respondent.

Beyond the case for which Justice Sotomayor wrote the majority opinion, *Hector Zeroni v. State of Myrontana* was also based on a

case that has been adapted into the Netflix series *Making a Murderer*. Changing several details from the original case, *Brendan Dassey v. Michael A. Dittmann*, the moot court case focused on the conviction of seventeen-year-old Hector Zeroni, who was intellectually disabled and who had confessed to helping his uncle murder a woman and mutilate her corpse.

The respondents, Fairman and Burger, argued that the logic of Justice Sotomayor's opinion in *J.D.B. v. North Carolina* should not be extended to a custodial analysis in the case because they said police officers cannot be expected to know whether a suspect has an intellectual disability. For Fairman, researching Justice Sotomayor's opinion, preparing the case, and then arguing in front of her was an experience she says she'll never forget.

"It's hard for me to put into words, because it's something I'll definitely remember forever," Fairman says. "It just kind of reinforced how much I do enjoy oral advocacy, even though I didn't really do this before coming to Cornell."

Burger, who won the Langfan Family First-Year Moot Court Competition last year, was overwhelmed by the statement Justice Sotomayor made just before she announced the panel's verdict, when she told the crowd that she would hire any of the four student finalists as her lawyer.

"That was my proudest moment in the whole tournament—to hear Justice Sotomayor say that the quality of the tournament was so good that she would hire anyone of us as her lawyer," Burger says.

On the petitioner side, Van Meter and Anastasio argued that intellectual disability and age share many of the same characteristics, and both should be considered in a custodial analysis



Cuccia Cup Moot Court Competition winners Corby Burger '20 (left) and Lauren Fairman '20

under Miranda. They also proposed a four-part standard that would allow police to determine whether a suspect has an intellectual disability.

While Justice Sotomayor has a reputation as a tough questioner, Van Meter recalls being struck by the way she asked her questions. "What I found fascinating about being questioned by her is she is not someone who is going to ask you an arcane legal

question just to see what you do," he says. "She will ask you these very commonsense points that go directly to the heart of your argument."

What also made the competition memorable for the students was the presence of many of their parents in the audience. "Even if I have the opportunity to argue in front of the Supreme Court for real twenty years from now, you don't get to share that with your families and friends the way we could here," says Anastasio, whose parents and stepdad—**Steve Greenapple '84**—all watched the competition.

There's an educational benefit of having a Supreme Court justice come and having the entire community see they're just people like us. It brings that branch of government to the community in a way that's not part of our daily routines.

— Eduardo M. Peñalver

After announcing that Fairman and Burger had won the competition, Justice Sotomayor joined the students for dinner at the Statler, along with the other judges on the panel: **Hon. Richard C. Wesley**; **Hon. Steven M. Colloton**, U.S. Court of Appeals for the Eighth Circuit; **Hon. Peter W. Hall '77**, U.S. Court of Appeals for the Second Circuit; and **Hon. Amy J. St. Eve '90**, U.S. Court of Appeals for the Seventh Circuit.

Also attending the dinner were Frank and Michael Cuccias, the grandson and great-grandson of the late **Francis P. Cuccia, LL.B. 1912**, whose endowed gift funds the finalists' prizes in the competition.

Peñalver says the impact of Justice Sotomayor's visit extended beyond the Law School to the entire Cornell community. "There's an educational benefit of having a Supreme Court justice come and having the entire community see they're just people like us," he says. "It brings that branch of government to the community in a way that's not part of our daily routines." ■

The Second Decade of the Clarke Business Law Institute

by IAN MCGULLAM



From humble beginnings twelve years ago, the Jack G. Clarke Institute for the Study and Practice of Business Law has grown into one of the nation's preeminent business law programs.



Late in the first decade of this new century, Cornell Law School had a dilemma on its hands.

Then, as now, most Cornell Law School graduates were going to work for big firms. But while Cornell was producing outstanding business lawyers, the Law School didn't have enough business law faculty or the infrastructure to match.

Working with the Law School's lone permanent business and financial law professor at the time, **Robert C. Hockett**, and a number of dedicated alumni, **Stewart J. Schwab**, then the Allan R. Tessler Dean and Professor of Law, set about changing that. From its founding in 2007, the Jack G. Clarke Institute for the Study and Practice of Business Law fundamentally changed the landscape of business and financial law education and research at Cornell.

The Clarke Business Law Institute (CBLI) is now well into its second decade of shining a light on the business side of the legal profession. It has contributed endowed professorships and influential research, clinics and seminars, and prominent speakers



We now have four tenured business law faculty who are recognized leaders in their respective fields. We have gone from a handful of courses in the business law concentration to dozens.

— Eduardo M. Peñalver



and academic conferences to the Law School, making Cornell a powerhouse in the business law world.

“When I arrived at Cornell Law School as a junior faculty member, before the creation of the Clarke Business Law Institute, the Law School had one untenured faculty member in the business law area,” recalled **Eduardo M. Peñalver**, the current Allan R. Tessler Dean and Professor of Law. “We now have four tenured business law faculty who are recognized leaders in their respective fields. We have gone from a handful of courses in the business law concentration to dozens.”

Generous financial support from the Law School’s alumni network has allowed the CBLI to hire an impressive collection of permanent faculty to join Hockett, who currently holds the post of Edward Cornell Professor of Law. The CBLI’s first hire, in 2009, was **Charles K. Whitehead**, the Myron C. Taylor Alumni Professor of Business Law and founding director of the Law, Technology and Entrepreneurship Program at Cornell Tech. Over the following years, he was joined by **Saule Omarova**, the Marc and Beth Goldberg Professor of Business Law; **Celia Bigoness**, Associate Clinical Professor of Law; and the late **Lynn Stout**, Distinguished Professor of Corporate and Business Law.

The locus of talent and resources that the CBLI represents has enabled Cornell to draw talented business law specialists to Ithaca despite its distance from corporate hubs like New York City. “It’s not just the resources,” Whitehead said. “Of course, it’s important that the Clarke Business Law Institute has funding, and it means you can do great things. But the real value is the evidence through creation of the CBLI of a strong commitment by faculty and alumni to really build and sustain something in the business law area. For me, that was the compelling reason to come to Cornell.”

Celia Bigoness

ASSOCIATE CLINICAL
PROFESSOR OF LAW



“Transactional law is not at all a zero-sum game,” says Celia Bigoness. “I used to think that a negotiation was about winning. Instead, if you do your job right as a deal lawyer, both sides walk away from the table thinking that they’ve won.”

Bigoness is an associate clinical professor of law and founder of the Entrepreneurship Law Clinic, Cornell’s first transactional law clinic. She also teaches Introduction to Transactional Lawyering and organizes the annual Cornell Law School Transactional Lawyering Competition.

Before joining Cornell, she spent seven years practicing corporate law at Sullivan & Cromwell in New York, London, and Paris, working in areas including project finance, leveraged finance, capital markets, and mergers and acquisitions.

What excites her most about her job are the students with whom she works every day. “The Entrepreneurship Law Clinic is often their first opportunity to actually start functioning like a lawyer, and they bring tremendous energy to work with them every day,” she remarks. “I also try hard to establish a personal relationship with every student, since law practice is a lot about managing relationships and understanding how people think.”

In addition to working with law students, she is advising a Cornell undergrad on her senior honors thesis, which relates to employment policies at start-ups. “It’s really fun to work with a student outside the Law School, since she brings a totally different perspective to her research from what I’m accustomed to in the law,” Bigoness says.

On top of all that, Bigoness is currently collaborating with an ecosystem of Cornell programs, departments, and advisors to facilitate the growth of Cornell-affiliated start-ups. She observes, “Ithaca has the potential to be a start-up hub, and I’m excited to be contributing to the ongoing work in this area.”

"The promise of the institute was not just 'We will give you resources'," Whitehead added. "There was now a focal point to build a robust business law curriculum."

That focus embraces not only traditional corporate law subjects, but also financial institutions and markets. This emphasis was reflected in, among other things, the hiring of Omarova in 2013, one of the legal academy's premier banking and derivatives law scholars, whose work on financial conglomerates and big banks' involvement in commodity markets had drawn the attention of U.S. senators, the *New York Times*, the *Financial Times*, and even Jon Stewart's *The Daily Show*. Omarova's arrival at Cornell significantly expanded the scope and public impact of the CBLI. "Having such a strong institutional base for conducting research and engaging in policy entrepreneurship was one of the most exciting things about Cornell for me," said Omarova.

The CBLI's creation was anchored on a founding gift of \$5 million from **Jack Clarke, LL.B.** '52, one of the greatest benefactors in the Law School's history.

Schwab, now the Jonathan and Ruby Zhu Professor of Law, had a close relationship with Clarke built on everything from tennis games to travels through East Asia together. Clarke was highly engaged with the Law School's faculty and alumni network, and Schwab remembers the development of the CBLI as filled with back-and-forth exchanges. "Among Jack's many, many talents, he was a terrific listener and could ask the just-right question that put things in perspective," Schwab said. "He was not the type to go around with long lectures or to dictate things, but he did observe and read and listen to a lot of people connected with the school." Clarke remained involved with the Institute over the course of its life. Whitehead remembered meeting with Clarke

Saule Omarova

MARC AND BETH GOLDBERG
PROFESSOR OF BUSINESS LAW



"The standard view of finance is that it is an area where statistical modeling and high-level economic theories define the right outcomes. I wish more people realized that, in practice, finance is not simply a technical area: it is an inherently political and deeply normative matter," says Saule Omarova.

"At the core of all of the current dysfunctions in the financial system is the fundamental imbalance of public and private power. Getting financial regulation 'right' is, therefore, absolutely necessary in order to get both our nation's economy and our democracy 'right.'"

Omarova specializes in regulation of financial institutions and markets, banking law, international finance, and corporate finance. Before joining Cornell Law School in 2014, she was the George R. Ward Associate Professor of Law at the University of North Carolina School of Law.

Prior to joining academia, Omarova practiced law in the Financial Institutions Group of Davis, Polk, & Wardwell, a premier New York law firm, where she specialized in a wide variety of corporate transactions and advisory work in the area of financial regulation. During 2006–2007, she served at the U.S. Department of the Treasury as a special advisor for regulatory policy to the under secretary for domestic finance.

In addition to her teaching, Omarova is currently working on a series of articles exploring, from a systemic perspective, the regulatory challenges posed by the new financial technologies, known as "fintech." She's also collaborating with Professor Robert Hockett on a project examining the potential for central banks to issue and use digital currency.

"I love that I am always learning new things, engaging with new ideas, and interacting with young minds," says Omarova. "This job keeps my mind sharp and my heart hopeful."

Saule Omarova Testifies before Senate Banking Committee

by OWEN LUBOZYNSKI

Recent advances in computing power, data analytics, cryptography, and machine learning have made financial technology, or “fintech,” a hot topic in the financial sector, for both actors and regulators. On September 18, following a July report on the subject by the U.S. Treasury Department, the Senate Committee on Banking, Housing, and Urban Affairs held a hearing on fintech and its implications.

Among the experts testifying before the committee was Professor **Saule T. Omarova**, director of the Clarke Program on the Law and Regulation of Financial Institutions and Markets at Cornell.

Speaking after representatives from Consumer Financial Data Rights, Fidelity Wealth Technologies, and the Mercatus Center at George Mason University, Omarova observed that it was symbolic to be holding the hearing almost exactly on the tenth anniversary of the failure of Lehman Brothers, which triggered a global financial crisis. “For many years before the crisis, you and your colleagues probably sat through many hearings just like this one, listening to many confident and articulate gentlemen with impeccable industry credentials tell you that you should not let outdated regulation stifle innovation,” she told the senators.

“Today, the same rhetoric of financial innovation and consumer choice that brought us the financial crisis of 2008 returns to center stage in the policy

debate over fintech. ... Once again, new technologies promise to make the system more efficient, resilient, and democratic; to expand consumer choices; and to give low-income Americans access to financial services.”

Omarova argued that the Treasury Department’s recommendations could undermine a core principle of the U.S. banking system: the separation of banking and commerce. Allowing

banks to engage intimately with commercial enterprises, she warned, creates the potential for excessive concentration of financial and market power, opening the door to “conglomerates that will control the flow of both money and information and effectively take control of our lives, not only as economic actors but also as citizens.”

“The American republic of George Washington and Thomas Jefferson was never meant to become a dystopian company town of this kind,” Omarova concluded. “As you deliberate on fintech as a public policy matter, I urge you to stand on guard and not let this become even a remote possibility.”



numerous times and being asked about his work. "His was not an idle request to 'send me your papers' where they end up on the bottom of a bird cage," Whitehead said. "I mean, he was thoughtful and he really engaged. It was always a pleasure."

The CBLI came of age in the shadow of the 2008 financial crisis, which gave new urgency to the study of business and financial law. Hockett recalled multiple students crowding in to audit his financial institutions course after the add/drop period that autumn, just to understand the then-daily dramas on Wall Street and in Washington. But, Hockett said, the reckoning provoked by the crisis also validated a decision he and Schwab made at the Institute's founding: the CBLI would capitalize on Cornell Law School's unique strengths, like the egalitarian, public-minded ethos fostered by Cornell's land-grant heritage and the collaborative spirit promoted by Ithaca's small-town setting, rather than trying to compete with big-city business law powerhouses only on their own turf.

"We can and do educate top-quality practicing lawyers in the corporate realm with the best of them," Hockett said. "But even though we're very good at doing that, we're also good at something else that I don't think Columbia and NYU can equal us at, and that is bringing that public interest perspective into the teaching of business and financial law right from the get-go as an important and critical part of the institutional mission and curriculum. We teach the students not only how to navigate the law on behalf of their private-sector clients, but also how to think critically about the law and steadily improve it for the public at large."

The CBLI has developed into three distinct programs in recent years as faculty members have pursued their research agendas. The Clarke Program on the Law and Regulation of Financial Institutions and Markets, codirected

Robert C. Hockett

EDWARD CORNELL PROFESSOR OF LAW



"I wish more people understood a) that our financial system generates far more credit-money than it 'intermediates,' and relatedly b) that our money is issued by ourselves in our sovereign capacity (read across the top of a dollar bill, and you'll get a hint of what I mean)," says Robert Hockett. "Recognizing these two fundamental features of modern finance changes your outlook on everything from regulation to monetary and fiscal policy."

Hockett certainly has lots of policy on his plate. He is a senior advisor to Representative Alexandria Ocasio-Cortez on the Green New Deal and in her capacity on the House Financial Services Committee. He also assists Senator Bernie Sanders and Senator Elizabeth Warren in drafting business- and finance-regulatory statutes and advises the Fed, Treasury, and FSOC on financial matters.

Additionally, he is currently working on multiple books and articles, along with teaching at the Law School, where he has been a faculty member since 2004. Hockett also does regular consulting work for a number of federal and state legislators and local governments, the International Monetary Fund, Americans for Financial Reform, the "Occupy Money" Cooperative, and the Federal Reserve Bank of New York. His involvement in the last two converged when, while working at the Fed, he spent his nights camping in Zuccotti Park as a participant in the Occupy Wall Street protest.

In all of his work, Hockett's guiding concern is with the legal and institutional prerequisites to a just, prosperous, and sustainable economic order. "Most years," he observes, "at least one or two students approach me to tell me that they had expected Business Organizations, Financial Institutions, or my Central Banking seminar to be boring or 'too businessy' but that they've come to love these courses as being as much about the public interest as they are about any particular private interest."

Though Hockett's scholarship has taken him to law school classrooms, courtrooms, and the halls of Congress, it began under a bridge. He says, "It was living with a group of homeless men who earned money washing cars but couldn't save it that led me to study law and finance and become who I am now."

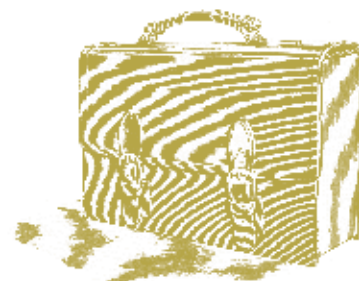
by Hockett and Omarova, is dedicated to understanding the roles of banks and other financial institutions and the laws governing their activities and market environments. Whitehead directs the Clarke Program on Law, Finance, and Transactions, which examines business and other economic relations from a law finance perspective, including how financial markets are structured and governed. And, finally, the Clarke Program on Corporations and Society was founded by Stout to study the nature of corporations and how they can play a positive role in society. Stout's work is continued by **Sergio Alberto Gramitto Ricci**, visiting assistant professor of law, who serves as the program's assistant director.

This summer, **Dan Awrey** will become the newest addition to the CBLI, joining the faculty of Cornell Law School after previously holding the post of professor of financial regulation at the University of Oxford and teaching at Cornell Law School in fall



We teach the students not only how to navigate the law on behalf of their private-sector clients, but also how to think critically about the law and steadily improve it for the public at large.

— Robert C. Hockett



2018 as the Marc and Beth Goldberg Distinguished Visiting Professor of Law. Awrey, an expert in the regulation of banks, investment funds, derivatives markets, and financial market infrastructure, is already a frequent collaborator with Hockett and Omarova, and his arrival will facilitate closer cooperation on research, as well as allowing the Law School to offer a fuller complement of courses in areas like international financial regulation, derivatives regulation, and business organizations, which the three professors have in common.

One of the CBLI's main missions is academic outreach, and spreading the theories and perspectives developed by CBLI faculty beyond East Hill ends up creating a virtuous cycle with the Institute behind that work. "We in a sense are strengthening and advertising the Cornell brand, and that has enormous

network effects," Omarova said. "Every time any one of us speaks in front of a political audience, appears on national TV, publishes some kind of a groundbreaking piece, or organizes a big conference that generates new ideas, it has a huge effect on the perception of Cornell Law School as an institution where a lot of important new ideas are being developed."

Recent conferences sponsored by CBLI programs have spanned topics from financial regulation to concepts of legal and corporate personhood, with more in the works on such hot and varied issues as the changing role of central banking, new technologies in finance, and the centennial of John Maynard Keynes's *The Economic Consequences of the Peace*. CBLI scholars' writing is also highly influential. Whitehead's recent scholarship has focused on the disconnect between change in the

financial markets and existing financial regulation, including instances when law's treatment of economically similar transactions has turned on differences of form, not substance; additionally, he became the newest co-author of the country's leading securities regulation casebook, with colleagues from Columbia and Georgetown. Omarova is currently working on a series of cutting-edge articles analyzing the potential impact of crypto-technology, big data, and machine learning—known under the general heading of financial technology, or “fintech”—on financial systemic stability and economic growth, while Hockett has been opening new lines of research into the law of money and payment systems. He also notes that his and Omarova's franchise view of finance—which sees the money and capital markets system as one in which publicly licensed private financial institutions disseminate the monetized full faith and credit of the United States throughout the financial system—is increasingly being discussed as a “Cornell school of finance,” much as the work of Emeritus Professor **Gregory Alexander**, Professor **Laura Underkuffler**, and Dean Peñalver has come to be known as a “Cornell school of property.”

Omarova and Hockett have frequently brought their expertise to Capitol Hill, testifying before and advising legislators and regulators on financial policy matters. Omarova testified before the Senate Banking Committee in September 2018 at a hearing on fintech and consumer data protection—her fourth appearance before Senate committees in as many years. “As a result of this work, I’m keeping in regular contact with senators and legislative advisers,” she said. “It’s an ongoing enterprise, because they frequently need help with respect to understanding certain policy issues relating to the banking world and financial institutions law, and so they would call me.” Hockett, meanwhile, has been assisting Representative

Charles K. Whitehead

MYRON C. TAYLOR ALUMNI
PROFESSOR OF BUSINESS LAW
AND DIRECTOR, LAW, TECHNOLOGY
AND ENTREPRENEURSHIP PROGRAM



“We are reaching a point where we need to fundamentally rethink how we regulate the capital markets,” says Charles K. Whitehead. “Much of the foundations of today’s capital markets regulation was written in the 1930s, closer to the Civil War than to the world today. Not surprisingly, they reflect capital markets that increasingly no longer exist. In fact, change has accelerated in the last thirty years—and so the institutions that circumscribe how the markets operate are increasingly outdated.”

