

Brooklyn Law Notes

THE MAGAZINE OF BROOKLYN LAW SCHOOL | FALL 2017

Defending Justice

Alumni Defend Clients in Need

Beyond the Stacks

The Library Changes for a New Generation

Is Your Toaster Watching You?

Privacy, Property, & the Internet of Things

A New View

Innovative new space at 111 Livingston Street designed for student and program success

Dean's Message

Brooklyn Law Notes

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Brooklyn Law Notes is published semiannually by Brooklyn Law School for alumni, students, faculty, and friends.

The Power of Law



ON THE VERY DAY in late August when Brooklyn Law School welcomed 393 new J.D. and LL.M. students, Americans were enthralled by an extraordinary event: the first continent-wide solar eclipse since 1776 that was visible only from the United States. That afternoon as people across the country and in our Law School courtyard gazed upward through their safety glasses and downward at their pinhole cameras, it was as if nature itself was conspiring to bring the nation together—if only for a few hours. Our shared sense of unity and wonder, while fleeting, was a welcome respite from the tumultuous events that continue to roil this country. As of this writing, Floridians, some of them graduates of our Law School, are cleaning up from the devastation of Hurricane Irma, Texas continues to recover from the horrific floods brought by Hurricane Harvey, while we begin to learn of the damaging impact of Hurricane Maria in Puerto Rico, and the devastating major earthquakes in Mexico. Meanwhile, white supremacists and neo-Nazis march in cities like Charlottesville and Boston, North Korea menaces its neighbors and the United States with threats and missile launches, immigrants protected under the DACA policy fear they may be deported from the only country most have known, and the rights of transgender individuals to serve our nation in the military are threatened.

What do all these events have to do with new law students? Everything.

Our new students—371 studying for their J.D.s and 22 in the LL.M. program—come to us from 33 states, the District of Columbia, and 20 countries spanning five continents with optimism and a passion to use the power of law to make a positive difference across a range of fields. As I met each of them in their first days of law school, many were concerned about the direction of the country and the world, but were eager to dive headfirst into their studies and get involved in all the practical learning opportunities the Law School offers. They have arrived at our great institution at a critical moment in our history. We need good lawyers more than ever before. As a law school uniquely and historically in the forefront of educating people from all walks of life to effectively serve both the public and private roles of lawyers in ever new and better ways, our mission is to prepare our students for what they need to know, and need to know how to do, in a world of law transforming rapidly before our eyes because of technology, economics, and increasingly the global nature of law. Do we believe lawyers matter? Well, we are doing our best to straighten that question mark into an exclamation point.

All our students and graduates are called upon to be front and center in the grand civics lesson all Americans have been called to attend this year. This is because we face many of the essential questions our nation's founders grappled with: How do we elect? How do we govern? How do we talk to each other? How do we decide what we mean by “We the People,” and whether we mean to include immigrants or not? As to lawful assembly and free speech, we already have had and will continue to have lively debates at our school this year, and we will learn a lot about “fighting words” and “incitement” among many legal topics arising from the cascading swirl of upsetting acts of racial and religious intolerance at home and abroad. Relevant case law on these important constitutional issues is abundant and will be thoroughly discussed. However, the very important legal conversation about the constitutional free speech underpinnings of protest, dissent and holding government accountable must not excuse us or distract us from expressing clearly and rejecting the immorality of prejudice, bigotry, and inequality. Indeed, it is fundamentally wrong if one can speak out and has a voice that can be heard, to be silent.

Right now, in Texas and Florida, lawyers are performing pro bono work to help people recover from the hurricane, providing legal advice and assistance on issues related to insurance claims, real estate, employment, health care, and immigration. Many lawyers are donating their services, including out-of-staters who are permitted by the Texas Supreme Court's order to perform legal work for Harvey victims for six months, proof positive that lawyers and even state bar licensing authorities have hearts. Meanwhile, government attorneys in both states are busy informing storm victims of their rights and protecting them from being ripped off and preyed upon by price gougers and dishonest contractors.