He adds, “I try to teach and write with that arc in mind—that how we think about regulation today is against a market backdrop that did not exist when those regulations first appeared, and what I teach and write about today must evolve as the markets continue to change.”

Whitehead has been on the Cornell Law School faculty since 2009. Previously, he practiced in the United States, Europe, and Asia as outside counsel and general counsel of several multinational financial institutions; served on the faculty of the Boston University School of Law; and was a research fellow at Columbia Law School. In addition to his work at the Law School, Whitehead is currently setting up two business incubators for tech start-ups in Ukraine.

He says what excites him most about his work is engaging with students and alumni. “I will never tire of seeing ‘the light go on’ in the classroom, or engaging with students who have found a new passion in what they’re doing.” Cornell’s alumni network, meanwhile, is “a deep source of information, learning, and guidance.”

Whitehead loves hearing from former students. He shares, as an example, part of an email from an alum who is now an associate at a large law firm: “Earlier this week I asked if the broker/dealer in an [at-the-market] offering took Section 11 liability as a statutory underwriter, and a senior associate almost choked on his latte. The next time you’re tempted to go easy on a class, please don’t—this stuff is immediately useful as an associate, and I feel like we got a triple dose of it.”

Alexandria Ocasio-Cortez on her ambitious Green New Deal plan, and helped draft four statutes for Senators **Bernie Sanders** and **Elizabeth Warren** this past autumn. Hockett and Omarova also do regular advising work for the Federal Reserve, the Treasury, and the Financial Stability Oversight Council, both of them having previously worked at the Fed and Treasury, respectively.

Omarova notes that the CBLI plays a crucial role in enabling this kind of pro bono work for the public sector. “The program has provided immense logistical support and enabled me to link my scholarship to the actual policy making, and to put my expertise and my knowledge to use,” she said.

On the private side, Whitehead has been called in to assist when issues arise among financial market participants. Last year, he was unanimously elected for a third time by Wall Street’s largest buy- and sell-side derivatives firms to a three-judge panel to adjudicate a multibillion dollar dispute, this time over the effect of the Sears bankruptcy on credit derivatives.

The CBLI lost an important public intellectual with Stout’s death from cancer in April 2018. When she came to Cornell in 2012, the Institute gained an internationally recognized scholar of corporate and securities law, as well as a legendarily forceful personality. Stout was perhaps best known for her book, *The Shareholder Value Myth: How Putting Shareholders First Harms*

Dan Awrey to Bolster Business Law Program

In January, Dean Peñalver announced that Dan Awrey, professor of financial regulation at the University of Oxford, will be joining Cornell Law School in fall 2019 as the latest faculty addition to the Clarke Business Law Institute. Awrey had been the Marc and Beth Goldberg Distinguished Visiting Professor of Law for the fall 2018 term.



“Dan’s presence will both strengthen our intellectual community and further solidify Cornell’s reputation as a business law powerhouse,” said Peñalver.

“Cornell Law School is home to some of the best business law scholars in the world, supported by the Clarke Business Law Institute,” said Awrey. “I’m really looking forward to joining this distinguished group and contributing to their sustained excellence in business law teaching, scholarship, and service.”

Awrey’s work has included undertaking research and providing advice at the request of organizations including the Bank for International Settlements, HM Treasury, UK Financial Conduct Authority, Commonwealth Secretariat, and European Securities and Markets Authority. He is also a founding co-managing editor of the *Journal of Financial Regulation* published by Oxford University Press. Before entering academia, he served as legal counsel to a global investment management firm and, prior to that, as an associate practicing corporate finance and securities law with a major Canadian law firm.

“I’m looking forward to working with Professors Bob Hockett and Saule Omarova on advancing a longer-term research agenda exploring the changing roles of central banks within domestic and international financial systems, and what the implications of this are likely to be from an operational, structural, and political economy perspective.”

He adds, “As a Canadian who has spent the last ten years in the UK, I’m also looking forward to the changing seasons and, hopefully, some snow.”

The Law School Helps Launch Institute for Women's Entrepreneurship

by SUSAN KELLEY, *Cornell Chronicle*



Kirsten Barker

Stewart Schwab

In just four years, **Khadijah King** of Bay Shore, New York, founded a company, identified a target market, attracted loyal customers, and generated a profit.

She wanted to expand her business, **Inside Kinks**, her line of products for natural hair, but she didn't have any formal business education. "I was kind of winging it," she said.

That all changed when she began taking a free, twelve-week online business certificate program last fall through the Bank of America Institute for Women's Entrepreneurship at Cornell. Launched in April 2018, the Institute is a collaboration among Cornell Law School, Cornell University, and Bank of America.

Through the program she learned how to effectively negotiate with partners and potential employees and construct contracts. "I knew I needed that before, but I didn't understand the extent of it," she said.

She also learned how to price her products and services and describe them so her customers understood their value.

King was one of 600 entrepreneurs who participated in the pilot of the certificate program. Now officially launched, the program offers entrepreneurs—especially women—the skills, knowledge, and resources to build their own businesses. Sponsored by Bank of America through a four-year grant, the Institute is housed at Cornell Law School; the program is taught by female faculty from across the Ithaca campus and delivered by eCornell.

"I was delighted to teach the law portion of the curriculum," said **Celia**

Bigoness, associate clinical professor of law. "My goal in the course was to show students that the law, if used right, can actually foster and support business development. The course was intended to give those students a legal toolkit to help them achieve their goals. It has been incredibly rewarding and inspiring to see how students are already using the tools they gained from the course to help grow and protect their businesses."

The program's six two-week courses cover customer discovery, the legal building blocks of a business, assessing and obtaining financial resources, growth leadership for women entrepreneurs, product development and digital marketing, and communication, negotiation, and persuasiveness.

"We are trying to thread a needle by providing quality online instruction that is both free to users but also provides group discussion and individual feedback," said **Stewart Schwab**, faculty director of the Cornell Center for Women, Justice, Economy, and Technology, which developed and oversees the Institute. "The enthusiastic response to the pilot suggests this model works. Because it is free and high quality, we cannot enroll everyone who is interested in the program, but over the next four years we will instruct thousands of entrepreneurs on the fundamentals of making their businesses flourish."

Despite the Institute's name, 90 percent of the program is gender-neutral and can benefit any entrepreneur. "As one would expect, the content presented in

the legal and funding courses is more technical and straightforward, while material on negotiation and communication explores more specific considerations related to gender," said program director **Kirsten Barker**.

The Institute initially planned to educate 5,000 entrepreneurs over four years. But the overwhelming demand for the pilot prompted them to increase the number of students to 10,000 over the same period.

"Our female faculty knocked it out of the park, and eCornell is a great partner," she said. "Our students were engaged, and we had a diverse group." Pilot participants were 56 percent African American, 10 percent Hispanic, and 7 percent Asian, Barker said.

"What is exciting to me is that, through an online environment, the Institute is now offering something women—from across the U.S. and the world—have been looking for: a supportive and private place to brainstorm solutions for challenges and share strategies for success," said **Deborah Streeter**, the Institute's faculty director and the Bruce F. Failing Sr. Professor of Personal Enterprise and Small Business Management in the Dyson School.



Khadijah King

Because of [Lynn Stout's] tireless work as an organizer, as a policy entrepreneur, as a writer of popular books, she created so many feedback channels between the CBLI and all of these outside audiences that were extremely relevant to the Institute's success, especially with respect to corporate governance.

— Saule Omarova

Investors, Corporations, and the Public, which punctured the notion that corporations are legally required to prioritize the interests of their shareholders above all else. “Because of her tireless work as an organizer, as a policy entrepreneur, as a writer of popular books, she created so many feedback channels between the CBLI and all of these outside audiences that were extremely relevant to the Institute’s success, especially with respect to corporate governance,” said Omarova. “Wherever I went, everyone knew of Lynn and her work. They were telling me, ‘You guys are building up a really exciting and strong group of scholars on business and finance.’ I felt immediately that I was a beneficiary of all that work that Lynn put into the CBLI.”

Gramitto and Stout were close collaborators, as well as friends—he recalled their shared boxing coach referring to her as “the indomitable Lynn Stout,” and that moniker applied outside the ring as well. “She was extremely committed to getting corporate law right and to debunking misunderstandings, and also to explaining what is the positive role that corporations can play for everybody if corporations are used correctly,” said Gramitto. “First understood correctly and then used correctly.” Stout and Gramitto’s final work together, a book for popular audiences entitled *Citizen Capitalism: How a Universal Fund Can Provide Influence and Income to All*, hit the shelves in January, making the case for fighting income inequality through the creation of a fund of stocks donated by corporations and wealthy philanthropists that provides every citizen with a dividend and an opportunity to participate in corporate governance.

Whitehead is currently gearing up for an ambitious new project in Ukraine. Working in conjunction with two of Ukraine’s top universities, Taras Shevchenko National University of Kyiv and Kharkiv Polytechnic Institute, Whitehead is planning to open a series of business incubators aimed at nothing less than altering the Ukrainian economic landscape. “Ukraine is suffering from lots of problems: outdated laws, corruption, weak enforcement, the whole bit,” said Whitehead. “The view historically has always been—and this is true with Ukraine, but not just Ukraine—that if you can change the laws, the markets will follow. There is truth to that, but I’ve always thought there was a compelling opposite story. You also need markets to promote the creation and enforcement of new regulation. That regulation follows because market participants demand consistency and discipline in order to invest and for the marketplace to grow.”



“These incubators offer one way to create a new economy in Ukraine and to bring in foreign capital, but they’re also intended as drivers for change in regulation and how laws are enforced,” said Whitehead. “Market discipline will reinforce the rule of law.”

This public-facing work done by professors can trickle down to students in unexpected ways. “We’re typically much more fresh about the law that we’re teaching when we’re actually helping to write the laws,” quipped Hockett. Lessons about bank regulation, corporate governance, and stock buybacks come to life, Hockett says, when he can draw on his recent work with Senator Warren on the Territorial Relief and Accountable Capitalism Acts and with Senator Sanders on the Too Big to Fail, Too Big to Exist and Stop WALMART Acts in discussing such subjects in the classroom.

The CBLI also benefits students’ education in more hands-on ways. In 2010, Whitehead founded the Transactional Lawyering Competition, which brings Law School alumni back to Ithaca every year to judge mock negotiations between teams of students representing buyers or sellers in a hypothetical transaction. Over the course of the weekend-long competition, which is now run by Bigoness, the judges give participants feedback on how to sharpen their dealmaking skills (and, frequently, express astonishment on how good the students already are). Whitehead also launched the Law School’s Deals Seminars, in which top practitioners, including many alumni, teach students subjects like mergers and acquisitions, derivatives, and international trade as capstone classes that let students discover the thought processes behind structuring a deal.

“We have been incredibly innovative through the CBLI in giving students an opportunity to go beyond sitting in the classroom and learning the theory of business law and actually stepping into the shoes of practicing lawyers,” Bigoness said. “Whenever we speak to hiring partners at big law firms in New York or D.C. or San Francisco, they all say that’s exactly what they want their first-year associates to have had. They want them to have had a chance to draft a contract. They want them to have had a chance to work on a promissory note for a loan. A chance to actually talk to a client and figure out how to speak to a client who is not a lawyer.”



In 2010, Whitehead founded the Transactional Lawyering Competition, which brings Law School alumni back to Ithaca every year to judge mock negotiations between teams of students representing buyers or sellers in a hypothetical transaction.



One of the CBLI's newest highlights is the Entrepreneurship Law Clinic, which since its founding by Bigoness this past fall has put Cornell Law students to work on behalf of Ithaca small businesses and entrepreneurs. The Law School's first transactional clinic, it extends the opportunities for hands-on learning that litigation-oriented students have long enjoyed to students interested in business law, while simultaneously creating greater economic opportunities in the local economy. "Working with small start-up companies is actually really fun because they do everything under the sun business law-related," Bigoness said. "They do entity formation, they do hiring, they do corporate governance, immigration work, employment, intellectual property, commercial contract. It's a really nice way to get the students an incredibly broad diversity of work."

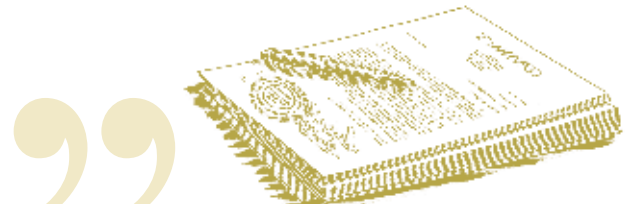


The Entrepreneurship Law Clinic has been an extraordinary success, with long waiting lists for both students and clients. With the help of a 3L enrolled in the Pro Bono Scholars Program, the clinic was able to expand its client list farther into central and upstate New York in the spring semester. In the future, Bigoness is hoping both to grow the clinic's operations close to campus and to expand down to Cornell Tech in New York City.

Ultimately, the Clarke Business Law Institute makes good on its promise that Cornell Law School's mission to produce "lawyers in the best sense" need not conflict with a focus on business law. "What we try to teach our students is that being good business lawyers requires a lot more than learning any particular transactional tricks," Omarova said. "It requires widening your intellectual horizons, caring about the effects of business decisions

Cornell at its core is a law school that speaks to social issues and speaks to inequities and social justice but also has its roots in the business world. And the two are not separated.

— Charles Whitehead



on the broader society, and not being afraid to fight for justice and prosperity for all."

Whitehead agreed wholeheartedly. "The Law School is housed in Myron Taylor Hall, and **Myron Taylor** was the chairman and CEO of U.S. Steel, among his many accomplishments" he said. "The ground-level library is dedicated to **Arthur Dean**, a famous Cornell Law grad who almost 100 years ago was one of the original authors of the Securities Act of 1933."

"Cornell at its core is a law school that speaks to social issues and speaks to inequities and social justice but also has its roots in the business world. And the two are not separated." ■

Introducing the Entrepreneurship Law Clinic

by OWEN LUBOZYNSKI



Not quite a year old, the Law School's first transactional legal clinic is generating excitement and long waiting lists for students and clients.



Across the country, law school clinic offerings have traditionally focused on litigation, despite the large number of students who will go into transactional work after graduation. Thanks to a new clinic, established in the fall of 2018, Cornell Law School students now have an opportunity to gain substantial, real-world transactional experience, building skills many law school

grads develop only after beginning their careers.

The Entrepreneurship Law Clinic provides free legal services to Ithaca-area entrepreneurs and start-ups that are not yet ready or able to engage paid legal counsel—a diverse slate of clients who are confronting a variety of business challenges. Students who complete one term of the clinic may apply to continue their work at a more advanced level in subsequent terms. Directing the clinic is [Celia Bigoness](#), associate clinical professor of law, who has joined the Cornell Law School faculty after seven years as a corporate lawyer.



As I thought about what types of work a transactional law clinic could do, I came face-to-face with the incredibly exciting, dynamic entrepreneurship initiatives in and around Cornell.

— Celia Bigoness





Celia Bigoness (third from right), director of the new Entrepreneurship Law Clinic, makes a point during a classroom session.

Contributing to Growth

“As I thought about what types of work a transactional law clinic could do, I came face-to-face with the incredibly exciting, dynamic entrepreneurship initiatives in and around Cornell,” says Bigoness. “It became clear that there are tremendously talented people working to help Cornell commercialize its research and contribute to upstate economic growth, and the clinic was a compelling opportunity to bring the many talents of Cornell Law students to this important work.”

The clinic currently represents sixteen clients, working in industries including clean energy, technology, food and beverages, horticulture, engineering, and professional services, with owners including veterans, women, minorities, and immigrants. Among these clients is Antithesis, maker of the Grabanzos snacks that have begun appearing around Ithaca. Another is Dish Truck, which aims to reduce the environmental impact of plastic plates and cutlery by providing reusable dishes for catered events.

Crucial Exposure

There are currently fourteen students in the clinic, eight of whom began in the fall semester. Going forward, Bigoness hopes to expand the program, in order to cater to the tremendous interest it has generated. Adding more students would also allow her to grow the clinic’s community engagement work through such offerings as workshops and office hours.

Bigoness has seen significant skills growth in clinic participants. “Before joining the clinic, many students had never spoken to a client in any circumstance, and very few had any experience with business owners,” she observes. “In law school, students learn to communicate to other lawyers and judges, but very few classes teach students how to communicate to clients, who may have no legal background (and perhaps very little interest in the law). An added challenge is that many of our clients are creating businesses based on advanced research in areas as diverse as electrical engineering, agriculture, and computer science. So the law students needed to learn how to intimately understand their

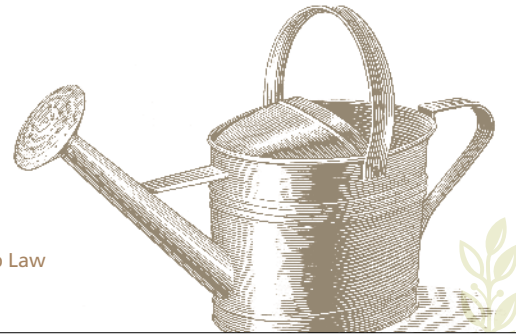
clients' industries and businesses so that they could become high-quality legal advisers, which requires being a legal adviser and a business adviser. They've done a remarkable job educating themselves about industries about which many of them had no prior knowledge, and I think they've also had a lot of fun in the process."

She adds, "I watch my students now, and I see them doing things that I did (and that I often did wrong) as a first-, second-, or third-year associate at my law firm. So when they start practicing, they'll have enormous advantages over many other young lawyers. They'll also have a much better sense of what they actually enjoy about practicing law, allowing them to exercise a bit more agency over their early careers than they would if they hadn't had this crucial exposure during law school."



Jennifer Chu '20

Jennifer Chu, a J.D./M.B.A. student and fund manager for Big Red Venture Fund at Cornell's Johnson Graduate School of Management, joined the clinic in the spring semester. She and her partner have been working on issues surrounding company formation, trademarks, and financing for two clients: a business that uses a proprietary cooking process to market healthy snacks, and a professional-attire business that focuses on hard-to-find sizes.



Students in the Entrepreneurship Law Clinic meet with clients.



"It is a privilege to work closely with the clients and to help their company grow. I most enjoy the rapport we've built with the clients and advising them as they navigate the company through its formative phase," says Chu. "It's only been a month, and I have already learned so much from being part of the clinic! I plan to enroll in additional business and law courses related to start-ups and financing."



Caleb Hayhoe '20

Caleb Hayhoe's team is working with a group of M.B.A. students planning to develop a cannabis-infused drink to be launched in California. "I probably never would have believed it if you'd told me coming into law school that I'd become somewhat of an 'expert' on cannabis law," he says. The team's work has involved extensive research, as well as carefully navigating the ethical guidelines of representing a client in a federally illegal industry.

There has also been a rather unusual field trip: the team attended the Cannabis World Congress & Business Expo. "Everyone we met at the expo was super impressed that Cornell Law gave us the opportunity to get involved with start-ups in the industry," Hayhoe recalls. One of the contacts the team made at the expo is a partner at a large New York City law firm, who is now coming to Cornell to give a talk on his experience practicing law in the cannabis industry.

Hayhoe appreciates that Cornell offers one of only a handful of clinics in the United States that focus on entrepreneurship. "As pioneers in the space, we will have the opportunity to potentially shape the format and curricula of future entrepreneurship clinics across the country."



John Koerper '19

Advising a client that is developing a shampoo, John Koerper's team has tackled research and strategy in areas ranging from FDA regulations to intellectual property law to international law. They've even shared their thoughts on what to name the company.

"The most important takeaway from this clinic has been to really focus on the client's goal for their company," says Koerper. "Often, a client comes up with an idea, and my first thought is that it won't work with the existing law. What I've discovered is that, instead of just saying no to the client, if I go and take that idea, and try to find out what the goal behind the idea is ... I can often discover another way of being able to accomplish that goal. ... Instead of saying no, I'm learning to find ways of saying 'What if?'" Koerper plans to put his skills to use at a Palo Alto law firm that has offered him a job upon graduation.



"The Entrepreneurship Law Clinic gives me the chance to work closely with a hugely talented group of aspiring young lawyers on a daily basis," remarks Bigoness. "My students bring energy, fresh ideas, and excitement to work every day. I know that the clinic has made the students better lawyers. But many law students are understandably nervous about the demands of law practice, and I believe the clinic has showed the students how fun, energizing, and rewarding their careers can be if they find work that they truly love doing." ■

The Lynn Stout Memorial Conference

by CHRISTOPHER BROUWER



Many of the leading members of the legal academy gathered for the Lynn Stout Memorial Conference to recall and reflect on one of the central contributions made in corporate legal theory during the past quarter century.



When friends and colleagues recall **Lynn Stout**, who died in April 2018 following a battle with cancer, invariably they describe her as “a force of nature,” someone whose brilliant intellect, passion, and energy made her unstoppable and unforgettable. When she joined the Law School in 2012 as the Distinguished Professor of Corporate and Business Law, Stout was already a renowned scholar, teacher, and mentor. In the following six years, she helped transform the Clarke Business Law Institute into one of the nation’s preeminent business law programs, while cementing her legacy as a visionary and pioneering figure in corporate law and governance.

On February 1, the Law School convened a conference at the Cornell Club in New York City to celebrate and advance Lynn Stout’s contributions to the legal academy. Organized by her colleague **Saule Omarova**, the Lynn Stout Memorial Conference attracted many of the top corporate law scholars from around the country, who gathered to present new, unpublished research that was inspired by, or responded to, Stout’s scholarship.

On February 1, the Law School convened a conference at the Cornell Club in New York City to celebrate and advance Lynn Stout’s contributions to the legal academy. Organized by her colleague Saule Omarova, the Lynn Stout Memorial Conference attracted many of the top corporate law scholars from around the country.

“The energy was quite wonderful. It was definitely a celebratory event, of course with a distinct kind of pain at the loss of Lynn,” said Omarova, director of the Clarke Program on the Law and Regulation of Financial Institutions and Markets. “It was a great mix of substantive engagement and discussion of the ideas and how some of these issues can be explored further and carried forward.”



After an overwhelming response to her first call for panelists, Omarova said she had to adjust the plenary schedule to make more room. Indeed, the final conference included twenty-six speakers, including several of Stout's colleagues from the Law School and luminaries such as **Margaret Blair** of Vanderbilt University School of Law, **Cynthia Williams** of Osgoode Hall Law School, York University, and **William Bratton** of the University of Pennsylvania Law School.

"The conference exhibited the full range of Lynn's prodigious energy and intellectual engagements," noted Williams, the Osler Chair in Business Law at York University. "At the same time, almost everyone who spoke remembered Lynn as an important mentor, celebrated her love of life, and recognized that our field has lost a star."

"There was manifest sadness, for Lynn is no longer with us," said Bratton, the Nicholas F. Gallicchio Professor of Law and Co-Director of the Institute for Law and Economics at Penn. "But there was also tremendous energy and forward motion as the participants variously focused on the points that matter most in Lynn's legacy and projected their bearing on future events."

The first part of the conference was organized into three panels that reflected the three distinct lines of research that Stout's scholarship inspired: citizen capitalism, corporate law and governance, and markets and prosociality.

The first panel was devoted to Stout's last scholarly project, the book *Citizen Capitalism*, which she coauthored with **Tamara Belinfanti** and **Sergio Gramitto**. The book, which had its official launch the evening before the conference, proposes a visionary plan to give Americans more influence over corporations while earning supplemental income. The panel featured a debate of sorts over the feasibility of the bold proposal between Stout's Cornell Law School colleagues **Robert Hockett**, the Edward Cornell Professor of Law, and Gramitto, visiting assistant professor of law and assistant director of the Clarke Program on Corporations and Society. Hockett, a renowned scholar and expert in finance law, has his own book coming out later this year (Yale University Press) about how to make a greater proportion of the population owners of capital.

"These two proposals had a lot in common," said **Nelson Tebbe**, professor of law at Cornell and moderator of the panel. "They were both trying to use legal mechanisms to combat stratification of America along class lines, which is worsening. The difference was that Lynn's proposal is purely private, relying on

private corporations to set up a fund that would benefit the public generally, whereas Bob's approach has a role for private action but also includes significant government redistribution."

The second panel was devoted primarily to Stout's work on "cultivating conscience," through which she proposed how to instill more prosocial attitudes and behaviors in the corporate sector and financial markets. Among the six panelists were economist Margaret Blair, coauthor with Stout of the celebrated team production theory of corporate governance, and Stout's colleague **Diogo Magalhaes**, visiting fellow at Cornell Law School.

Magalhaes summarized the panel by noting that Stout's breakthrough ideas not only have prompted her peers to reconsider many of the established paradigms within corporate governance, but have also "inspired a new generation of 'converted' corporate scholars who see endless applications of her governance models—to enact good, to configure existing relationships, and to carry out intergenerational projects more efficiently."

The third panel considered how Stout's pioneering theories regarding prosociality—especially her groundbreaking 2012 book debunking the myth of "shareholder value maximization"—have weathered the test of time, how they account for recent behaviors that triggered speculation and the financial crisis, and how these theories can actually answer the economic, financial, and regulatory challenges we face.

"It was clear that people are still very much engaging with the ideas that Lynn was advocating for, and are carrying forward her mission of promoting the prosocial, other-regarding forces in the business world," said Omarova. "I think that came through very clearly in these presentations."

The afternoon portion of the conference was devoted to two plenary discussions among some of the most recognized names in corporate law scholarship, including **Jack Coffee** of Columbia Law School, **Edward Rock** of New York University School of Law, and **Jonathan Macey** of Yale Law School. The first panel focused on key trends in, and key challenges facing, the academic community in this field and the place of Stout's intellectual legacy. The last panel investigated the long-term impact of her history of activism and mentorship.

Robert Hockett was impressed at the number of panelists who talked about the avenues of research that Lynn had opened up for them or the inspiration that Lynn had provided. "What was interesting was that Lynn figured prominently in all of it, every

contribution,” said Hockett. “It really does put a capstone on her career because it’s kind of the ultimate vindication in a sense. It shows to the world—as if there were any uncertainty about this—just how important a figure she was and how important Cornell Law was thanks to her presence. It speaks volumes about the graciousness of the many great people in our field that they all came and celebrated her, even those who had been in academic conflict with her on various hot issues.”

“What struck me about the conference,” said Tebbe, “was the seamless way it wove together tributes to Lynn and the remarkable work that she did over the span of her tragically short career with really thoughtful, rigorous, groundbreaking academic work. I think it’s a difficult thing to manage to do both of those things well, and the conference I thought really did.”

Three months after the conference, the Law School received further confirmation of Lynn Stout’s standing among her peers: an article she had co-written had been selected as one of the Top 10 Corporate and Securities Articles of 2018 in an annual poll conducted by the journal *Corporate Practice Commentator*. ■



TOP LEFT: Sergio Gramitto BOTTOM LEFT: Saule Omarova
BOTTOM RIGHT: (R to L) Nelson Tebbe, Robert Hockett, and Sergio Gramitto

Old Greeks, New Markets, and Newer Technologies

by CHARLES K. WHITEHEAD

FACULTY
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on
TIMELY
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Professor Whitehead explores how changes in the capital markets require a change in how we think about regulation, which in turn may call for the use of new technology such as blockchain.



Some readers may recall the story of Theseus, the mythical king of Athens. Theseus is best known for slaying the Minotaur, a half man, half bull who devoured children sent to Crete in tribute to King Minos. According to the

historian Plutarch, Theseus's boat remained in Athens' harbor as a memorial for centuries after his return. To keep the boat seaworthy, caretakers replaced old planks, sails, and ropes with new ones as the originals wore away. Little by little, new materials were substituted for old. Over the years, it became unclear

how many of the boat's original components remained, prompting Plutarch to ask, was the boat in Athens' harbor still Theseus's boat? Centuries later, Thomas Hobbes added a further wrinkle to the question. He wondered what would happen if components from the first boat were stored as they were replaced, and later used to build a second boat. In that case, which boat—the first or the second—would be Theseus's?

From Boats to Securities

Theseus's story helps frame change in today's capital markets. The U.S. securities laws were drafted in the 1930s when most securities were stocks, bonds, notes, or convertible bonds. Derivatives and more complex instruments were less common. Managing portfolio risk through diversification was in its infancy.

But trading has evolved since the 1930s. We see that change in new risk management techniques and tools, including derivatives that enable the discrete transfer of risks that comprise an interest in common stock rather than the transfer of bundled risk through a sale of the stock itself. In that respect, we can think of a share of stock as a package of risks, some that an issuer or investor can manage and others they are less capable of managing. For example, airlines can manage operational risk



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partly through how well they train their pilots and staff, but they cannot directly control the cost of aviation fuel, even though market fluctuations affect profitability and share price. Until recently, an investor would need to assess all the risks as a bundle—those the airline can manage and those it cannot—to decide how much to pay for the airline’s stock. She might manage some part of the risk through holding a diversified portfolio. Today, she can more discretely adjust her portfolio’s risks by using more-targeted risk transfer instruments. Energy derivatives, for example, can be used to manage exposure to changes in oil price. An investor can transfer the oil risk of her investment to someone else, and retain the remaining risks (and returns) related to that stock.

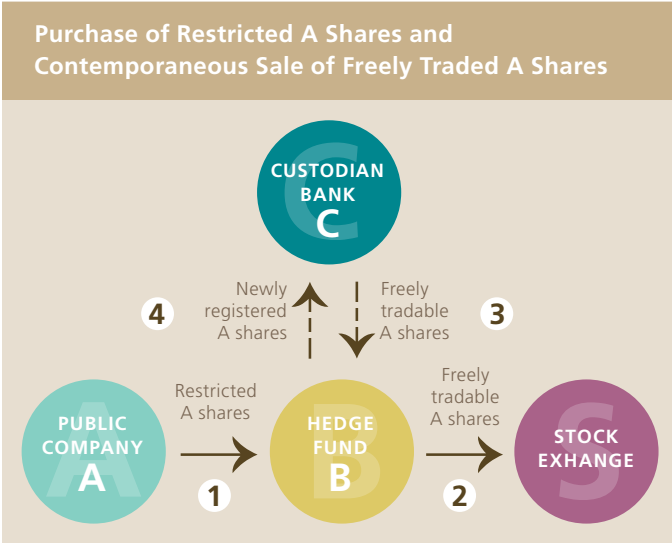
New risk management techniques also enable today’s institutional investors to manage trading activity based on aggregate, portfolio-level risk. In order to increase returns, an equity trader is more likely to manage the risk of her entire portfolio, not the stand-alone returns of an individual stock or stocks. In other words, while individual stock performance remains important, she will be less concerned with whether the stock she trades is IBM or Microsoft, and more with its effect on her overall risk-taking.

Stated differently, institutional investors today are less focused on the merits of any one security—the “boat” in Plutarch’s story—and more interested in managing the risks comprising that security—the “planks.” Owners can transfer risk in discrete slices to counterparties who can diversify or transfer away risks they choose to forgo, arguably at a lower cost than investing in the security itself. That drop in cost suggests that change in the capital markets—a shift away from broad-based risk instruments (like stock) toward more discrete means of holding and transferring risk (like an energy derivative)—is likely to stay. Rather than buying and selling boats, traders increasingly buy and sell the planks comprising those boats. The question then is whether, as a U.S. securities law matter, the two should be treated the same.

Owning Boats, Shorting Planks

Congress included flexible definitions of “security” and “sale” in the U.S. securities laws, and so in many cases, both boats and planks are subject to the same regulation. But not always. Changes in law, such as the Commodity Futures Modernization Act of 2000, excluded some planks from regulation. That disparity in treatment may have been one cause of the 2008 financial crisis, partly addressed by amendments in the Dodd-Frank Act.

Differences, nevertheless, remain. Let me illustrate. In the diagram below, A is a public company whose outstanding shares trade freely on the Stock Exchange, and B is a hedge fund that invests in common stock. In (1), A privately issues “restricted” shares to B, meaning (among other things) that the U.S. securities laws restrict B’s resale of those shares on the Stock Exchange. B wishes to minimize the portfolio risk of holding restricted A shares. Knowing those A shares are restricted, in (2), B instead short sells freely tradable A shares on the Stock Exchange, and then in (3), it borrows freely tradable A shares from custodian C to settle its sale. Matching the sale of the freely tradable A shares with the restricted A shares permits B to lock in a profit—the difference in price between the A shares it sold short and the less-liquid restricted A shares it holds. In (4), A registers the



restricted A shares with the SEC, making them publicly tradable. B then uses those shares to repay C for the freely tradable A shares it borrowed.

How should the two sales—A → B and B → Exchange—be treated under the Securities Act of 1933? A majority of courts that considered the issue treated A → B and B → Exchange as the sale of two different “boats.” The first transaction was A’s sale of restricted stock to B (arrow 1), and the second was B’s sale of freely tradable A stock on the Stock Exchange (arrows 2–4). Under the courts’ reasoning, since restricted A shares—the first

boat—continued to be held by B, B’s short sale of separate, freely tradable A shares—the second boat—did not violate the 1933 Act.

How might Plutarch guide us? The story of Theseus’s boat tells us that, to identify the “real” boat, we need to trace the planks. B’s sale of shares on the Stock Exchange transferred the economic risk (the planks) of the restricted A shares (the first boat) to the general public. B would not have agreed to $A \rightarrow B$ unless $B \rightarrow \text{Exchange}$ was possible. The two together recreated the economic substance of what would have occurred if B had directly sold restricted A shares on the Stock Exchange—in essence, making $B \rightarrow \text{Exchange}$ a second boat formed with the first boat’s planks. From that perspective, $A \rightarrow B$ and $B \rightarrow \text{Exchange}$ should be treated as if B directly sold restricted A shares on the Stock Exchange. Such a sale would have violated the 1933 Act.

What should guide the regulators and the courts—the boats or the planks? Differences in how we regulate transactions that are substantively the same can result in arbitrage opportunities that distort regulation’s effects. On that basis, one could conclude that a majority of the courts that considered the 1933 Act’s treatment of $A \rightarrow B$ and $B \rightarrow \text{Exchange}$ “got it wrong.” By contrast, tying regulation to tangible instruments has the benefit of clarity. Different parties who buy, sell, or hold instruments have a clearer understanding of what requirements apply to each step. Uncertainty is likely to chill useful innovation that depends to some degree on the ability of market participants to assess the costs and benefits of new products and strategies. The key, then, is to strike a balance that anticipates concerns over arbitrage before they arise, as well as to provide some level of certainty to market participants.

New Markets and Newer Technologies

Here we reach the practical limits of Plutarch’s analysis. With Theseus’s boat, one could trace each plank back to the original boat. The problem, in today’s capital markets, is that tracing planks—tying a transfer of risk to a decision to assume risk, and vice versa—may not always be possible. In addition, since risk-taking is often managed at the portfolio level, it may be difficult to tie any one transfer of risk to a particular instrument. So, for the time being, even if boats and planks are regulated in the same way, regulation’s practical reach may fall short of today’s trading and risk management strategies.

One solution may be found in new technologies: in particular, blockchain technology, coupled with smart contracts. A “blockchain” is a public ledger of transactions, including the transfer of items of value—for example, money, title, and interests in

common stock—that is verified by participants in an open, Internet network without the need for a trusted, third-party intermediary. “Smart contracts” are computer programs that evidence the parties’ agreement and enforce and execute the settlement of that agreement. Contractual terms are translated into code and then embedded in computer hardware or software that can self-enforce those terms.

Together, a blockchain and smart contracts can provide one means to evidence the components of a traditional security. Recall that the risks of a share of stock can be transferred individually or as a bundle. If bundled, the transferor (say, an investor) can then agree (say, by using a derivative) to transfer some of the risk to a third party. The problem is that the transferor may not know exactly what risks, or what levels of risk, comprise a particular stock. As a result, the terms of transfer may not match the risk she actually bears; that mismatch is referred to as “basis risk.” The transferor may continue to be exposed to risk, or she may become subject to new risk.

Now assume, rather than issuing stock, an issuer sells a bundle of risks (and returns) in a basket of separate, blockchain-based smart contracts that together constitute the substance of what is evidenced by common stock. By doing this, the investor can more easily transfer risk—each now covered by its own smart contract—to lower-cost counterparties without incurring basis risk. With an airline stock, for example, the “oil price” risk can be reflected in a discrete smart contract that an investor can resell to someone who is better able to manage it. In other words, with new technology, a trader can more easily choose to bear only those risks that she expects will maximize her portfolio returns, and efficiently transfer the others (without basis risk) to someone else. Likewise, because a security can now be separated into its components, regulators and others can more accurately trace the source of any risk that is transferred. The risk that B incurred in $A \rightarrow B$ can more easily be matched to the risk it transferred in $B \rightarrow \text{Exchange}$.

In short, as the capital markets have evolved, so has the ability to manage risk. Trading strategies have matured. A principal problem is that risk management and trading have moved ahead of how we regulate the capital markets. In a world of planks, regulation tied to boats must begin to be updated. But, practically speaking, doing so will need to be supported by new technology that enables regulation to more closely mirror the capital markets of today. Blockchain and smart contracts may be one means to provide that solution. ■

Re-Envisioning Finance: The Franchise View and Beyond

FACULTY
ESSAYS
on
TIMELY
LEGAL TOPICS

by ROBERT HOCKETT

Professor Hockett discusses the franchise view of finance that he and Professor Saule Omarova have developed, in which they propose modeling the modern financial system as a public-private franchise agreement.



It is common to hear claims that finance is about “credit-intermediation,” a matter of channeling scarce capital from virtuous savers to needful end-users. The picture behind this assertion is that of a gargantuan go-between—the financial

system as Big Broker in the Sky. But modern financial systems are much more about credit-generation than -intermediation. And this changes everything where optimal institutional design and supervision are concerned.

You can spot the credit-generative function of modern finance by examining even a garden-variety bank loan transaction. The bank doesn’t lend you the pre-accumulated funds of depositors. It opens—or credits—your deposit itself with new credit-money: credit made money by Federal Reserve recognition of payments made out of your newly opened or credited account. To reduce all to a slogan, “Loans make deposits” more than “Deposits make loans.”

Professor Saule Omarova and I argue that contemporary financial systems are best modeled as public-private franchise arrangements. The franchisor is the sovereign public, acting primarily through its treasury or finance ministry and its central bank or monetary authority. The franchised good is the monetized full faith and credit of the sovereign—its money. And the franchisees are those private sector institutions—mainly now banks and “shadow banks”—that the public licenses to dispense the franchised good.