Back in Brooklyn we are proud of the many examples of law in action we see daily. For example, the Law School is partnering with Catholic Charities of the Archdiocese of New York to help assist immigrants in need of legal advice and assistance. Led by Professors Maryellen Fullerton and Stacy Caplow, this is a remarkable project because it involves the volunteer efforts of faculty, students, alumni, and staff—and our liaison at Catholic Charities just happens to be Maryann Tharappel '11, the organization's first-ever Director of Special Projects for Immigrants and Refugees, who is profiled in this issue. In late September, our volunteers traveled to Putnam County to take part in a legal clinic where they conducted screenings, gathered information, and assisted with DACA renewals. We will continue to

support these clinics while also working on projects related to family preparedness and naturalization assistance with Catholic Migration Services in Brooklyn, where Rev. Patrick Keating '17 serves as chief executive officer.

We all are demonstrating how critically important lawyers are to the social order that is the bedrock of our growth and prosperity and to the principles of justice, equality, and fairness that are integral to the very fabric of this law school since its founding 116 years ago. There has been precious little understanding of and appreciation for the foundational laws of our land and the role lawyers play in bringing to fruition all the benefits of

our constitutional guarantees that are at the core of our democratic way of life. Law schools everywhere must seize this opportunity to trumpet the good news that just as lawyers were instrumental in our nation's beginnings, they are essential today to the defense of our rights, the pursuit of justice, and the preservation of our Republic.

The recent exhibition at the Brooklyn Museum, “The Legacy of Lynching: Confronting Racial Terror in America,” featured the powerful words of civil rights activist Septima Poinsette Clark: “I believe unconditionally in the ability of people to respond when they are told the truth. We need to be taught to study rather than believe, to inquire rather than affirm.” Her uncompromising message goes the heart of what we do and who we are at Brooklyn Law School. We must work to honor and renew what makes our school so distinctive and indispensable, do our part to clear paths and chart legal courses for a just, democratic society to endure in a complex and dangerous world, and celebrate and protect our diverse and global community. ■

“
All our students and
graduates are called upon to
be front and center
in the grand civics lesson
increasingly engaging people
across America.
”

Nick Allard

Joseph Crea Dean and President

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Haley Tynes '17 and her dog Rosie at the Commencement Picnic (above) and Sayyid Choudhury '17 on Giving Day.

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PHOTOGRAPH
BY
RAIMUND
KOCH

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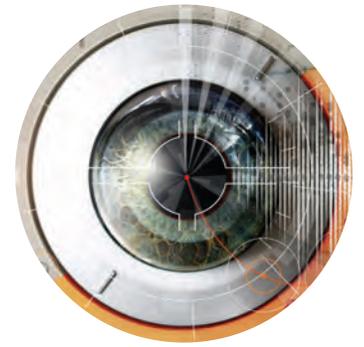
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NEWS

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and Around
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Convocation Ceremony Welcomes New Students

BROOKLYN LAW SCHOOL WELCOMED 393 NEW STUDENTS on August 21 at the annual Convocation Ceremony, held in the Ceremonial Courtroom at the U.S. District Court for the Eastern District of New York. **Vice Dean Steven Dean** served as master of ceremonies for the event, which also featured remarks

from **Giancarlo Martinez '18**; **Hon. Robert A. Katzmann**, chief judge for the U.S. Court of Appeals for the Second Circuit; **Wanda Denson-Low '81**, vice chair of Rensselaer Polytechnic Institute Board of Trustees; **Professor David Reiss**; and **Dean Nick Allard**.

The incoming class includes 29 members of the 2-Year Accelerated J.D. Program, 310 members of the traditional 3-Year Program, and 32 members of the extended 4-Year Program. The LL.M. program welcomed 22 new students from 20 countries. The new students join the Law School community with an array of impressive backgrounds: they are athletes, entrepreneurs,

teachers, philanthropists, and Army veterans, to name just a few of their accomplishments.

Martinez shared the three best pieces of advice he had received when beginning his own legal education: "Be focused, get involved, and stay true to yourself." Denson-Low, who

previously served as senior vice president for the Office of Internal Governance at Boeing and general counsel of Boeing Defense, spoke about how she came to the Law School hoping to work for Legal Aid, but ended up on a very different path. "Don't assume the law firm is the only vehicle for you," she said.

Allard closed the ceremony with a call to action during this pivotal moment in history. "Lawyers are needed more than ever before," he said. ■



A group of 1Ls prepares for the procession from the Law School to the Courthouse; (right) Wanda Denson-Low '81.