Like any good franchisor, a public acting through its treasury, central bank, and other financial regulators, acts to maintain the quality of the good that its franchisees distribute. In modern financial systems, the quality in question has been understood primarily in terms of over-issuance (i.e., inflation—“too much money chasing too few goods.”)

In this sense, the treasury, central bank, and other financial regulators’ task has been understood in what I call modulatory terms. The primary objective has been to prevent consumer and, in some enlightened jurisdictions, asset price inflations and hyperinflations. What I call allocative decisions, by contrast, have been thought best left to the market, on the putative ground that the public’s “picking winners and losers” is apt to be politically arbitrary rather than fiscally and financially “sound.”

Two conceptual errors, one of them partly corrected since 2009, seem to me often to have occluded orthodox understandings of this division of finance-regulatory labor. Both hampered the quality-control efficacy of many treasuries, central banks, and monetary authorities in the pre-2008 period.



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Like any good franchisor, a public acting through its treasury, central bank, and other financial regulators acts to maintain the ‘quality’ of the good that its franchisees distribute.

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The first error was the tendency to think of inflation as a disease of consumer goods and services markets but not commodity or financial asset markets. Hence, pundits, politicians, and even some central bankers until recently crowded of a “great moderation” featuring thirty years of “low inflation,” even as asset and many commodity prices rocketed to spellbinding heights. The 2008 crash was one consequence.

The second error was to take the financial system’s modulatory and allocative challenges to be mutually orthogonal. Theorists and policy-makers seem to have thought that the former could be fully handled with leverage-regulatory, liquidity-regulatory, tax, and traditional monetary policy instruments even while leaving credit-allocative functions almost entirely to privately owned franchisee institutions. People thought, talked, and acted, in other words, as if the appropriate quantity of credit economy-wide could be determined independently of all desired uses of credit—a misconception that comes naturally to those who think of credit-money as something exogenously given and “intermediated” rather than endogenously generated and disseminated.

Now the first error—that of thinking inflation a matter of goods and services but not asset markets—has come to be more or less widely recognized since the crash of ‘08, its remedy taking the form of a “macroprudential turn” on the part of treasuries, central banks, and coordinate financial regulators. Public officials now seem to recognize that a financial system is more than the sum of its parts. They accordingly look also to its structure—the debt/credit relations among parties—in regulating it. I call this “regulation as modulation,” and central bank recognition of its importance since 2009 has been a major theoretical advance.

The second error I mentioned, by contrast, seems to have remained largely overlooked, and this oversight all but ensures that the “major theoretical advance” remains but a modest practical advance for the time being. The fact is that without affirmative public effort to channel finance capital more decisively to the “real” sectors of the economy, spontaneous glutting toward the financial sectors is all but inevitable. That renders our regulators’ credit-modulatory task all but impossible to achieve. Good modulation, in short, requires good allocation. We won’t reliably get our credit aggregates right, in other words, unless and until we get our credit uses and distribution right.

The underlying reason for this is that modern macro-economies not only feature endogenous credit-generation, but also are beset by multiple coordination and collective action challenges, many of them what I call “recursive collective action problems,” in the

financial and “real” sectors alike. And these challenges, even though readily cognizable as classic market failures of the kind familiar even to economic orthodoxy, routinely go unremarked and overlooked by orthodox and heterodox economists alike.

A collective action problem, of course, stems from a situation in which multiple acts that are individually rational can aggregate

A collective action problem, of course, stems from a situation in which multiple acts that are individually rational can aggregate into outcomes that are collectively irrational.



into outcomes that are collectively irrational. Bums’ rushes, “prisoners’ dilemmas,” and Rousseauvian “stag hunts” are familiar examples. Less familiar are what I call recursive collective action problems, in which collectively irrational decision-outputs feed back into individual decision functions iteratively, with each iteration compounding the dysfunction of the previous collectively irrational output. Arms races are of this form, as are consumer price inflations, recessions, and debt-deflations (a.k.a. “depressions”), asset price bubbles, asset “fire sales,” and of course bank runs.

While these phenomena are familiar enough, their common structure often seems to go overlooked. More overlooked still is how pervasive tragedies of this sort are where not only financial, but also macroeconomic phenomena more broadly are concerned.

It can be individually rational, for example, for investors to bet on and thereby exacerbate short-term price movements in secondary financial or tertiary derivatives markets rather than invest long-

term through primary markets in the “real” economy, absent any collective commitment regularly to renovate public infrastructure, limit destabilizing wealth and income inequality, and maintain robust aggregate demand and associated macroeconomic health on a continuous basis. For without such a backdrop, which no private agent is authorized or able to provide, there is little reason to think you can consistently profit more by mass-producing for humble per-unit remuneration than by gambling for potentially high per-gamble yield.

You might accordingly spend your extra money engaging in short-swing trades in the financial markets rather than invest “patient capital” in, say, a manufacturing firm. In an economy suffering long-term weaknesses in consumer demand, that is an individually rational decision to make. Yet if all of us with surplus “invest” in this manner, industry hollows-out further, wage and salary incomes decline all the more, and the anemic consumer-demand problem steadily worsens. What, then, to do?

Solution of collective action problems requires well-targeted exercises of collective agency—the things sovereigns and franchisors do. Most of my work through the Clarke Business Law Institute’s Program on the Study and Regulation of Financial Institutions and Markets, much of it in collaboration with Professor Omarova, some of it with Senior Fellows Dan Alpert or Paul McCulley, and much of it solo, is devoted both (a) to elaborating and substantiating the foregoing claims, and (b) to designing means of addressing the problems that those claims all highlight. The latter accordingly are means of, among other things, bringing the public back into credit-allocation in ways that facilitate effective credit-modulation, without arbitrarily ‘picking winners and losers’ in our financial system and macro-economy.

In theory, most of the means that I have in mind could be adopted by central banks or other monetary authorities. It would have been easy and probably uncontroversial, for example, for the Fed to have shorted commodities from 2010 into 2014 as I proposed in 2011, as a means of mitigating the hardships that Quantitative Easing caused lower-income Americans who saw speculators use cheap money to bid fuel and foodstuff prices up. It could also have purchased mortgage debt early, as I and others urged even in 2007 and 2008, to head-off the debt-deflation of 2009 onward. As a more general matter, however, U.S. institutional history and path-dependence alike suggest that a new public instrumentality, operationally situated between the Fed and the Treasury, probably would be the simplest way to put at least some forms of allocation proactively at the service of modulation.

Professor Omarova and I call one such institution, that we have designed and now advocate, a National Investment Authority (‘NIA’), which, as the foregoing should suggest, is more than a mere investment- or infrastructure-bank. Unlike more familiar public-private partnership arrangements, which place public capital under private management, our NIA places both public and private capital under public management, offering rates of return to patient capital that privately owned institutions simply can’t manage in a macro-environment rife with collective action and coordination challenges of the kind that I noted above. It thereby renders patience itself individually rational again, thus enabling more capital to flow toward anti-inflationary productive instead of bubble-blowing speculative outlets.

Our NIA would optimally bridge fiscal and monetary policy, in a division of labor apportioning more “purely” political allocative questions to the Treasury, more “technical” modulatory questions to the Fed, and more neutral allocative questions, sounding in solutions to coordination and collective action problems, to the new institution. In so doing, it would also restore to the United States a macro-oriented, market-failure-correcting institution that it hasn’t seen since the First and Second Banks of the United States championed by Treasury Secretaries Alexander Hamilton and Albert Gallatin, and the Reconstruction Finance Corporation championed by Presidents Herbert Hoover and, in expanded form, Franklin Roosevelt.

These institutions, as much as if not more than any other, were what launched the U.S.’s industrial takeoff of the 19th century and its post-’29-crash recovery and war mobilizations of the 20th century. As we now look ahead to a Green New Deal, the need for a revived form of public investment authority looks more acute than ever. And so already several Senators and House Members are studying Professor Omarova’s and my NIA.

Combined with our forthcoming work—some joint, some several—on “fintech,” what I call “Rousseauvian Money,” and a “Citizens’ Fed,” Professor Omarova’s and my full bodies of work sketch a renewed and repurposed financial system that takes both the “real” economy and the underlying public franchise nature of modern finance more seriously, keeps the public more fully in charge, and channels our primary financial resource—our monetized full faith and credit—more carefully toward productive instead of speculative uses. And we, like our program colleagues Dan Alpert, Paul McCulley, Doctoral Fellow Rohan Grey – and, soon, Dan Awrey—have only just begun. ■

Cynthia Farina, Scholar of Administrative Process, Retires

by KENNETH BERKOWITZ



n more than thirty years of teaching at Cornell Law School, **Cynthia R. Farina** has become a nationally known expert in administrative law, an area she never expected to be her focus. She's pioneered a twenty-first-century approach to gov-

ernmental rulemaking online, coauthored the most influential casebook in her field, published dozens of articles, and advised national and local agencies on how to make government policy making more accessible to ordinary citizens. As first a public member and then a lifetime fellow of the Administrative Conference of the United States (ACUS), she helped craft recommendations to Congress and the administration on improving government processes. Now, with her last semester of teaching behind her, she's retiring.

"Cynthia is one of those rare scholars whose work is as influential outside the academy as it is inside," says **Eduardo M. Peñalver**, the Allan R. Tessler Dean and Professor of Law. "It's an achievement that most of us aspire to, but few of us ever attain—and I think she's succeeded because she's constantly learning."

After earning her J.D. from Boston University in 1980, Farina clerked for **Chief Judge Raymond J. Pettine** of the U.S. District Court for the District of Rhode Island, and then for **Chief Judge Spottswood W. Robinson III** of the U.S. Court of Appeals for the District of Columbia Circuit. Next, Farina spent three years as an associate at Foley, Hoag & Eliot in Boston before arriving at Cornell in June 1985, encouraged by the late **Robert Kent**,

whose federal courts class at Boston University had inspired her to teach law.

"I loved practice and I loved my firm, but I could see that coming to Cornell was a real opportunity to do something I wanted to do eventually," says Farina, the William G. McRoberts Research Professor in Administration of the Law, Emerita. "I was naive about how hard it would be—the transition was much harder than I anticipated. Even though I was used to male-dominated environments, coming to a place where there were only two female faculty members, and not being from an Ivy League school, it was a long time before I began to feel comfortable."

Farina wanted to teach constitutional law and civil procedure; instead, she was assigned administrative law and uniform commercial code. Within those first few years, she surprised herself by finding a place in administrative law, starting with the relationship between Congress and the president and building her reputation by writing about due process, separation of powers, and the ways government agencies perform their mission. Over time, as her work became better known, Farina found support from scholars around the country and, through the American Bar Association's Administrative Law Section, from government lawyers and private practitioners in administrative law.

Her work as reporter on government ethics reform for the American Bar Association's (ABA's) Special Committee on Government Standards (1991–1993) led to positions in the ABA's Project on the Administrative Procedure Act (2001–2002) and the ABA's European Union Project (2005–2008), which concen-



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Cynthia brought her area of law into dialogue with the rapidly changing technological landscape all around us. Her work on e-rulemaking is perhaps the most emblematic of this. Her creation of CeRI built bridges between Cornell Law School and the computer science strength of Cornell University, bridges that continue to enrich the life of the Law School.

— Eduardo M. Peñalver



TOP: Professor Barbara J. Holden-Smith (left) and Professor Farina BOTTOM: Farina (left), Professor Stewart Schwab (standing), and Professor Gregory Alexander

trated on privacy and transparency. Then in 2005, acting on advice from the Legal Information Institute's **Thomas R. Bruce**, Farina began a partnership with **Claire Cardie**, a professor in Cornell's Department of Computer Science, that led to the Cornell e-Rulemaking Initiative (CeRI).

"That was really a magical turning point for me," says Farina. "Claire already had an international reputation in natural language processing, and she wanted to study ways to automate analysis of public comments in the rulemaking process. It was a path I never could have planned, but we hit it off really well, and it started a collaboration where we were the principal researchers in a series of National Science Foundation grants that resulted in CeRI."

For the next twelve years, CeRI brought together researchers from communications, computing and information science, law, and the Scheinman Institute on Conflict

Resolution. The scope of work was enormously ambitious: to open the rulemaking process to a broader range of participants, using the internet to increase transparency, facilitate communication, and strengthen civic participation.

“Cynthia brought her area of law into dialogue with the rapidly changing technological landscape all around us,” says Peñalver. “Her work on e-rulemaking is perhaps the most emblematic of this. Her creation of CeRI built bridges between Cornell Law School and the computer science strength of Cornell University, bridges that continue to enrich the life of the Law School.”

Following the end of CeRI, Farina has continued to work with agencies on improving public participation, both through ACUS and as a lifetime fellow in the ABA’s Administrative Law Section. But after thirty-three unexpected years in academia, she’s



What surprises me about my career is how often opportunities opened up that took me down pathways I really enjoyed and found professionally satisfying.

— Cynthia Farina



no longer thinking in semesters and is ready to spend more time at home.

“What surprises me about my career is how often opportunities opened up that took me down pathways I really enjoyed and found professionally satisfying,” says Farina. “Much of my career was very fortuitous—I never set out thinking that I would end up in administrative law, and certainly not anything with such a heavy technological spin as e-rulemaking.

“I’m extremely proud of the work CeRI did, because we created an area of inquiry that supported both theoretical work and on-the-ground, practical work that hadn’t existed before,” she

continues. “I’m proud of having been asked to join Gellhorn and Byse’s *Administrative Law*, which was the first time there was a woman on an administrative law casebook. I’m proud of spearheading Women on the Walls, a collaboration of women faculty, students, and alumnae that placed the portraits of dozens of inspirational women in law school halls. And I’m proud that I taught administrative law to so many students who came in expecting it wouldn’t have much applicability to their professional lives, and who left recognizing how much administrative government matters in any area you practice. I think that makes them better lawyers—and, perhaps even more important, better citizens.” ■

Gregory Alexander, Property Law Expert, Retires

by OWEN LUBOZYNSKI



As the fall 2018 semester drew to a close, members of the Cornell Law School community gathered to celebrate the retirement of **Gregory S. Alexander**, the A. Robert Noll Professor of Law. An internationally renowned expert in

property law and theory, Alexander has taught at the Law School since 1985.

Eduardo M. Peñalver, the Allan R. Tessler Dean and Professor of Law, opened by observing, “Over his more than forty years in the legal academy, Greg has established himself as one of the most important and influential property theorists of the past fifty years, not to mention, the best-dressed. As he prepares to hang up his bow tie and head to northern California ... I think it’s fair to say that Greg’s career accomplishments speak for themselves.”

Peñalver noted some highlights, including Alexander’s books *Commodity and Propriety*, which won the Association of American Publishers’ 1997 Best Book of the Year in Law award, and *Property and Human Flourishing* (2018). He also recounted the time that Alexander fell off a ladder while hanging Christmas lights and broke his back, but still managed to complete his final grades on time, lying supine as his wife held his students’ papers above him. “So to all my colleagues on the faculty,” Peñalver said, “if you need an extension on your grades, the answer is no.”

He concluded, “For me, Greg’s been a model of mentorship, and sponsorship, and collegiality, and friendship. ... I know that my gratitude is shared by every other member of the faculty and by countless generations of Cornell students.”

Kevin M. Clermont, the Robert D. Ziff Professor of Law, who was on the Law School faculty when Alexander was hired, had prepared for the event by “excavating” Alexander’s appointment package, which featured “one student report that, quote, ‘his oral sentences are full and complete in a way one would write’ (how true), [while] another student concluded, ‘He is free from sarcasm’ (how untrue).” “In other words,” said Clermont, “whether the students knew what they were talking about or not, they loved him.”

Clermont also shared photos and memories from his decades of friendship with Alexander, and spoke of the idyllic life Alexander cultivated in Ithaca with “his delightful wife, Kim,” “his talented son, Ted,” and “his spectacular daughter, Dr. Beth.” Clermont recalled the time Alexander and Beth performed a song-and-dance routine about property law to the tune of “Supercalifragilisticexpialidocious” at the Barristers’ Ball.

Clermont claimed that he “socialized” Alexander after the latter arrived from Georgia “dressed like Jed Clampett.” Three decades later, following Alexander’s nine major, prize-winning books, sixty-one articles and counting, and habit of appearing on the short list for most-cited property scholars, Clermont called his friend “a bespoke professor: custom-made for this job.”



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Over his more than forty years in the legal academy, Greg has established himself as one of the most important and influential property theorists of the past fifty years.

— Eduardo M. Peñalver

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Robert A. Hillman, the Edwin H. Woodruff Professor of Law, has been a friend and colleague of Alexander's for more than thirty-three years. He remarked on what a fantastic and popular teacher Alexander has been, noting that students would flock to his property class even when assigned to a different section.

Hillman did, however, have some bones to pick. "Few can keep up with Greg's accomplishments," he complained. "For example, I occasionally have backaches from too much tennis and basketball over the years. Greg recently fell off a ladder, as has been mentioned, and broke his back, just to outdo me."

He also pointed out Alexander's tendency to make fun of him in class, most recently targeting his informal dress sense. "What Greg doesn't know," confessed Hillman, "is that when I was teaching at Iowa, early in my career, I received an award from



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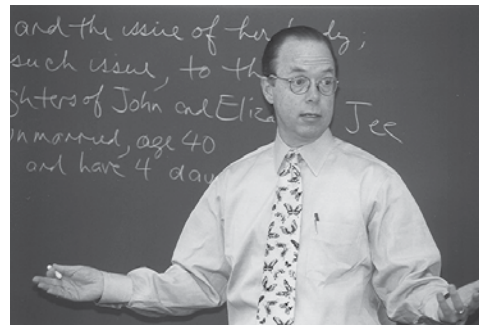
the students specifically about my wardrobe. It was called the Tan Pants Award and was for frequency of wearing tan pants."

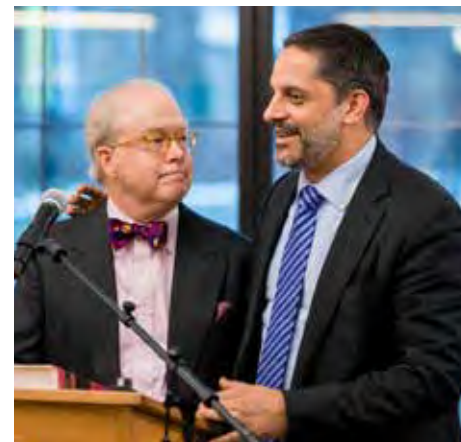
He remarked, "I only hope that [Greg and Kim] will come back for lots of visits. Or, Greg, if you invite me to California, I promise to wear outfits that will amuse you."

The event concluded with a "rebuttal" from Alexander himself, who remarked that teaching at Cornell was an experience he didn't even believe possible when he was in law school. He recalled some moments of doubt over the years, as when, during his 1L year, he thought he was going to flunk out.

Then there was his rocky first year as an instructor, at the University of Georgia School of Law, where one student evaluation suggested, "Take this short guy out and shoot him." During his work that summer, with seemingly nothing to lose, Alexander decided to just have fun. The experience convinced him to keep teaching.

Alexander also recognized the many mentors and collaborators with whom he had worked during his career, including, at Cornell Law School, former dean **Peter Martin** and professors **Ernie Roberts**, **Emily Sherwin**, **Laura Underkuffler**, and **Gerald Torres**,





CLOCKWISE FROM TOP LEFT: Alexander speaks with students at the reception in his honor, Alexander with Dean Peñalver, Alexander with Dean Peñalver, Professors Peter Martin (left) and Robert Hillman (right) with Alexander

OPPOSITE PAGE, TOP LEFT: Professors (L to R) Eisenberg, Alexander, Osgood, and Clermont participate in a mock trial BOTTOM RIGHT: Alexander (left) with Professor Kevin Clermont

as well as Peñalver, whose hiring Alexander championed and whose arrival was “the beginning ... of a beautiful friendship.” He observed that Cornell has become a center for “the strongest group of property theorists in the world.”

“This is a very special place,” Alexander said. “It’s not just an elite law school; it’s a very special place.... It doesn’t just stay that way. It takes work to keep it that way.”

He added, “I’ll miss you all terribly. Thank you for giving me the opportunity of living a dream and being your colleague.” ■



Remembering Robert Summers

by SUSAN KELLEY, *Cornell Chronicle*



Robert S. Summers, who grew up milking cows on his family's farm in Oregon and went on to co-write the most widely cited treatise on U.S. commercial transaction laws and help draft laws governing Russia, Egypt, and Rwanda, died March

1 in New Canaan, Connecticut. Summers, Cornell Law School's William G. McRoberts Research Professor Emeritus in Administration of the Law, was eighty-five.

A Cornell faculty member for forty-two years, Summers was best known as the coauthor of *The Uniform Commercial Code* (West Publishing Co.), written with **James J. White** in 1972 and now in its sixth edition. The four volumes make up the most widely cited treatise on the rules that govern the sale of goods and other commercial transactions across the country.

"It is the bible for lawyers and students interested in the area," said **Robert Hillman '72**, Summers's former student and now the E.H. Woodruff Professor of Law.

Summers joined the Cornell Law School faculty in 1969. During his career, he produced fifty-five books and more than 100 articles, including influential works on legal realism, statutory interpretation, and form and substance in the law.

"It is impossible to exaggerate Bob's impact on Cornell Law School. His memorable presence touched the lives of countless students and colleagues," said **Eduardo M. Peñalver**, the Allan R. Tessler Dean and Professor of Law, whose office was next to

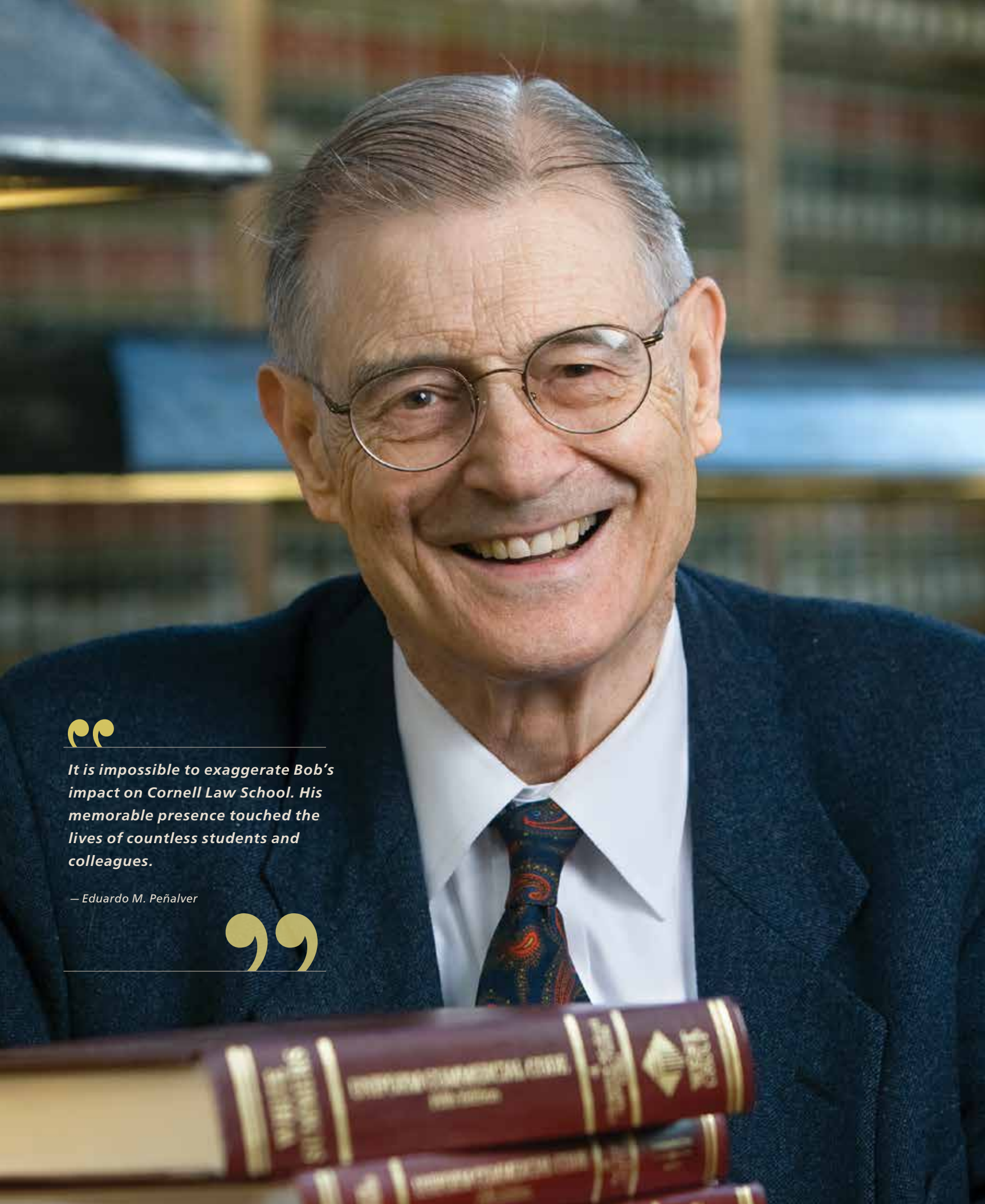
Summers's when Peñalver was a junior faculty member. "Even then, in the last few years of his extremely distinguished career, Bob was larger than life. He loved Cornell deeply, and he was passionately devoted to our students and to the craft of teaching."

Summers is also known for helping draft the laws that govern several countries. In 1993 the Russian government called on him to help draft its civil code. He later served as adviser to the Drafting Commission for the Egyptian Civil Code (1998-1999) and as principal drafter for the *Code of Contract Law for Rwanda* (2006-2010).

Summers collaborated with Hillman to write a major text in contract law, *Contract and Related Obligation: Theory, Doctrine and Practice* (West Publishing Co., 1987), now in its sixth edition. "No one worked harder than Bob, who had unlimited energy and zeal for each project he entertained," said Hillman.

His contributions extended beyond scholarship. Among the most important, Hillman said, was co-founding in 1969 the Council on Legal Education Opportunity, a national organization dedicated to increasing the representation of minority and low-income students in law schools.

"That was one of the largest, most satisfying public service activities I have ever been privileged to engage in in my life," Summers said when he retired in 2010. "It was extremely inspiring."



“

It is impossible to exaggerate Bob's impact on Cornell Law School. His memorable presence touched the lives of countless students and colleagues.

— Eduardo M. Peñalver

”

In his own classes, he was known for his dedication to the Socratic method of teaching: instilling principles and concepts through rigorous questioning and argument, rather than “ladling [information] out on a spoon,” as he said.

“Generations of Cornell alumni know that Bob loved the Socratic method and was a demanding and, at first, frightening teacher,” Hillman said. “By the end of the semester, students realized that Bob’s style was in their great interest ... and that he was a dedicated teacher who cared greatly about the success of his students.”

Summers was born September 19, 1933, on his family’s farm in Halfway, Oregon. As a child, he would walk 300 yards from his home to the Lone Fir Country Schoolhouse. Among his class of



twenty-four students, he was valedictorian and won the annual Oregon State Future Farmers of America High School Public Speaking Contest.

While a student at the University of Oregon, Eugene, he drove a school bus to defray the cost of college. After graduating in 1955, he studied as a Fulbright scholar at the University of Southampton. In 1959, he earned his LL.B. degree from Harvard University, having studied under two leading scholars in jurisprudence,

LEFT: Professor Summers in the Law Library’s Gould Reading Room
 TOP RIGHT: Professor Summers speaks with students after a class.
 BOTTOM RIGHT: (L to R) Professor Summers with Okko Behrends, a German law professor



I will always appreciate how lucky I was to have spent much of my career engaged in activities with Bob, first as a student and research assistant, then as a colleague, coauthor, and close friend.”

— Robert Hillman



Herbert Hart of Oxford University, and **Lon L. Fuller**. In 1960, after practicing law for two years, he joined the faculty of the University of Oregon School of Law, where he taught for eight years.

"Bob was a renowned authority in two legal fields that most find quite distinct: contract and commercial law, and also jurisprudence and legal philosophy," said **Stewart Schwab**, the Jonathan and Ruby Zhu Professor of Law and former dean. "He had an international reputation in both areas, and had dozens of close professional friends and colleagues in America, Europe, and elsewhere."



Summers also cared deeply for the well-being of Cornell Law School, Hillman said.

"When architects planning the first new addition to Myron Taylor Hall suggested that faculty offices would have to be underground, Bob ably led the insurrection that convinced the architects that the faculty would have none of that," Hillman said. "I'm grateful each time I look out the window of my office in Myron Taylor Hall. I'm sure others feel the same way."

He is survived by his wife, Dorothy, of New Canaan, Connecticut, five children, and fourteen grandchildren. ■

Bob was a renowned authority in two legal fields that most find quite distinct: contract and commercial law, and also jurisprudence and legal philosophy.

— *Stewart Schwab*



Professor Summers in his office (above), teaching a class (below), posing for photo with Cornell Law faculty early in his career (right, second row, second from right)



Melissa Colón-Bosolet: The Spirit and Drive of a Litigator

When **Melissa Colón-Bosolet '07**, a young, barrier-breaking litigation lawyer at Sidley Austin, was named partner at her firm this past December, it came as no surprise to those who know her well.

"As a litigator, Melissa constantly stands out with poise, intelligence, and command of



Colón-Bosolet's rise to partner is especially noteworthy in a profession where Latinas account for less than 2 percent of lawyers and less than 0.6 percent of law firm partners—statistics she is working to improve.

whatever issues and facts are before her," asserts longtime friend **Jessica Ortiz**, now partner at MoloLamken. "She is a tough adversary who makes others listen to her well-structured and persuasive arguments both in and out of the courtroom, and is a force to be reckoned with."

Colón-Bosolet's rise to partner is especially noteworthy in a profession where Latinas account for less than 2 percent of lawyers and less than 0.6 percent of law firm partners—statistics she is working to improve.

When her promotion to partner was formally announced, she recalls, "The most emotional part of the day for me

was hearing from more-junior lawyers, the support staff at my firm, former colleagues, and others about what seeing me in that role meant to them. Their comments really spoke to the power of representation. It was touching and humbling."

She credits much of her success to having grown up "in the warm embrace of my Bronx neighborhood."

The vibrant community where she grew up was mostly Latino—she prefers the more gender-neutral term "Latinx"—and she was among the first in her family to go to college.

"I'm very proud of my Puerto Rican culture and history," says Colón-Bosolet. "My neighbors

were hardworking, instilled pride in me, and told me to make the most of the opportunities and abilities I'd been given. Every step of my journey I've been supported by that."

Those lessons helped her navigate the corporate world, says Colón-Bosolet. "It made me tough but also confident. I knew I could handle the challenges as well as anyone else as long as I brought my best to the table."

After earning her undergraduate degree at Hunter College—while working two jobs to pay for school—she considered going into public policy and served as an Urban Fellow in the New York City Department of Education.

"I was always interested in how things are structured," she says. "But when I noticed that the people with the most interesting jobs all had law degrees it reaffirmed that law, not public policy, was where I wanted to invest my time."

So she applied to, and was accepted at, several law schools, including Cornell's.

"I loved the smaller class size at Cornell," Colón-Bosolet recalls. "Walking through the halls, I saw myself there. It felt like the right fit."

Still, her first year was a challenge, she remembers.

"We were learning a new way of thinking, pushing ourselves, remolding our brains" to think like lawyers, recalls Colón-Bosolet.

"But whenever I had doubts, I turned to Dean of Students **Anne Lukingbeal**," she says.

"She was an ally, an invaluable resource, and a large part of my success at the Law School."

The two remain friends to this day.

"Melissa's energy, enthusiasm, and commitment to excellence stood out," recalls Lukingbeal, now retired. "She was able to thrive academically, while at the same time serve as a respected leader and ally of her peers."

And classmate and close friend **Adam Colon '07**, now counsel at the Hearst Corporation, reports: "Melissa has always had a strong work ethic and cares deeply about her community."

Active in the Latino American Law Students Association (LALSA), Colón-Bosolet says she helped organize events with other student groups "to create a real sense of community, which was very important to me."

She also was managing editor of the Law School's Legal Information Institute and note editor for the *Cornell Journal of Law and Public Policy*.

At the end of her first year, she got a call back from a Manhattan firm she'd interviewed with for a summer associate job that proved prophetic.

"My interviewer asked me what area of law I wanted to focus on, then told me: 'You can try transactional work if you want, but I can already see you have the spirit and drive of a litigator,'" Colón-Bosolet remembers.

Exposed to more aspects of litigation in the classroom, and at two summer associate posts and a clerkship, "I learned that I loved everything about it," says Colón-Bosolet, "whether it was discovery, deposition, motion practice, preparing witnesses for trial, the courtroom trial itself, or strategizing on how to best position our client to get the outcome we wanted."

After graduation, she became an associate at Weil, Gotshal & Manges, clerked for Hon. George B. Daniels of the U.S. District Court for the Southern District of New York, then continued to hone her litigation

skills at Weil, before joining Sidley in 2014.

She has represented clients in high-risk business disputes, has litigated matters involving contract, antitrust, patent, intellectual property, securities, and bankruptcy issues, among others, and has scored some impressive wins.

Indeed, Colón-Bosolet's litigation skills and reputation have earned her such accolades as Super Lawyers' "Rising Star" for business litigation in New York City in 2014–2018.

But she continues to be concerned that there are still far fewer women than men in the upper echelons of law firms, as well as a dearth of "Latinx" lawyers. Determined to improve the situation, she joined the New York City Bar Association's Women in the Legal Profession Committee (WILPC), its largest committee, and at thirty-five became its youngest chair.

"She is a trailblazer in so many ways, seeking to make the profession better for all, particularly women and lawyers of color," says Ortiz. "She does so by bringing along others as she rises."

"Women in the legal profession are an incredibly diverse group," says Colón-Bosolet.

"We are in academia, public interest law, the judiciary, in-house, and independent law firms. WILPC offers programs designed to support women in their professional growth and help them achieve their goals."

At one meeting members talked about "what it means to see people like ourselves in high-level law positions," she recalls. "That was the spark for 'Women on the Walls.'" The initiative honors pioneering female attorneys by commissioning their portraits.

This March 7 the group gathered at the New York City Bar Association headquarters in Manhattan for the unveiling of its first portrait—of U.S. Supreme Court Justice Sonia Sotomayor.

"It was a privilege and an honor to be part of that initiative," says Colón-Bosolet, who delivered remarks at the event.

As a Law School alumna, she has served on the Alumni Association Executive Board and is now on the Dean's Advisory Council.

"I am appreciative of the legal mind that Cornell Law School gave me and want to give back," she says.

"Despite her success, Melissa remains humble and down to earth," comments Ortiz. "She has the uncanny ability to infuse life into a room with her presence and laughter and can connect with people of diverse backgrounds, earning the respect of all," Ortiz asserts. "Plus she's an amazing mom!"

Colón-Bosolet and her husband, Rene Bosolet Jr., are the parents of six-year-old twins. ■

~LINDA BRANDT MYERS

Allan Mutchnik Takes His Career from Big Law to Big Business

Right after graduation, **Allan Mutchnik '88** dove headfirst into his new career, becoming an associate at Skadden, Arps, Slate, Meagher & Flom in 1988. For Mutchnik, it felt like the best of both worlds, working at a hard-charging New York firm in sunny, laid-back Los Angeles. He joined Skadden's real estate transactions practice, but not long after he became a partner in 1996 he learned that he would need to differentiate his work to compete with local real estate firms that had lower fee structures. So he expanded his practice to include advising sovereign wealth funds investing in the United States, private equity funds investing overseas, and teams in the NFL and MLB with sports venue transactions. Then, after twenty-four years at Skadden, Mutchnik found himself at a turning point: he could stay at a firm he loved, or he could leave the law and go to work for a tool company.

Harbor Freight Tools was founded in 1977, when **Eric Smidt**, at age seventeen, transformed his father's small telephone sales business into a successful mail-order company offering factory-direct pricing on tools. Mutchnik began representing Smidt on a small matter in 2004, and as the years passed Harbor Freight became one of Mutchnik's most significant clients. When the recession of 2008 hit,

Mutchnik worked very closely with Smidt to help address the challenges that arose during those tumultuous years. Smidt led a remarkable reinvigoration of the business, and by 2012, Harbor Freight was experiencing terrific growth with over 300 stores. At that point, Smidt turned to Mutchnik to help him lead the next phase of

states—including one in Ithaca—and is opening a new store every three or four days. The company has over 20,000 employees, 40 million customers, and nearly \$5 billion in annual revenue. During this time, Mutchnik also helped Smidt establish a family office to manage his personal assets and investments, and the

successful business, Allan is an example of the breadth of how you can use your degree. His experience in the legal world and the business world has given him a distinct perspective on the legal curriculum, which is invaluable to the council and the conversations we have about the direction of legal education. He's one of the anchors in our West Coast alumni community, and he's very, very committed to Cornell."

"I came to Cornell with only a vague notion of what life as a lawyer would be like," says Mutchnik, who attended high school in Scottsdale, Arizona, and college at the University of California at Los Angeles. "It was at Cornell that I became aware of what transactional lawyers did. I loved my mergers and acquisitions class, which really shaped my perspective on what kind of work I wanted to do and where I interviewed. Ultimately, I landed at Skadden, which was one of the first New York firms to really have an impact on the L.A. market, and I just loved it. It was a great group, a great culture, and a great fit, where I was able to start with a relatively conventional practice and let it evolve into something bigger."

Beginning with transactions, Mutchnik found himself increasingly focused on advising REITs on highly structured transactions, private equity funds on real estate investments overseas, and sovereign wealth funds and foreign

I was a lawyer, but I wasn't being asked to take a legal position. That made it really daunting and really exciting.

— Allan Mutchnik '88

growth. So in 2012, Mutchnik dove in again.

"It was a huge change, and I took a job that, in many ways, I was supremely unqualified for," says Mutchnik, chief administrative officer at Harbor Freight Tools. "I was a lawyer, but I wasn't being asked to take a legal position. That made it really daunting and really exciting. I was looking at an opportunity to work with a close friend, an incredible owner/founder/CEO with a truly American rags-to-riches story, and I decided to make that leap."

In the seven years since, Harbor Freight has grown to nearly 1,000 stores in forty-eight

Smidt Foundation, to manage his philanthropy, including Harbor Freight Tools for Schools and the Prize for Teaching Excellence, with the mission of shining light on excellent skilled-trade teachers and driving the reinvigoration of skilled-trades education in public high schools across America.

"Allan has had an amazing career that's spanned the range of paths that are possible with a law degree," says **Eduardo M. Peñalver**, the Allan R. Tessler Dean and Professor of Law, who invited Mutchnik to join the Law School Advisory Council. "From working as an attorney at Skadden to serving as a senior leader of a very



investors on real estate investments in the United States. At the same time, he stumbled into a new specialty in sports venue transactions, working with Fox on acquiring and then selling the Los Angeles Dodgers, negotiating agreements on behalf of the San Diego Chargers, and representing CMGI in purchasing naming rights to the New England Patriots' stadium in Foxborough (now Gillette Stadium).