New J.D. Students by the Numbers

From nearly 3,700 applicants, 371 new J.D. students entered the Law School this year.

► They speak **33** languages other than English; **63** speak at least three languages

► **19%** are first-generation Americans

► They are residents of **33** U.S. states and the District of Columbia and **8** foreign countries

► They range in age from **19** to **50**, with a median age of **24**

► They studied at **193** colleges and universities, pursuing **72** different majors; **31** have post-graduate degrees

► **52%** are women

► **31%** are students of color



Opening week at the Law School included the annual Convocation Ceremony and Service Day, during which dozens of students helped out on service projects around the city.



Law School Celebrates 116th Commencement

Brooklyn Law School celebrated its 116th commencement ceremony on May 18 at the Brooklyn Academy of Music where 368 J.D. and 31 LL.M. degrees were conferred.

Errol Louis '05, CNN contributor and political anchor at NY1 News, was the commencement speaker and honorary degree recipient.

“Remember that you have clients beyond the ones who are paying you,” he said during his remarks. “Justice is your client. Fairness is your client. Honesty and integrity and service are your clients, and they deserve your best effort.”

Stuart Subotnick '68, chairman of the Board of Trustees, presided over the ceremony and led the conferring of degrees. **Fr. Patrick Keating '17**, deputy chief executive officer at Catholic Charities Brooklyn and Queens, delivered the opening invocation. The graduates also heard from valedictorian **Jamie Kurtz '17** and **Marissa Potts '17**, who was elected

student speaker by her classmates.

Kurtz commended his fellow students for springing to action in the wake of the president’s travel ban Executive Order in January and supporting their fellow Brooklynites during the Brooklyn Stands Together rally in February. He later received his diploma from his parents, New York State Supreme Court **Judge Donald Kurtz** and **Nina Kurtz**, both Class of 1982.

Potts reflected on the historical events that punctuated her and her classmates’ three years at the Law School, including the advent of the Black Lives Matter movement, the Supreme Court’s decision in *Obergefell v. Hodges* legalizing same-sex marriage, and the 2016 U.S. presidential election.

In his remarks to the graduates, Dean Nick Allard called for Brooklyn Law School graduates to use their educations for the greater good.

“Every day, we witness new threats, from within and from abroad, to our republic

and to our shared vision of this nation and what it means to be an American,” he said. “You will be called upon to use the power of law to make a positive difference for your community, your nation, and our world.”

Allard also recognized **Professor Arthur Pinto**, who has retired after 30 years of teaching at the Law School. He later recognized several members of the class of 1967 who joined him on the stage to mark 50 years since their own graduation, including **Paul Bergman**, **Frederick Cohen**, **Stanley Hochberg**, **Stephen Lusthaus**, and the **Hon. Louis Rosenthal**.

In another highlight of the ceremony, 103-year-old **Elena Teresa Sanfilippo '36** presented her great-great niece **Francesca Adamo '17** with her diploma.

After the commencement ceremony, the Law School continued its annual tradition of hosting a picnic for graduates and their families in the courtyard of the main campus building. ■

Errol Louis’s 6 pieces of advice:

1. Teach your friends and family how the law works
2. Save for a home, family, and retirement
3. Give back to New York—especially Brooklyn
4. Take responsibility for your health
5. Acknowledge the value of your time
6. Remember the “invisible clients”: justice, fairness, honesty, integrity, and service



OPPOSITE: LL.M. graduates during commencement; TOP LEFT: Francesca Adamo '17 and her great-great aunt, Elena Teresa Sanfilippo '36; MIDDLE RIGHT: Errol Louis '05 giving his commencement remarks; BOTTOM RIGHT: Professor Arthur Pinto honored for his long and dedicated service to scholarship and teaching.

Brooklyn Law School
ESTABLISHED 1901



WATCH THE VIDEO

brooklaw.edu/commencement

Premier Prince Evidence Competition Turns 32

In March, Brooklyn Law School held the 32nd Annual Dean Jerome Prince Evidence Competition, the top competition of its kind dedicated to appellate advocacy of criminal evidence issues. Ohio State University Moritz College of Law finished as champions, while the University of California, Hastings College School of Law finished second. Presiding over the final round of the competition were the Hon. Jay Bybee, U.S. Court of Appeals for the Ninth Circuit, Hon. Raymond Lohier, U.S. Court of Appeals for the Second Circuit, and Hon. Joan Azrack, U.S. District Court for the Eastern District of New York.