After making the move to Harbor Freight, Mutchnik learned every facet of the tool business at Smidt's side, including product development, merchandising, marketing, store operations, and supply chain. "We totally revamped our product line," says Mutchnik. "We built a team of engineers to develop professional quality tools, and most significantly, we solidified our corporate culture by

taking Eric's values to heart. They're values that resonate with me from Skadden, where we committed to sustainable high performance with folks who really liked working together, were kind to one another, and held each other to very high standards. We set out these core values at Harbor Freight, and we've more than doubled in size since then. We're disrupting the tool industry in many ways—there's no one who does what we do. And it's been a fascinating journey for me to learn from so many people."

At his childhood home in Winnipeg, Canada, Mutchnik learned about the importance of family, of speaking out against injustice, and of balancing his father's passion with his mother's quiet wisdom. At the Law School, Mutchnik studied contracts

with the late **Robert S. Summers**, who created an intellectual middle ground between left and right, and whose teachings continue to inspire Mutchnik's work as a chief administrative officer. At Harbor Freight, he's learned from Smidt, who created his business from very humble beginnings, starting with buying trips to Japan at seventeen years old, after barely finishing high school.

All these years later, Smidt, Mutchnik, and Harbor Freight are giving back. They've created the Harbor Freight EdCorps to help high school entrepreneurs develop online businesses; the Harbor Freight Scholars Program to fund enhanced trades classrooms; Harbor Freight Fellows to pair youth apprentices with mentors in the professional trades; and the Harbor Freight Tools for Schools Prize for Teaching Excellence awarding over \$1 million in prizes annually to recognize exceptional trades teachers. With Harbor Freight Tools for Schools, they've given \$1.4 million in tools to the Los Angeles Unified School District and hundreds of thousands of dollars to career and technical education programs around the country. And earlier this year, the foundation gave its largest gift, \$50 million, to create the Smidt Heart Institute at Cedars-Sinai Medical Center in Los Angeles.

It's one of the best parts of the job for Mutchnik, who hosts charitable and political fundraisers with his wife, Nicole,

at their Beverly Hills home. Nicole is a member of the national board of the Anti-Defamation League and cofounded the California Democracy Fund. While at Skadden, Allan chaired the board of Planned Parenthood Los Angeles and served on several other local nonprofit boards. "For us, that's what's really most important," says Mutchnik, "the causes we've been involved in and the impact we've had. It's an important time, and there's a lot at stake, so we have to make sure we do this right."

"Most of the organizations Nicole and I are involved with we support because we're committed to the cause," he continues. "Cornell certainly has that dimension, because of the role the university plays in education, in research, in learning. But there's a feeling that I owe something to Cornell, that Cornell Law gave me something I couldn't have found anywhere else. It was the first time I really felt focused, and it put me on this path in my life and in my career. It's been a long journey from real estate law to tools, and I would not be where I am today without the experiences I had at Cornell. That's what opened the door that led to everything else."

For more information, see www.harborfreightfellows.org and harborfreighttools-forschools.org. ■

~KENNETH BERKOWITZ

Kristina Hurley Leads the Way in Transactional Law

When **Kristina Hurley '19** enrolled as a freshman in Cornell's School of Industrial and Labor Relations, she knew she wanted to make a difference. But law school was not part of the plan.

That all changed, however, after she took a required labor and employment law course her sophomore year.

"It was fascinating and my coolest course so far," she says. "I could see law in general as a way to help others and achieve justice."

Set to enroll at the London School of Economics for her junior year, she switched all her courses there from economics to law and signed up to take the LSAT on her return.

Perhaps the deal was clinched when she became one of only three Cornell undergraduates accepted into the Law School's Labor Law Clinic, which she enrolled in during the spring semester of her senior year at Cornell.

"I loved it," she recalls. "It was an incredible opportunity to work on my own project as well as in a group alongside second- and third-year law students. I could see their thought processes. They were passionate about their work and treated others' ideas with respect."

She also credits Professor **Angela Cornell**, who taught

the course, with "instilling confidence in me."

That same spring she was accepted at Cornell Law School.

Before enrolling in the fall, she worked as a law clerk to Mid-Minnesota Legal Aid's pro bono coordinator in Minneapolis, where her family now lives.

The experience was a good introduction to what she hoped to do post-law school: make a difference. "It gave me the opportunity to help people who needed legal services and weren't getting them," she says.

At the Law School, she enrolled in Professor **Celia Bigoness's** Entrepreneurship Law Clinic, the school's first transactional law clinic with a focus on entrepreneurship, when it was offered for the first time in fall 2018.

"I was never interested in being in a courtroom," Hurley explains, "so transactional lawyering seemed the way to go."

Says Bigoness: "One of the challenges for our law stu-



It was an incredible opportunity to work on my own project as well as in a group alongside second- and third-year law students. I could see their thought processes. They were passionate about their work and treated others' ideas with respect.

— Kristina Hurley '19



dents is being able to sit in a room with a client, who thinks about things from a very different perspective than a

lawyer. But Kristina has a really innate sense of client service and just naturally understood where the client was coming from and how to moderate her own role."

"It was wonderful to be in the inaugural class and fulfilling to interact with clients who were passionate about what they'd created," says Hurley.

Bigoness also teaches the Law School's Transactional Lawyering Competition, which is both a course and an actual competition judged by a panel

of Law School alumni with transactional law backgrounds. Hurley and classmate **Nicholas Weisman '19** won it in 2017.

"That's a huge accomplishment," says Bigoness. But Hurley was

nates the efforts of all the Law School student groups and is a liaison with the school's administration and outside groups.

"She's a natural leader, but she does it in a way that's not assertive or overbearing," says

I believe that [Kristina] is the first pro bono scholar from Cornell to do transactional work. There was no established path, but she wasn't at all daunted by this.

— Professor Celia Bigoness



typically modest and low key about the win, she says.

"Our team was trying to sell land with some environmental issues," recounts Hurley. "There were concerns about how to mitigate and allocate risk. We didn't have the best first round but pulled it off in the last two rounds."

"Kristina has an incredibly sharp legal mind," comments Weisman. "That, coupled with her patience, attention to detail, and management skills, make her an asset on any team."

Hurley also served as executive vice president, and then president, of the Cornell Law Students Association (CLSA). The umbrella group coordi-

Bigoness, "and she is popular and respected among her peers."

"I've enjoyed being a conduit and a voice for students," Hurley says. "I volunteered because I know this place well and wanted to take the time to find out what people have to offer our students."

CLSA also plans and runs large-scale events such as the Barristers' Ball.

"I had to negotiate a contract connected with that event," says Hurley. "I marked it up just like I learned in the transactional lawyering class and the clinic. The skills I've been able to build have come in handy both inside and outside the classroom."

This past year Hurley was named a New York Pro Bono Scholar at the Law School. The prestigious program allowed her to take the bar exam in February instead of July and do pro bono legal work during her remaining time at the Law School. For example, she has helped nonprofits secure tax-exempt status as well as create and file their organizational and internal governance documents.

"I believe that she is the first pro bono scholar from Cornell to do transactional work," says Bigoness, who supervised Hurley in that role. "There was no established path, but she wasn't at all daunted by this."

"I'm grateful for the opportunities I've had and for finding work I'm passionate about," says Hurley.

She says she's particularly excited about her clerkship following graduation—working for **Hon. Andre Bouchard**, chancellor of the Delaware Court of Chancery.

"There are no juries, and it goes back to old English law," Hurley explains. "It is a court of equity, so an expert judge makes the final ruling and does what's right between the parties."

"Kristina is exceptional," says Dean of Students **Markeisha Miner**, who worked with her in her role as a CLSA leader.

"She excels academically and in her extracurricular activities and is a thoughtful, dedicated

student leader. She balances the many demands on her time with grace and humor, earning the respect of her peers, professors, and those who of us who've worked with her outside the classroom. I can't wait to see where her career takes her."

Hurley, who lived in such places as Tokyo and Hong Kong with her family when she was growing up, says she likes to travel.

"One of my favorite places is Angkor Wat in Cambodia," she says. "My dad, brother, and I woke up early to see the sunrise over the temples," when they visited a few years ago. "It was breathtaking to climb up sites that have been around for so long." She hopes steps will be taken to preserve them.

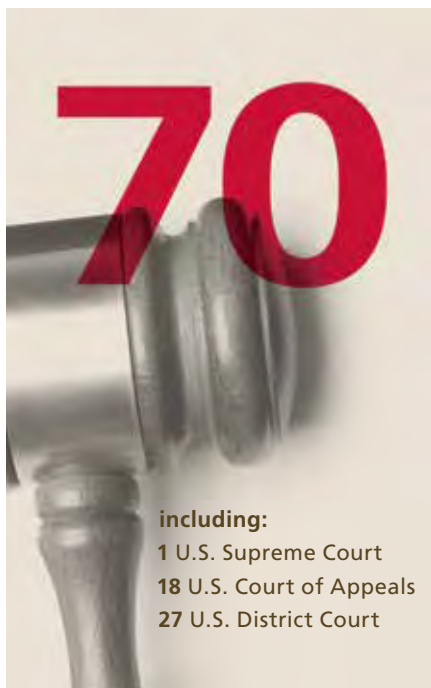
Hurley's most important lesson, in law and life: "Things are going to happen that you can't anticipate. My father worked for Lehman Brothers when we were living abroad, and the financial crisis was a scary time for our family. But I will always look up to my parents' ability to take life in stride. They taught us that change is the only constant. But there are steps you can take to help prepare for the unknown. Every day there's something you can do." ■

~LINDA BRANDT MYERS

Job Placement 2018-2019 by the Numbers



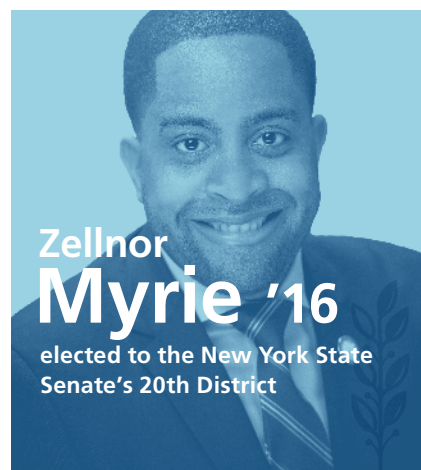
2018 CLERKSHIPS



PRIVATE SECTOR



PUBLIC SERVICE HIGHLIGHTS

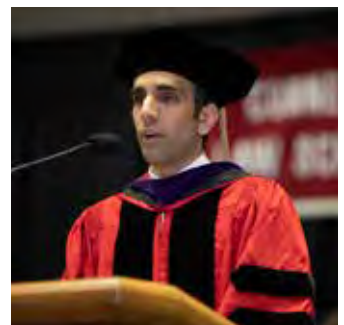


2019



2019





**Sheri Lynn Johnson
Argues Death Penalty
Case before Supreme
Court**

Curtis Flowers has spent twenty-two years in prison, much of it on death row, for four murders he says he did not commit. The black man from Mississippi has been tried six times, facing prosecution by white District Attorney

Doug Evans and judgment by predominantly or entirely white juries. His appeal of his conviction in the sixth trial has dragged on since 2010. On March 20, it reached the Supreme Court of the United States, where Professor **Sheri Lynn Johnson** of the Cornell Death Penalty Project argued on Flowers's behalf.

At contention in *Flowers v. Mississippi* is whether Evans intentionally excluded African Americans from jury service, in violation of the 1986 Supreme Court ruling in *Batson v. Kentucky*, which deemed racial discrimination in jury selection unconstitutional.

Johnson says she is grateful that the Supreme Court agreed to review the decision,

and that "the justices so obviously were concerned with the evidence of racial discrimination." She adds, "Mr. Flowers has spent twenty-two years in prison for a crime he did not commit, in large part because a prosecutor was unwilling to play by the rules and permit a fair hearing of the evidence against Mr. Flowers. I am hopeful that justice, though delayed, will not be denied to Mr. Flowers."

Johnson, the James and Mark Flanagan Professor of Law, has worked on the case since 2011, when Mississippi lawyer David Voisin asked her and fellow Cornell Law School faculty member **Keir Weyble**, clinical professor of law and director of death penalty litigation, to become involved

At contention in Flowers v. Mississippi is whether Doug Evans intentionally excluded African Americans from jury service, in violation of the 1986 Supreme Court ruling in Batson v. Kentucky, which deemed racial discrimination in jury selection unconstitutional.

Artist's rendering of
Sheri Lynn Johnson before
the Supreme Court



because of their prior litigation and scholarship on race and jury selection.

As Johnson and Weyble note in their brief to the Supreme Court, the first four times Evans prosecuted Flowers, he struck every African American panelist he could, thirty-six in all. At two of those trials, he was found to have discriminated in his use of peremptory challenges. Convictions resulting from the first three trials were reversed on appeal and the fourth and fifth trials resulted in mistrials.

During jury selection for the sixth trial, Evans accepted the first black panelist, then struck the remaining five. When Flowers appealed the conviction resulting from this trial, the Mississippi Supreme Court rejected his Batson claim, accepting Evans' stated race-neutral reasons for each of his strikes.

"It is important that lower courts understand that the inquiry under *Batson v. Kentucky* is not limited to whether a prosecutor can state race-neutral reasons but requires consideration of all of the facts to determine whether race motivated the exercise of his peremptory challenges," says Johnson. "In this case in particular, a prosecutor's history of previously violating the Constitution and dishonestly reporting the reasons for his strikes is a fact that has to be considered when evaluating whether a prosecutor's stated reasons are pretextual."



The all-female board of the *Cornell Law Review*

Law Review Elects Historic All-Female Board

For the first time in its history, the *Cornell Law Review* has elected a senior editorial board made up entirely of women.

The election took place February 2, when the 100 students on the *Law Review* interviewed and voted on candidates for the board. Founded in 1915, the *Law Review* is a student-run, student-edited journal that strives to publish novel scholarship that will have an immediate and lasting impact on the legal community.

The new board members believe theirs may be the first all-female senior board among the top fourteen law schools in the country. "We've been

waiting to see if another board comes forward," said incoming Editor in Chief **Lauren Kloss '20**.

The historic first comes 100 years after **Mary Donlon Alger**, a 1920 graduate of Cornell Law School, was the first woman elected editor in chief of a law review in the United States.

The fact that the incoming senior board is all women hit home only when they met with the outgoing board, right after the election. "I realized that there were plenty of men on the old board and there were none on this board," Kloss said. "It was an exciting thing that I don't think we quite grasped at the start."

Added **Alessandra Scalise '20**, incoming senior articles editor: "Our classmates—even people who aren't on *Law Review*—are excited to be at a school where this can happen."

The senior board, composed of second-year J.D. students, will set the editorial agenda for the review's volume 105, which will consist of seven issues published periodically in 2019. Each issue features articles, essays, book reviews, and student notes. Student editors sift through about 500 submissions per week, written by legal scholars, including professors, judges, and law students. Only eighteen articles will make it into volume 105.

"The editorial boards of these publications are the gatekeepers of coveted intellectual real estate that makes or breaks the careers of young legal scholars," said **Eduardo M. Peñalver**, the Allan R. Tessler Dean of Cornell Law School.

"Having a diverse editorial board is important both for the editorial process itself and for the future of the legal profession," Peñalver said. "I am proud of this new milestone for the *Cornell Law Review*, which has always held a special place as a pathbreaker for women in the law."

Kloss noted that she's surrounded by talented female classmates; the majority of her class are women. And her female professors have been strong mentors who have created new opportunities for female attorneys.

"We see the great step that has been taken, but we're also very aware of the many more steps that need to happen," Kloss said. "This is going to be a great year. We could tell that from our very first meeting."

~SUSAN KELLEY, *Cornell Chronicle*



Philip Eisenberg '64 (right) with son Josh Eisenberg '00

Gift from Philip Eisenberg '64 Will Establish an Annual Full-Tuition Scholarship

In celebration of his fifty-fifth reunion, **Philip Eisenberg '64** and his wife, **Betsy Sevin Eisenberg**, have made a major gift that will open doors for future law students and all those whom those students will someday serve.

For years, the couple has been building the endowment for the Philip and Betsy Eisenberg Scholarship, awarded annually to a law student, on the basis of academic merit and financial need, with an emphasis on students who have a special interest in land-use and environmental law. The Eisenbergs' latest gift will increase this fund to a level sufficient to provide an annual, full-tuition scholarship, with a preference for military veterans.

Eisenberg is the founding partner and CEO of Urban American Partners, which he established in 1997 to acquire,

renovate, manage, and ultimately sell workforce, multi-family properties. After graduating from the Law School, where he served as editor of the *Cornell Law Review* and participated in the Legal Aid Clinic, he cut his teeth as a law clerk for the Supreme Court of New York. From 1968 through 1982, he practiced and was a partner at Javits, Trubin, Sillcocks, Edelman & Knapp, where he worked in real estate and banking law.

In between clerking and private practice, Eisenberg served in the U.S. Army as a captain in the infantry, an experience that inspired him to gear his latest gift toward veterans. "Having served in the armed forces, as did our sons James and Josh, we have come to understand the sacrifices made by those who serve to protect our society and the democracy that we hold dear," he says.

"This is only a small reward for that commitment."

"I'm grateful to the Law School for preparing us to make meaningful contributions to our society," says Eisenberg, "and it is Betsy's and my conviction that the best way for our family to contribute to that work is to help provide a means for others to obtain equality of opportunity to seek justice for all of us."

Kim Nayyer to Lead Cornell Law Library

In May 2018, **Kim Nayyer** visited the Law School to study how the library integrates with the school and engages with the rest of the university's twenty libraries. One year later, she's returning as the Law School's new Edward Cornell Law Librarian, associate dean for library services, and professor of the practice.

"I came for purely academic reasons," says Nayyer, who has spent the past four years as associate university librarian at the University of Victoria in British Columbia.

Then, after flying 2,800 miles home and telling her family about her positive experiences, she saw a posting for the Law School's librarian position, decided to apply, and had a first interview at the annual meeting of the American Association of Law Libraries.



For Nayyer, who grew up in Alberta, Ithaca is a long way from Victoria, where she heads the law library, teaches courses in legal research and writing, directs collaborations with other institutions, leads projects for students, and serves on dozens of committees.

Along the way, she's given dozens of presentations on issues facing university law librarians and law faculty, blogged regularly for Slaw.ca and the Canadian Bar Association, and contributed chapters to *Human Rights Law in Canada* (2000) and *The Comprehensive*



Kim Nayyer

As an undergraduate at the University of Alberta, Nayyer majored in biology before graduating and then earning an LL.B. from York University's Osgoode Hall Law School in 1992 and an MLIS from the University of Alberta in 2001. In the years since, she clerked for the late **Associate Chief Justice Jerome** at the Federal Court of Canada, worked as legal counsel for the Alberta Court of Appeal, conducted research for large and small law firms in Calgary, Edmonton, and Toronto, and reentered academia as a law librarian at UVic in 2011.

Guide to Legal Research, Writing & Analysis (2016, 2018). Nayyer currently serves as vice chair of the North American Cooperation Section of the Association of American Law Schools, and was recently named incoming vice president of the Canadian Association of Law Libraries, a post she'll continue at Cornell Law.

"I'm excited by the challenge and by the kind of research that's being done by Cornell Law faculty," says Nayyer. "I love adventure, I love learning, and I'm very, very curious. What excites me most about Cornell is the sense of change

and just knowing that there will be so much more to learn."

Recent Grad Zellnor Myrie '16 Wins New York State Senate Race

Zellnor Myrie '16 overwhelmingly won election to the New York State Senate on November 8, 2018, in a victory that helped Democrats take control of Albany's upper house.