'Making a Murderer' Attorneys at Launch of New Center

Jerome Buting and Dean Strang, who defended Steven Avery, the subject of the hit Netflix documentary series "Making a Murderer," were the special guests at the launch of the Public Service Law Center in March. The evening culminated with a conversation between Buting and Strang, led by **Professors Bennett Capers** and **Jocelyn Simonson**.

Police Commissioner Timothy Sini '05 Discusses using a J.D. in Law Enforcement

Timothy Sini '05, the youngest police commissioner in Suffolk County history at age 36, visited the Law School in March as part of a panel on using a J.D. in law enforcement. As police commissioner he took on the task of rebuilding public trust following

the imprisonment of Suffolk County's former police chief. He also helped turn around public perception of the department in the wake of a spike in homicides. Most recently he received the Democratic nomination for Suffolk County District Attorney.

On the March panel, he was joined by **Krista Ashbery '06** of the NYPD Office of Collaborative Policing, NYPD Sergeant **Ted Colon '15**, and NYPD Detective **Ken Riche '08**.

In January, *Newsday* chronicled Sini's first year of service as commissioner in Suffolk County. Geraldine Hart, FBI special agent in charge of the Long Island office said: "It's been a great partnership and you can see definitely he understands what people can bring to the table, not just resources, but special skills."

Prior to becoming commissioner, Sini worked in corporate law in Manhattan and clerked for two federal judges before becoming a federal prosecutor for the Southern District of New York in 2010, where he worked for U.S. Attorney Preet Bharara. There, he prosecuted gang-related killings and the first federal case of individuals selling bath salts, a designer drug.

Sini was also recently recognized by the Long Island Chapter of ASIS International as its 2017 Person of the Year. ■



Law School Honors Rachel Freier '05, First Hasidic Woman Judge

Judge Rachel Freier '05, the country's first-ever Hasidic female elected official, was honored at the Law School in March for her achievements.

"Our law school has been a gateway to opportunity for generations," Dean Nick Allard said. "From our founding more than 116 years ago, our doors have been wide open. We are a law school whose legacy has been shaped by pioneers and trailblazers who have gone on to lead in the profession as well as in government, public service and business."

Professor Aaron Twerski, state Assemblymember Dov Hikind, and Judge of the U.S. Court of International Trade **Claire R. Kelly '93** also gave remarks.

"I have to thank Brooklyn Law School for giving me my law degree and making this all possible," Freier said. "Yes, my husband and my family were all there to support me, but it was Brooklyn Law School that made this all possible."

Freier, who started her career as a legal secretary before becoming a paralegal and then attending the Law School part time, has spent more than 30 years in legal and political service. In addition to practicing law in offices in Brooklyn and Monroe, NY, she served



as a community board member in the Borough Park neighborhood of Brooklyn. She is also a licensed paramedic, and founded an all-woman volunteer EMT agency, Ezras Nashim.

"I was very content with my high school diploma," she said. "I was a legal secretary and I was very happy. I kept getting better and better jobs and I started making more money than some of the men that I know and that was a great feeling. That was until I started working for lawyers that were younger than me. That's when I wondered, 'Am I going to be a secretary my whole life?' I had to try because I didn't want to tell my grandkids that I could have been a lawyer, but I didn't try." ■



For more news, follow @brooklynlaw on Twitter.



Michael Tenenhaus Joins Career Center as Professional Development Manager

MICHAEL TENENHAUS HAS JOINED BROOKLYN LAW SCHOOL AS professional development manager in the Office of Career and Professional Development. In this new position, Tenenhaus will coordinate learning and development programming for the Career Center, work with alumni and student organizations to develop training plans, and develop strategies to further advance the Law School's career development programs. "We are very excited to welcome Michael to this newly created role," said Dean of Career and Professional Development Karen Eisen.

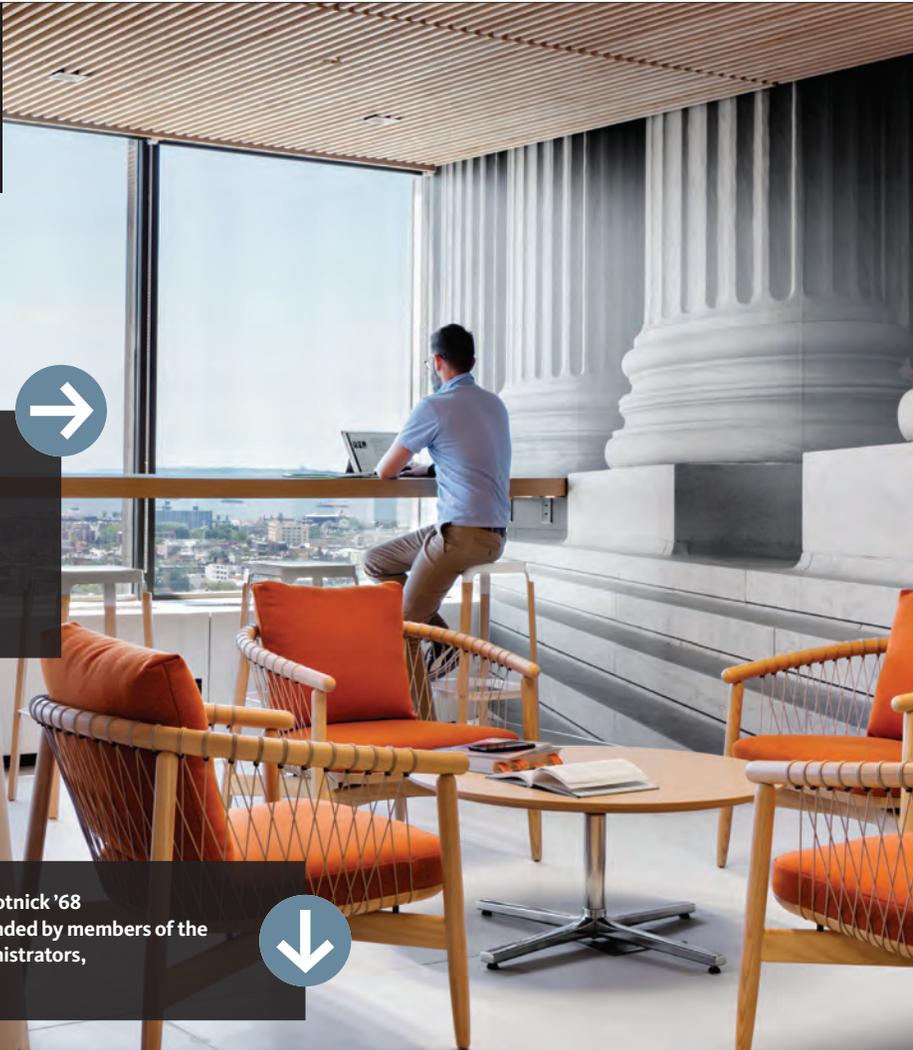
Tenenhaus comes to the Law School from Seward & Kissel, where he worked as a bankruptcy and reorganization associate since 2014. He also worked closely with the law firm's recruiting department, conducting interviews with summer associate applicants and submitting the firm's work for rankings. At Seward & Kissel, Tenenhaus led the in-house Justice Resource Center's pro bono work, which included coaching the moot court team at an inner-city high school. ■

111

LIVINGSTON



At 111 Livingston Street, the Law School has created a welcoming space for individuals and groups to work and study, including a collaborative workspace for small legal writing classes and several workrooms dedicated to clinics (below right). The new space is also home to the Career Center, the Legal Writing Center, the Public Service Law Center, Alumni Relations and Development, CUBE, Finance, Human Resources, IT, and Student Services.



Board of Trustees Chairman Stuart Subotnick '68 cuts the ribbon at 111 Livingston surrounded by members of the Board, the dean, students, senior administrators, and the architects of the project.