Democratic senators who had pledged their support to the Republican leadership in the chamber as part of the Independent Democratic Conference in exchange for committee assignments and other perks. Seven of those eight breakaway Democrats were ousted in the November election.

During his primary race, Myrie had received several high-profile endorsements,



Zellnor Myrie '16 (right) and Akua Akyea, assistant dean for public service

After defeating the incumbent in a tough primary battle, Myrie captured 88 percent of the vote in the Senate's 20th District, centered around the Brooklyn neighborhood of Crown Heights.

His opponent, **Jesse Hamilton**, ran on the Independence and Women's Equality lines.

Elected to the seat in 2014, Hamilton was one of eight

including nods from New York City Mayor **Bill de Blasio** and the *New York Times*.

Myrie is one of forty Democrats who won seats in the sixty-three-member State Senate in November, which allowed the party to take complete control of New York State government for only the second time since World War II.



Professor Robert Hillman

Robert Hillman Receives Lifetime Achievement Award

This March, **Robert A. Hillman**, the Edwin H. Woodruff Professor of Law, was honored with the Lifetime Achievement Award at the 14th Annual International Conference on Contracts, the largest annual scholarly and educational conference devoted to contracts and related areas of commercial law.

"I feel incredibly lucky to teach and write about the world's greatest subject (contracts, of course) and to have spent a major part of my career at Cornell Law School," said Hillman. "Some recognition is icing on the cake!"

Professor Hillman was honored for his extensive research and writing on contracts and contract theory, the *Uniform Commercial Code*, and related jurisprudence. His articles have appeared in the *Stanford*, *NYU*, *Columbia*, *Chicago*, *Michigan*, *Northwestern*, *Duke*, and *Cornell* law reviews, and he is the author of *The Richness of Contract Law* (1997) and a coauthor of the sixth edition of the *Uniform Commercial Code* (2012 through 2014). In addition, he is a coeditor of the casebook *Contract and Related Obligation* (7th edition, 2016).

Hillman chaired the Planning Committee of two American Association of Law Schools (AALS) contracts conferences (1989 and 2005) and one AALS workshop on international business transactions (1999). An arbitrator, consultant on commercial litigation, and the reporter for the American Law Institute's Principles of the Law of Software Contracts, Hillman teaches contracts, commercial law, and the law of e-commerce. He also teaches a class on the nature, functions, and limits of law for Cornell University's Government Department.

Previous winners of the International Conference on Contracts Lifetime Achievement Award include the late **Robert Summers** (see page 46), former professor, colleague, and friend of Robert Hillman.

Sherry Colb Named Inaugural C.S. Wong Professor of Law

Cornell Law School has introduced a new endowed position, the C.S. Wong Professor of Law. Established by a gift from an anonymous donor, the professorship honors businessman C.S. Wong, a great believer in the power of education, and educators, to impart essential knowledge, giving students opportunities to achieve success and live a better life. The inaugural C.S. Wong Professor of Law is **Sherry Colb**.

"I am delighted and honored to occupy the C.S. Wong chair," says Colb. "As the inaugural occupant, I received an actual chair, which is beautiful. The donor in this case is anonymous, but I learned a little about Mr. Wong, the honoree, and I am both impressed and grateful. He worked hard and prospered as a businessman, and he greatly valued education as a path to a better life for all of those he cared about. The donation of the chair honors that legacy and makes me proud to be part of the educational enterprise."

Colb's research and teaching interests center on issues of constitutional criminal procedure (especially the Fourth Amendment), animal rights, sexual equality, and evidence. She is a prolific author who has written several books and dozens of articles. Most recently, she coauthored a book

comparing the debates over animal rights and abortion, *Beating Hearts: Abortion and Animal Rights* (Columbia University Press, 2016).

Colb earned her bachelor's degree from Columbia College and her J.D. from Harvard Law School. After law school, she clerked for **Judge Wilfred Feinberg** of the United States Court of Appeals for the

Second Circuit and then went on to clerk for Justice **Harry A. Blackmun** of the United States Supreme Court. She was a member of the Rutgers School of Law faculty in Newark before joining the Cornell Law School faculty. She has also been a visiting professor at the University of Pennsylvania Law School and Columbia Law School.



From Texas to Tijuana: Cornell Law Students and Faculty Help Families Seeking Asylum

This January, two groups of Cornell Law School students and professors provided free legal services to over 100 people from Guatemala, Honduras, El Salvador, Mexico, and South America seeking asylum at the U.S.-Mexico border. The groups included **Diana Caraveo Parra '20**, **Lizbeth Cordova '19**, **Victoria Inojosa '19**, **Linda Lin '21**, **Hillary Rich '19**, **Emily Szopinski '20**, **Arielle Wisbaum '20**, **Jordan Manalastas '15** (clinical teaching fellow), alumnus **Carlos Calderon '12**, and Professors **Beth Lyon** and **Jaclyn Kelley-Widmer**.

The first group traveled to the isolated town of Dilley, Texas, home to the South Texas Family Residential Center, the largest family immigration detention facility in the country, which can hold up to 2,400 women and children.

From January 6-12 they participated in the Dilley Pro Bono Project, which organizes groups of volunteer lawyers and law students to assist the pro bono legal team at the detention center with representing immigrant mothers and children who are often fleeing extreme violence in their home countries.

From January 13-16, a second group worked in Tijuana, Mexico, with Al Otro Lado, an organization that provides



TOP LEFT: Sherry Colb BOTTOM LEFT: The Cornell Law team that traveled to Texas ABOVE: Cornell Law students (L to R) Victoria Inojosa '19, Linda Lin '21, and Diana Caraveo Parra '20

direct legal services to refugees seeking asylum. This group was supervised by Manalastas and Professor Lyon, the assistant director of Clinical, Advocacy and Skills Programs and director of the Farmworker's Legal Assistance Clinic.

The Cornell Law team in Tijuana helped prevent family separation by helping parents find temporary guardians for their U.S.-citizen children and prepare written declarations withholding permission to be separated from their non-U.S. citizen children. The team was also responsible for identifying "MVPs" ("most vulnerable people"), such as LGBT asylum seekers, disabled people, and individuals experiencing threats or actual violence in Tijuana.

Muna Ndulo Appointed to UN Secretary General's Civil Society Board

Professor **Muna Ndulo** has been appointed by United Nations Secretary General **António Guterres** to the Civil Society Advisory Board. The new board was created by the secretary general as part of his strategy "to combat sexual exploitation and abuse alleged to have been perpetrated by those who serve this organization."

Ndulo, who is the William Nelson Cromwell Professor of International and Comparative Law; Elizabeth and Arthur



LEFT: Professor Ndulo **RIGHT:** Students in the new Delivering Legal Services Through Technology class at Cornell Tech with the judges at their final presentation. The judges were Joe Breda, president of Bloomberg Law, right; Cornell Law School Dean Eduardo Peñalver, second from right; and Meredith Williams-Range, chief knowledge and client value officer at Shearman & Sterling, center.



Reich Director, Leo and Arvilla Berger International Legal Studies Program; and director of the Institute for African Development, is one of seven individuals from around the world chosen to serve on the board. Members were selected for their relevant experience dealing with issues related to peace operations, humanitarian activities, human rights, criminal investigations, child rights, and gender-based violence.

The secretary general, in a report to the Security Council, had pledged to create a Civil Society Advisory Board to enable the UN to have closer interaction with civil society, external experts, and nongovernmental organizations in its efforts to combat sexual exploitation and abuse.

Law, Business Students Develop AI Apps to Aid Nonprofits

Service animals are essential to the people who need them, but their owners constantly encounter questions and suspicions, and are frequently denied entry to places they're allowed by law.

An app created by students in the first Delivering Legal Services through Technology class, open to LL.M., J.D., and MBA students at Cornell Tech, aims to quickly answer those questions and smooth those interactions. Developed for the nonprofit Canine Companions for Independence using software from the legal technology company Neota Logic, the project won best overall app at the class's final presentation, held December 3 at the Cornell Tech Tata Innovation Center.

"We wanted to create tailored, instant guidance, digestible education, awareness, but most importantly, peace of mind," said **Lizzie Christmas, LL.M. '19**, who with **Marisha Thakker, LL.M. '19** and **Manuel Gonzalez Farfan, MBA '19**, designed the app.

A second group of students created a screening tool for Legal Assistance of Western New York to help people who might need personal bankruptcy protection; it won the award for best user experience. A third group won best presentation for its app to help Pine Tree Legal Assistance with its intake process for fair housing claims.

"It's satisfying and a source of pride to me to see Cornell Law School at the forefront in solving [the] challenge of access to justice," said **Eduardo Peñalver**, the Allan R. Tessler Dean of Cornell Law School

and one of three judges at the event. “It’s doubly satisfying to see us at the cutting edge in teaching our students to interact with legal technology and formulating those solutions.”

The new class, which combined hands-on technical training with a speaker series featuring leaders in developing legal technology, sought to provide students with both the broader context and the technological know-how they’ll need in an evolving field, said **Matthew D’Amore**, Cornell Tech associate dean and professor of the practice.

“Having an understanding and awareness of how technology is changing the legal profession, and how to use and stay on top of that technology, is going to be really critical for our students in their careers,” D’Amore said.

Max Paterson, LL.M. ’17, Neota’s vice president of education and community programs, co-taught the class with **Scott Rechtschaffen ’84** and **Kevin Mulcahy**. Paterson taught the students to use Neota’s software, which is customizable and doesn’t require coding skills.

“The students were really engaged,” said Paterson, who was part of Cornell Tech’s inaugural LL.M. class. “It’s just the nature of this school—they’re open to new ideas, including the changing nature of what it means to practice law.”

~MELANIE LEFKOWITZ,
Cornell Chronicle



Professor Huyghue

Michael Huyghue Brings an Insider’s Perspective on Racism in Pro Sports

After three years as a Cornell football player, **Michael Huyghue, B.S. ’84**, worked his way through law school at the University of Michigan, earning a J.D. in 1987. That’s when he turned pro, working as a legal assistant for the NFL Players Association, and in the decades since, he’s been one of the highest-ranking black executives in professional sports.

He’s been commissioner of the United Football League, general manager of the Birmingham Fire, labor relations counsel at the NFL, and vice president of the Jacksonville Jaguars.

An adjunct professor at Cornell Law School, Huyghue presented “An Insider’s View on the NFL and Player Protests” on September 22 at

them, the importance of treating athletes with respect, and the decision **Colin Kaepernick** made to sacrifice his career for a political statement.

“These are serious issues,” said Huyghue, who teaches The Art of Negotiation in Business and Sports and leads the Jacksonville marketing firm Michael Huyghue & Associates.

“People have mistaken their real importance, and in terms of misunderstanding each other, we’ve reached a critical time for a discourse on race. It’s a conversation that’s going on in silos but not in any collaborative way. We need to step outside the box and give consideration to other people’s cultures, to elevate that conversation, because our differences are our strength.

“You’re never happy with the pace of change,” he continued. “You’re frustrated and you bite your tongue almost all the time. But you also understand that incremental progress is still progress.”



Gregory S. Alexander,
A. Robert Noll
Professor of Law

"Can Human Flourishing Be Liberal?" *Canadian Journal of Law and Jurisprudence*, vol. 32, no. 1 (2019)

The renewed interest in virtue ethics raises again a persistent question, namely, that of the relationship between virtue ethics theory and liberalism as a political philosophy. Virtue ethicists focus on the good—i.e., human flourishing—and debate what constitutes that good. This focus creates a problem for liberals who are rights-oriented, which is the dominant form of contemporary liberalism.

The recent and timely book by Menachem Mautner, *Human Flourishing, Liberal Theory, and the Arts*, reminds us, however, that liberalism comes in many stripes. There is no one liberalism. Rather, there are many liberalisms. Alexander discusses three aspects of Mautner's remarkable and important book: first, his conception of human flourishing and its relationship to liberalism; second, his argument that a liberal political order committed to human flourishing ought to promote the arts; and third, his argument that the liberalism of flourishing is better able than neutralist liberalism to compete with religion in providing what Mautner calls "Big Meaning."

Josh Chafetz,
Professor of Law

"Constitutional Maturity, or Reading Weber in the Age of Trump," *Constitutional Commentary*, vol. 34 (2019)

Anxiety abounds about the state of American constitutional democracy in "the age of Trump." A wide range of commentators have raised serious and profound questions about the resilience of our political institutions and the capacity of our current political leadership.

through a broader lens—a lens crafted in a different time and place, but responsive to a related set of political questions.

In particular, this essay turns to the German social theorist Max Weber as a guide. For Weber, maturity, understood in terms of balance, or the productive negotiation of the tensions between conflicting principles, characterizes both the successful state and the successful politician. In this moment in American history in which concerns abound about both the resilience of our institutional arrangements and the character of our president, it is especially illuminating to turn to Weber's reflections on both types of maturity.

Anxiety abounds about the state of American constitutional democracy in "the age of Trump." A wide range of commentators have raised serious and profound questions about the resilience of our political institutions and the capacity of our current political leadership.

— Josh Chafetz

This essay, written for the *Constitutional Commentary* symposium "Constitutional Law in the Trump Era," attempts to get a handle on that anxiety by taking a step back and viewing our contemporary situation

Kevin M. Clermont,
Robert D. Ziff
Professor of Law

“Staying Faithful to the Standards of Proof” (September 2, 2018), *Cornell Law Review*, (forthcoming). *Cornell Legal Studies Research Paper No. 18-4*

Academics have never quite understood the standards of proof or, indeed, much about the theory of proof. Their formulations beget probabilistic musings, which beget all sorts of paradoxes, which in turn beget radical reconceptions and proposals for reform. The theoretical radicals argue that the law needs some basic reconception, such as recognizing the aim of legal proof as not at all a search for truth but rather the production of an acceptable result, or that the law needs some shattering reform, such as greatly heightening the civil standard of proof on each part of the case to ensure a more-likely-than-not overall result.

This article refutes all those baroque rereadings. It shows that the standards of proof, properly understood on the law’s own terms without a probabilistic overlay, work just fine. The law tells fact finders

to compare their degree of belief in the alleged fact to their degree of contradictory disbelief. Following that instruction resolves mathematically the paradoxes that traditional probability theory creates for itself. Most surprising, the burden of proof, by which the proponent must prove all the elements and the opponent need disprove only one, does not produce an asymmetry between the parties.

The law’s standards of proof need no drastic reconception



The law’s standards of proof need no drastic reconception or reform, because the law knew what it was doing all along.

— Kevin M. Clermont

or reform, because the law knew what it was doing all along. It deals with factual beliefs in a world that will remain uncertain, not with the odds of the facts becoming certain. And the well-established mathematics of beliefs are not the mathematics of odds.



Zachary D. Clopton,
Associate Professor
of Law

“National Injunctions and Preclusion” (November 26, 2018), *Michigan Law Review*, (forthcoming)

Critics of national injunctions are lining up. Scholars in leading law reviews have called for their demise. Critics argue that national injunctions encourage forum shopping, unfairly bur-



den the federal government, and depart from the history of equity. They also claim that national injunctions contradict the Supreme Court’s decision in *United States v. Mendoza* to exempt the federal government from offensive nonmutual issue preclusion—a doctrine that permits nonparties to benefit from a prior finding against a party from an earlier case.

Critics are right to identify the connection between national injunctions and nonmutual preclusion. Both of these doctrines describe when judgments can benefit nonparties. But critics are wrong to see *Mendoza* as an argument against national injunctions. For one thing, the rise of nonmutual preclusion that prompted *Mendoza* undercuts crucial arguments against national injunctions by offering an alternative explanation for the absence of analogous injunctions in the history of equity. For another, *Mendoza* was not preordained, but instead was a highly policy-driven decision. Scrutinizing these arguments should make us less comfortable in extending *Mendoza* to a new context—as the Supreme Court may be poised to do.

Indeed, this article goes one step further. The Supreme Court or Congress should take advantage of the attention on nonparty relief to reconsider, and overrule, *Mendoza*. Not only would overruling *Mendoza* reduce the need for national injunctions (because preclusion could do some of the work), but it would also provide a framework for limiting national injunctions without eliminating them completely. More generally, overruling *Mendoza* would create a system that is fairer to governmental and nongovernmental litigants alike, while at the same time reaffirming each branch’s role in the making of national policy.

James Grimmelmann,
Professor of Law,
Cornell Tech

“All Smart Contracts Are Ambiguous” (January 14, 2019), *Penn Journal of Law and Innovation* (forthcoming)

Smart contracts are written in programming languages rather than in natural languages. This might seem to insulate them from ambiguity, because the meaning of a program is determined by technical facts rather than by social ones.

It does not. Smart contracts can be ambiguous, too, because technical facts depend on socially determined ones. To give meaning to a computer program, a community of programmers and users must agree on the semantics of the programming language in which it is written. This is a social process, and a review of some famous controversies involving blockchains and smart contracts shows that it regularly creates serious ambiguities. In the most famous case, the DAO hack, more than \$150 million in virtual currency turned on the contested semantics of a blockchain-based smart-contract programming language.

Jens David Ohlin,
Vice Dean and
Professor of Law

“In Praise of Jus Cogens’ Conceptual Incoherence” (September 8, 2018), *McGill Law Journal*, (forthcoming). *Cornell Legal Studies Research Paper No. 18-46*

The most compelling account of jus cogens is that it flows from natural law and constitutes the “ethically minimum” content of international law.

Of course, international lawyers have persistently refused to recognize the latent naturalism within jus cogens. While rueful from the point of view of legal theory, the obfuscation was nonetheless essential for jus cogens to succeed. In an alternate world where jus cogens was correctly viewed as a vestige of natural law, modern international lawyers would never have accepted it.

One might lament the failure to recognize the natural law origins of jus cogens because it hampered the development of standards for identifying

Saule Omarova,
Professor of Law

“The ‘Too Big To Fail’ Problem” (January 2, 2019), *Minnesota Law Review* (forthcoming). *Cornell Legal Studies Research Paper No. 19-06*

“Too big to fail”—or “TBTF”—is a popular metaphor for a core dysfunction of today’s financial system: the recurrent pattern of government bailouts of large, systemically important financial institutions. Ten years after the financial crisis of 2008 made TBTF a household term, it continues to frame much of the public policy debate on financial regulation. Yet, the analytical content of this term remains remarkably unclear.

Taking a fresh look at the TBTF problem, this article offers a coherent framework for understanding the policy and regulatory challenges this label denotes. It identifies the fundamental paradox at the heart of the TBTF debate: “TBTF” is an entity-centric, micro-level metaphor for a complex of interrelated systemic, macro-level problems. The article deconstructs the TBTF concept into its two basic components: (1) the “F”

In the end, the notion that jus cogens is consistent with international law’s legal positivism was a useful fiction, a “noble lie” that gave us modern human rights law.

— Jens David Ohlin

Although natural law was once considered an acceptable and obvious approach to jurisprudence, its significance has waned at the expense of legal positivism. However, the hierarchical quality of jus cogens is best explained by some element of natural law—and its explicit invocation of moral content—rather than anything one might find in legal positivism.

which legal norms counted as jus cogens. However, no account of jus cogens offers compelling, unambiguous criteria, and second, the lack of clarity on its criteria was a good price to pay in exchange for the legal category’s widespread adoption. In the end, the notion that jus cogens is consistent with international law’s legal positivism was a useful fiction, a “noble lie” that gave us modern human rights law.

factor focused on the “failure” of individual financial firms; and (2) the “B” factor focused on their “bigness” (relative size and structural significance). Analyzing post-crisis legislative and regulatory efforts to solve the TBTF problem through this simplifying lens reveals critical gaps in that process, which consistently favors the inherently micro-level “F” factor solutions over the more explicitly macro-level “B” factor ones. On the basis of this analysis, the article suggests potential ways of rebalancing and expanding the TBTF policy toolkit to encompass a wider range of measures targeting the relevant systemic dynamics in a more direct and assertive manner.