PHOTO BY WILL O'HARE



A NEW VIEW

This summer, Brooklyn Law School opened new offices on the 20th and 21st Floors at 111 Livingston Street, moving administrative offices and student programs from One Boerum Place to a more modern, light-filled space designed to foster collaboration and communication between and among students, faculty, and staff. Part of the library at 250 Joralemon also got a new look designed for collaborative work (see p. 30).

PHOTOGRAPHS BY RAIMUND KOCH





LAW SCHOOL HOSTS 2017 CAPALF / NEPOC CONFERENCE

Brooklyn Law School hosted the joint 2017 Conference of Asian Pacific American Law Faculty (CAPALF) and Northeast People of Color (NEPOC) Legal Scholarship Conference in June. The theme of this year's conference was "Law, Intersectionality, and the Next Wave of Social Movements in the Trump Era." Participants

discussed everything from LGBTQ rights and the rights of DREAMers to the Movement for Black Lives and new forms of labor organizing. Among the participants above were: (left to right) Professors Sabeel K. Rahman, Beryl Jones-Woodin, Bennett Capers, Winnie Taylor, Natalie Chin, and Joy Kanwar.



For more news, visit brooklaw.edu

Accolades and Honors

- ▶ Brooklyn Law School was named No. 2 Best Overall Law School and No. 2 Best LL.M. Program by *New York Law Journal*.
- ▶ Recent faculty hires, including Professors Alice Ristroph and Alex Stein, have prompted praise in legal academia, according to the influential blog Brian Leiter's Law School Reports, which also noted the faculty was ranked in the top 50 in the nation for scholarly distinction.
- ▶ Brooklyn Law School was once again named to *Billboard's* list of top music law schools, published in July.
- ▶ The recent issue of the *Journal of Law and Policy* devoted to the Law School's February 2016 Free Speech Symposium received praise from popular legal blog Concurring Opinions.
- ▶ For the fourth straight year, the Law School made *The Hollywood Reporter's* list of top 12 law schools producing the entertainment industry's most powerful attorneys.
- ▶ The Law School's LL.M. program garnered high marks for academic excellence, student experience, and career opportunities for graduates in *The International Jurist*.

Professor Steven Dean Appointed Vice Dean

➤➤ **Professor Steven Dean, an expert in tax law, has been** named Vice Dean at Brooklyn Law School. In this role, Dean oversees the Law School's academic program and curriculum. At the same time, he works to advance faculty development and scholarship. He succeeds Professor William Araiza, who is returning to teaching and his scholarly work full time.

"Professor Dean is an accomplished scholar and teacher, with a record of outstanding service to the Law School," said Dean Nick Allard. "I know that he will serve both students and faculty well in this role, ensuring that their needs are met and advancing the Law School's reputation for excellence in education and scholarship. We are very grateful to Professor Araiza for his tremendous service as Vice Dean the last two years."

Dean said his new role requires him to balance the goals of two constituencies: faculty and students. "I'm looking forward to helping students succeed and making sure the faculty have what they need to produce influential scholarship and be good teachers," he said.

Dean, who joined the faculty in 2004, teaches Corporate Taxation, Federal Income Taxation, International Taxation, and Tax Policy. His scholarship has focused on underexamined implications of tax law, such as the relationship between tax simplification and taxpayer autonomy. His forthcoming book, *THE FEDERAL TAXATION OF CORPORATIONS AND CORPORATE*



TRANSACTIONS (Aspen Publishers), co-written with **Professor Bradley Borden**, offers students the opportunity to engage with the law from a practitioner's perspective.

Dean has also studied the role of the law in the growth of social enterprise. His other recent book *SOCIAL ENTERPRISE LAW: TRUST, PUBLIC BENEFIT AND CAPITAL MARKETS* (Oxford University Press,

2017), co-written with **Professor Dana Brakman Reiser**, argues that law can "make corporations better citizens," and help the proliferation of startups by keeping founders and employees from "selling out" a new venture's social mission.

"There's a bit of a turf war about what social enterprise means," Dean said. "Our vision is that the law can serve as a kind of algorithm to help investors and entrepreneurs with matching visions find each other."

Dean also has contributed two chapters to forthcoming books. "TEXT, INTENT AND TAXATION IN THE UNITED STATES, THE UNITED KINGDOM AND FRANCE" was written with **Professor Lawrence Solan** and Lukasz Stankiewicz of Université Jean Moulin Lyon, and will appear in *THE ROUTLEDGE*

COMPANION ON TAX AVOIDANCE. Dean teamed up again with Brakman Reiser for "The Social Enterprise Life Cycle," which is forthcoming in *THE CAMBRIDGE HANDBOOK OF SOCIAL ENTERPRISE LAW*.

Dean was born in St. Paul, MN, but grew up on New Providence Island in the Bahamas, where he lived until moving to Delaware for boarding school as a teenager. He graduated from Williams College and Yale Law School and spent the first part of his career as an associate at two global law firms, first at Cravath, Swaine & Moore and then at Debevoise & Plimpton, before joining the Law School.

He worked for a time in the transfer pricing department at KPMG after college, helping to determine where multinational corporations' profits should be based for tax purposes. Dean said he has been "hooked on tax law" ever since. ■

“There’s a bit of a turf war about what social enterprise means. Our vision is that the law can serve as a kind of algorithm to help investors and entrepreneurs with matching visions find each other.”

Vis Moot Team Celebrates 10 Years

The Brooklyn Law School team that competes each year in the Willem C. Vis International Commercial Arbitration Moot competition in Vienna, Austria, is celebrating 10 years of success. Each spring, the Moot Court Honor Society offers four rising 3Ls the opportunity to join the team. Those selected take several Vis-oriented courses—International Commercial Arbitration, International Sales, and a special seminar—during their fall semester. At the same time, the team undertakes complex international legal research to write two major briefs: one for the claimant and one for the respondent, written for an audience of arbitrators from both civil and common law countries.

Before traveling to Vienna in April, the Vis team competes in more than 10 formal pre-moots, in which the team members argue against Vis teams from other law schools. This year,

the Brooklyn Law School team argued against teams from Germany, India, Italy, France, and more, before arbitral tribunals comprising leaders in the international arbitration community.

The Law School has earned an outstanding reputation in the Vis community based on its consistently impressive performance at pre-moots and successful track record at the Vis competition itself. The team has advanced to the elimination rounds in eight of the 10 years it has participated—shared by few teams.

“The Vis Moot was the most educational and transformative experience of my three years at Brooklyn Law School,” said **Stephen DiGregoria ’17**. “We are very proud to have had the opportunity to represent the Law School in Vienna and contribute to the school’s global reputation.” ■

Spring Break Pro Bono Projects Serve Clients in Need

Every spring break, many Brooklyn Law School students forego rest and relaxation to serve others by doing pro bono work. This year, through the Public Service Office’s Alternative Spring Break program (BLAST), students traveled to three different sites: New Orleans, Miami, and Las Terrenas, Dominican Republic.

In New Orleans, BLAST partnered with the Louisiana Civil Justice Center, where students volunteered at the self-help desk in the civil courthouse, worked on family law motions and disaster response programs, and helped to organize the LCJC’s “Justice Tour,” providing legal assistance to low-income and disaster-affected individuals in Louisiana.

“I had a rewarding and great experience working for the Louisiana Civil Justice Center,” said **Dana Vasers ’18**. “One of my favorite projects was volunteering at the self-help desk, which aids pro se litigants with civil issues, such as divorce, custody, and protection orders. I was able to see firsthand how valuable LCJC is to the community and speak with individuals in need of legal help who cannot afford an attorney.”

In Miami, BLAST participants worked with the Miami-Dade Public Defender’s Office. Students reviewed expert witness testimony provided during pre-trial depositions of DUI cases. They also had opportunities to observe a felony trial, and watch seasoned litigators question witnesses and give persuasive summations.

“I had the opportunity to work with some of the most knowledgeable attorneys in the field and was able to learn



ILLUSTRATION BY BETTY CHANG

from their extensive experiences,” said **Aiman Tariq ’19**. “Throughout the week we were able to observe trial and other court proceedings.”

During their trip to Las Terrenas in the Dominican Republic, students toured courthouses and firms, where judges and local attorneys discussed the Dominican legal system and answered their questions. Students also partnered with the firm Guzman Ariza to research Dominican law.