**Jeffrey J. Rachlinski,
Henry Allen Mark
Professor of Law**

**“Gains, Losses, and Judges:
Framing and the Judiciary,”**
Notre Dame Law Review, vol.
94, no. 2 (2018)

Losses hurt more than foregone gains—an asymmetry that psychologists call “loss aversion.” Losses cause more regret than foregone gains,

and people struggle harder to avoid losses than to obtain equivalent gains. Loss aversion produces a variety of anomalous behaviors: people’s preferences depend upon the initial reference point (reference-dependent choice); people are overly focused on maintaining the status quo (status quo bias); people attach more value to goods they own than to identical goods that they do not (endowment effect); and people take excessive risks to avoid sure losses (risk seeking in the face of losses). These phenomena are so pervasive that legal scholars have assumed that they influence the development of law. Although numerous studies reveal that framing influences how ordinary people think about their rights, a clear demonstration that judges decide cases differently when the underlying facts present gains as opposed to losses does not exist. This article fills that gap. It presents eight studies with over one thousand judges as research participants that demonstrate that all four of these anomalous features of framing influence how sitting judges evaluate legal cases.



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

**“Paying the Piper but Not
Calling the Tune: Litigation
Financing and Professional
Independence,”** *Akron Law
Review* 52 (2018)

Most commercial litigation financing agreements are designed to create distance between the funders of the litigation and legal counsel. Our legal system demands that third-party litigation financiers refrain from interfering with a client’s decisions in their matter, and traditional



***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

third-party litigation financing is merely a passive profit-making opportunity. There are cases, however, where the litigation financier is not interested in making a profit, but instead wishes to participate in the litigation for political, ideological, or personal reasons. In this article, Wendel explores whether what he calls “interested litigation financing” is an exercise of First Amendment rights or is instead a corruption of the litigation process. It is simple to imagine a scenario where interested financiers take control of litigation; but by examining two recent cases demonstrating third-party interested litigation financing, Wendel argues that interested litigation financing furthers the public values underlying our legal system and poses little risk to the professional responsibility obligations of lawyers. ■



Alumni and Students Honored at 14th Annual Public Service Awards

On February 8, 2019, members of the Cornell Law community convened at the Association of the Bar of New York to celebrate the 14th Annual Public Service Awards. This year, eight current Law School students and six alumni were honored for their outstanding dedication to public interest law.

Candidates for the awards are nominated by Law School



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alumni, faculty, and administrators, and are reviewed by the Faculty-Student Public Service Committee.

"This is one of my favorite events of the year. Recogniz-

ing Cornell Law School alumni and students who are doing needed public service work is such an honor." says **Akua Akyea**, assistant dean for public service.

The alumni awardees, listed below, represent a range of graduation years and specializations. **Brian Morgan '93**, winner of the Pro Bono Award, has spent years improving the lives of at-risk youth. **Jessica Hittelman Lopez '13**, the

Rising Star Award winner, has served fearlessly to ensure that youth affected by the criminal justice system have opportunities to reclaim lives of dignity.

The work of other alumni honorees includes directing an organization that provides affordable housing and emergency shelter, researching how the U.S. criminal justice system interacts with new systems of transnational and international criminal law, and representing clients that are victims of domestic violence.

"There is a great spirit of community and support at this event. These are individuals who are doing the work of their heart, not for acknowledgement but because they truly believe in it," says Akyea. "I am humbled by their dedication and service." ■



Dean Peñalver

STUDENT PUBLIC INTEREST PRIZES

HONOREES

Diane L. Campbell '98,
Supervising Attorney, Legal
Assistance of Western New
York, Ithaca, New York

Earl A. Kirkland III '13,
John Payton Appellate and Su-
preme Court Advocacy Fellow,
NAACP Legal Defense and
Educational Fund, New York,
New York

Steven A. Koh '08,
Associate in Law, Columbia
Law School, New York, New
York

Jessica Hittelman Lopez '13,
Staff Attorney, Youth Repre-
sent, New York, New York

Andrew D. Miller '90,
Executive Director, Human
Solutions, Portland, Oregon

Brian P. Morgan '93,
Senior Attorney, Litigation
Department, Paul Hastings,
New York, New York



2019 EXEMPLARY ALUMNI PUBLIC SERVICE AWARDS

FREEMAN AWARD FOR CIVIL-HUMAN RIGHTS

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



LEFT: Avery Cummings '19 (left) and Robert Hendricks '19
ABOVE: Assistant Dean for Public Service Akua Akya (left) and
Matthew Lutwen '19, Alicia Arman '19, and Mary-Kathryn Smith '19
BELOW: A group photo of the public service prizewinners

STANLEY E. GOULD PRIZE FOR PUBLIC INTEREST LAW

Awarded annually to a third-
year student or students who
have shown outstanding dedi-
cation to serving public inter-
est law and public interest
groups: **Alicia Arman '19**,
Matthew Lutwen '19, **Mary-
Kathryn Smith '19**

SEYMOUR HERZOG MEMORIAL PRIZE

Awarded annually to a student
or students who demonstrate
excellence in the law and com-
mitment to public interest law,
combined with a love of sports:
Avery Cummings '19, **Robert
Hendricks '19**



Development News

Alumni and friends of Cornell Law School made gifts for many purposes during the first half of fiscal 2019. Outright gifts bolstered the Law School Annual Fund and the Legal Information Institute, and new gift commitments established new professorial chairs. Notable among the latter was a commitment by **Marc S. Goldberg '67** to formalize the

endowment of the Beth and Marc Goldberg Professorship of Law. Having funded the Goldberg Professorship in 2005 through a planned gift in the form of a charitable remainder unitrust, Goldberg is providing annual gifts to endowment to activate the Goldberg Professorship now. He and his wife Beth have been among Cornell Law's leading donors for more than two decades and continue to support a range of funds at the Law School in addition to the Goldberg Professorship, including a Dean's Scholarship, the Schwab Scholarship, the Law School Class of 1967 Scholarship, the Law Annual Fund, and the Frederic H. Weisberg Prize for Constitutional Law. Marc Goldberg is formerly senior advisor to Wasserstein & Company and was previously senior vice president at Phillip Morris Companies. Longtime Cornell Law Advisory Council member **Anthony M. "Tony" Radice '69** established a new professorship in the Law School with a gift to endowment. Thanks to his concomitant cash gift at Ezra Cornell level, the Radice Family Pro-

fessorship will become active presently as Cornell Law's newest endowed professorial chair. Radice, a longtime partner in the Manhattan office of Morrison and Foerster, and head of its New York Litigation Practice Group as well as its pro bono commitments, is a retired senior counsel of that firm, which he joined at its inception in 1987. He is a leading benefactor of Cornell Law, where he supports the Annual Fund, the Advisory Council/Law Leadership Honor Fund, and the Law Dean's Building Fund, among others. He is the donor of the Marcus A. Radice Scholarship, named in honor of his father.

Marshall Phelps '69 made a new gift at the Ezra Cornell Circle level. Although undesignated at the time of this writing, his gift is intended to provide current-use funding. Phelps was formerly corporate vice president and deputy general counsel for intellectual property and licensing at Microsoft. An additional bequest at the Ezra Cornell Circle from the estate of **Lorene Bow '52** augmented the endowment of the Joergensen-Bow Scholarship. This newest estate gift brings her total bequest to Cornell Law School to more than \$2.5M. A realized bequest at Ezra Cornell Circle level, based on a planned gift previously made by **James G. Flanagan '37**, bolstered the endowment of the James and Mark Flanagan Professorship of Law.

The Law School Annual Fund, like each of the respective an-

nual funds of Cornell's many schools and colleges, showed some fall-off during the first half of fiscal 2019. At the close of business on December 31, 2018, new gifts and commitments to the Law Annual Fund totaled \$1,533,505. This dollar value reflects a 9.5 percent decrease from the amount of one year ago. Similarly, donors to the Law Annual Fund were down 12 percent. Knowing that these results needed significant improvement, the Law Annual Fund team brought an especially sharp focus to the Cornell Giving Day campaign in March and succeeded in regaining a large percentage of the shortfall. Strong Giving Day results reduced the Law Annual Fund dollar deficit to just two percent—a 7.5 percent swing in the right direction. Law Annual Fund donors were still 10.5 percent fewer than the previous year, yet the 1.5 percent improvement on December's numbers indicated a positive trend. We look for renewed participation among our donors this spring that will lift the Law Annual Fund to its fiscal-year goal of \$3M by June 30, 2019.

A Founder's Circle gift to the Law Annual Fund came from **Franci Blassberg '77**, a longtime partner of Debevoise & Plimpton, which she joined after graduating from the Law School in 1977. Blassberg is a former chair of the Law School Dean's Advisory Council, a trustee emerita of Cornell and a member emerita of the President's Council of Cornell Women, and a presidential counselor. Her support of Cor-

nell Law, the College of Arts & Sciences, and the university in general includes numerous funds and spans five decades.

William J. Casazza '85 advised the Law School of a future bequest from his estate, and previously enhanced the endowment of the Cornell Law Class of '85 Scholarship with a Founder's Circle gift. Casazza was most recently executive vice president and general counsel of Aetna Law & Regulatory Affairs. Also supporting the Law Annual Fund at the Founder's Circle level was **Paul R. Callaway '65**, through a bequest from his estate; and **Margery H. Thomas**, widow of **Gerard Thomas '51**, through the Kalamazzo Foundation. Gerard Thomas was a vice president of Upjohn Company for many years, as well as senior counsel with Miller, Canfield, Paddock & Stone, PLC. He and Margery were longtime residents of Kalamazoo, Michigan. Callaway worked in commercial banking for much of his career, including at JP Morgan Chase Foundation, and was most recently vice president and trust officer at Canandaigua National Bank and Trust. **David Russo '85** gave at the Founder's Circle level with new gifts to, respectively, the Law Annual Fund and the Sarah E. Russo Public Interest Law Fellowship Fund. Russo supports schools and units across the university, including the Cornell Library, College of Arts & Sciences, Botanic Gardens, Catholic Community, and Athletics. He is president of Ajax Investors,

L.P. **Arthur Siskind '52** made a new gift at the Founder's Circle level to enhance the endowment of the Arthur and Mary Ann Siskind Dean's Scholarship. Siskind supports many funds in the Law School, including the Annual Fund, Law Dean's Building Fund, Lee E. Teitelbaum Scholarship, Stewart and Norma Schwab Scholarship, and Advisory Council/Law Leadership Honor Fund. He was most recently senior advisor to the chairman of News Corp. A combined President's Circle gift from **David Litman '82** provided essential funding for the Tel Aviv University Faculty and Student Exchange Program, as well as supporting the Law Annual Fund. Litman, a co-founder of Getaroom.com, serves as president and CEO of that company. **Robert B. Diener** provided equally essential funding for the Tel Aviv University Exchange with a new President's Circle gift. Diener was a co-founder of Consumer Club, Inc., and now is president of Diener Partners. A President's Circle gift from **John S. Brown '65** enriched the Law Annual Fund for Scholarship. Brown is a partner of Morgan, Lewis & Bockius, LLP, in Boston. Also supporting the Law Annual Fund at the President's Circle level were **Doris Bantha Pree '46**, **Frederic Rubinstein '52**, **Bernard Berkowitz '56**, **Brian Pastuszewski '81**, **Denise Hauselt '83**, **Stephen Robinson '84**, and **John Schwolsky '85**. **Michael I. Wolfson '63** supported the

Law School at the President's Circle level, continuing his exemplary record of six-decade philanthropy to Cornell, which includes consistent giving to Athletics, College of Agriculture & Life Sciences, and Engineering. **Arnie Jacobs '64** made a President's Circle gift in support of faculty research. Jacobs is a benefactor of many schools and units at Cornell, including Weill Cornell Medicine, Cornell Library, and College of Arts & Sciences. His philanthropy to Cornell continues into its fifth decade. **Joseph Calabrese '81** made a new combined President's Circle gift to the Law Annual Fund and to the endowment of the Gerard R. and Anna M. Calabrese Law Scholarship, which he created in 2014 in honor of his parents. At the Founder's Circle level, **Bruce Carswell '54**, by bequest, supported student financial aid; and **Jean Hesby FR**, also by bequest, provided unrestricted current-use funding.

Gifts from Justia to the Legal Information Institute soared past the threshold for Ezra Cornell Circle level by the end of calendar 2018, continuing a remarkable relationship between the LII and Justia's founders, **Timothy Stanley** and **Stacy Stern**. Justia's total support of the LII is now more than \$2.5M and counting. In addition, the LII raised more than \$200K during its calendar 2018 campaign from more than 4,300 individual donors—the majority of whom are neither Law School alumni nor have any affiliation with Cornell.

Cornell Connect

Cornell University's online alumni directory has never been more user friendly for Law School alumni. Check out the new platform and easy search fields. You can now search for fellow Cornell lawyers by name, class, year, city, or area of expertise. You can also update your contact information and identify your own area of expertise so your classmates can find you!

To access the directory, you simply need your NetID and password. If you have not already activated your NetID (or don't know your NetID) visit <http://www.alumni.cornell.edu/services/netid.cfm> and follow the prompts. Once you have established your NetID and password, you can log into the secure online directory at <https://cornellconnect.cornell.edu/> and begin your search.



Class Notes are Online

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

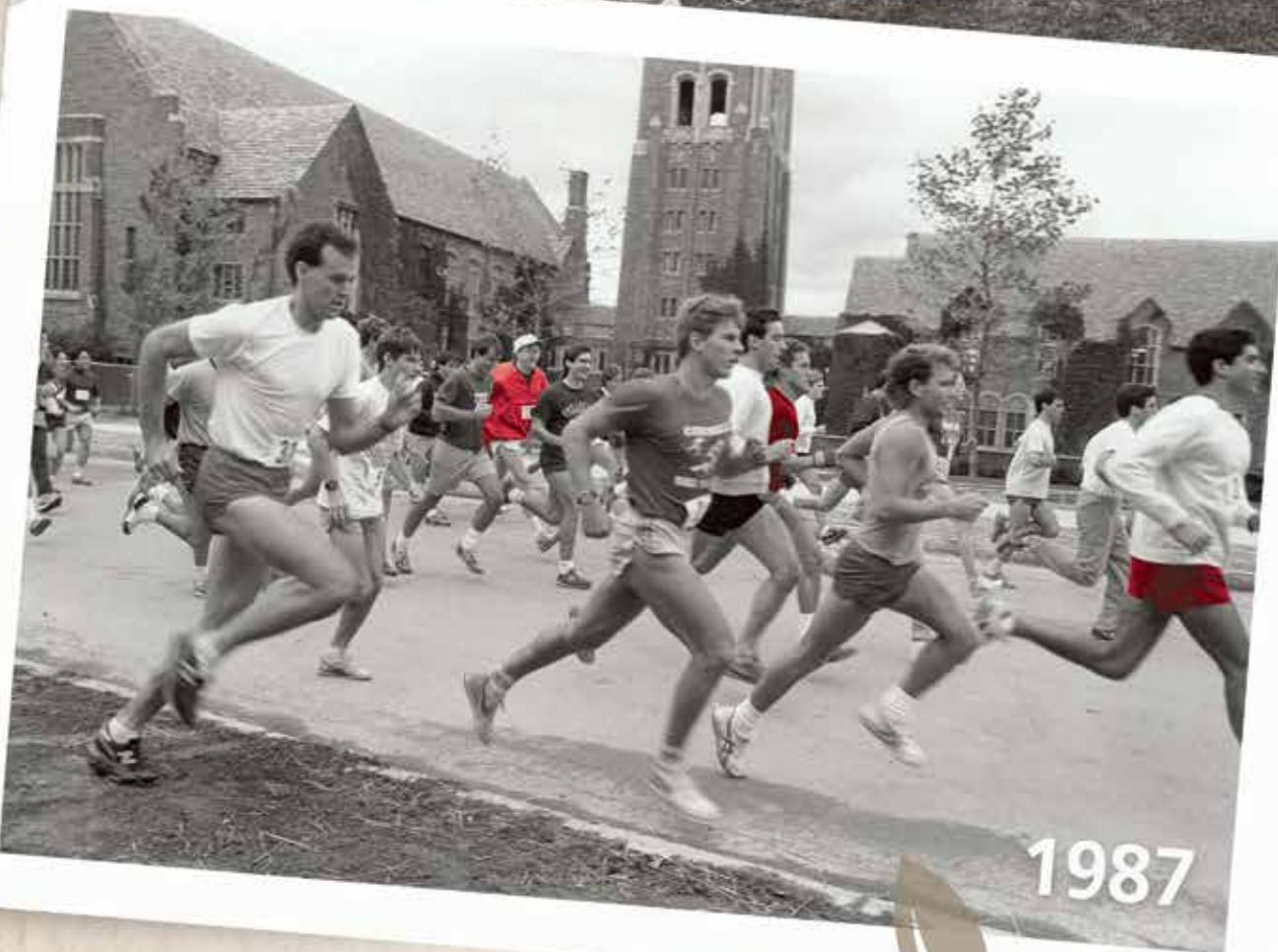
You can also submit your own notes through the Law School website:

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

HISTORICAL
EVIDENCE



1983



1987



Cornell Law School

Lawyers in the Best Sense

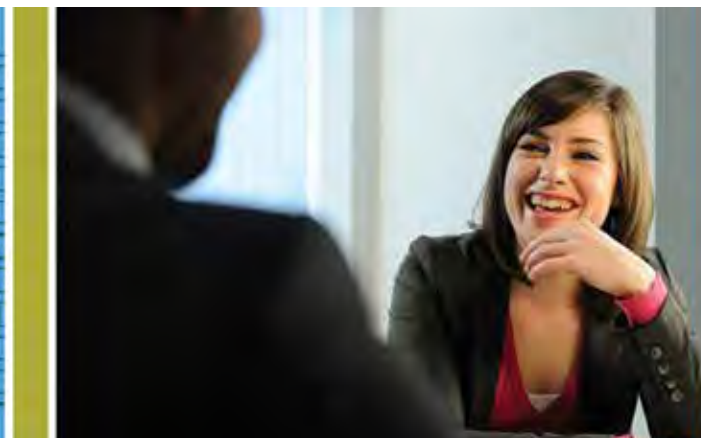
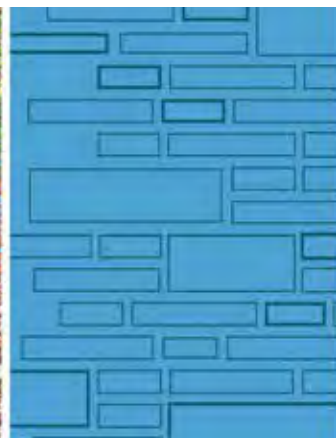
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www.lawschool.cornell.edu/alumni/Alumni-Helping-Alumni.cfm



In Memoriam

Robert S. Anderson '69

Richard Symeon Bruchal '62

Jack G. Clarke '52

Honorable John A. Dietz '55

William C. Dixon '66

John B Drenning Jr., LL.B. '64

Joshua Edgemon '07

Hughes Griffis '72

Joan Hewitt, LL.B. '49

Louis Levene '41

Felix Liebmann '51

Albert C. Neimeth '52

Alfred Ogden, LL.B. '65

Anthony Phillips, LL.B. '62

Lloyd A. Portnow, LL.B. '64

Perry Satz, LL.B. '58

Andrew Short '85

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

Tejshree Thapa '93

FORUM

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