They visited with several local and national judges, as well as CEMEX Dominicana in-house counsel Eduardo Antonio Risk, Mayor of the Municipality of Samaná Nelson Nuñez, and former Judge of the Electoral Court Aura Celeste Fernandez, who was member of the commission that drafted the Constitution of the Dominican Republic.

In addition to the assistance of the Public Service Office, **Karlamaria Cabral ’17** helped to facilitate the Dominican Republic trip. ■

Tatiana Pawlowski '17 Joins the Conversation on Urban Agriculture

Presents Research Findings at Innovative Discussion Panel

➤➤ There are many hot button issues that plague a city as dense as New York, and one of the most urgent is food availability. At a Center for Urban Business Entrepreneurship (CUBE) event in the spring, Tatiana Pawlowski '17 presented a white paper, "From Food Deserts to Just Deserts: Expanding Urban Agriculture in New York City Through Sustainable Policy," that could help the city better tackle the complex issue that is urban agriculture. Pawlowski focused particularly on the phenomenon commonly known as "food deserts," or urban areas where access to fresh, healthful food is scarce.

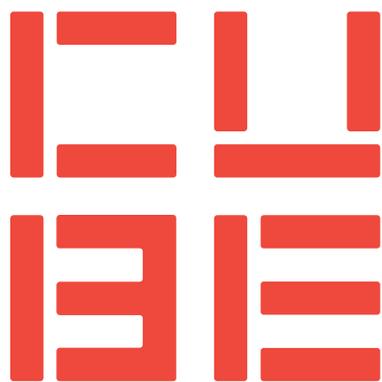
Pawlowski's research began in 2015, and she credits **Adjunct Professor Ira Goldberg** for recommending that she and other students explore urban agriculture and the law. Their interest in urban agriculture, zoning law, and the legislative process led to several meetings with the Brooklyn Borough President's Policy Office, discussions with policy experts, political leaders, urban agriculture innovators, and finally Pawlowski's independent study. "Real estate has always been my passion," said Pawlowski. "I was particularly excited to learn about how much zoning and land use policy can affect urban agriculture."

Pawlowski's white paper analyzed how other cities in the U.S. tend to their urban agriculture needs, and made suggestions for how New York City can employ its own policies. Pawlowski then used the findings as a guide for her presentation at CUBE's spring event titled, "Growing Greens in the Grid: The Future of Urban Agriculture in NYC" (see page 23). In July, the white paper was cited in a *Wall Street Journal* story about challenges to growing successful urban agriculture

businesses. New York City has the biggest urban agriculture system in the country, including many "vertical farms," but urban growers still struggle because of a lack of regulations.

Pawlowski looks back at this experience as a very fulfilling one. "Having the opportunity to share some of my findings and recommendations with Brooklyn's local politicians who are dedicated to promoting the vitality of Brooklyn communities through nutrition, education, and job growth has been both humbling and rewarding for me," she said.

Pawlowski recently joined Braverman Greenspun as an associate to focus her career in real estate law while staying involved with urban agriculture policy research and advocacy on her own time. Her paper will be published in an upcoming volume of the American Bar Association's *Journal of Affordable Housing and Community Development Law*. ■



CUBE Awards Legal Innovators

At the fourth annual Center for Urban Business Entrepreneurship (CUBE) Innovators Competition in April, **James Allen '18** and **Omar Mustafa '17** earned the \$2,000 grand prize for their proposal FileFix, a legal research tool that provides seamless bookmarking and document storage. Functioning as a widget, FileFix provides synchronized webpage bookmarking and cloud PDF storage for swift cataloging of research sources. → **Antwon Kennedy '19** won the second-place prize of \$1,500 for Project Cite Soleil (PCS), a benefit corporation that would host an online store selling local Haitian-made fashion items to New York City and global markets. → The prize money was made possible through the **Nancy** and **Stanley M. Grossman '67** CUBE Fellowship Fund.

Citywide Art Installation Comes to the Courtyard

THE BROOKLYN LAW SCHOOL COURTYARD AT 250 JORALEMON ST. recently became the home of two sculptures—a circular wave and a surfboard—that were part of a temporary art installation around New York City celebrating U.N. World Oceans Day and highlighting efforts to protect the oceans. The citywide exhibit was known as the La Mer Wave Walk and was sponsored by the beauty brand La Mer and ocean conservation organization Project o.

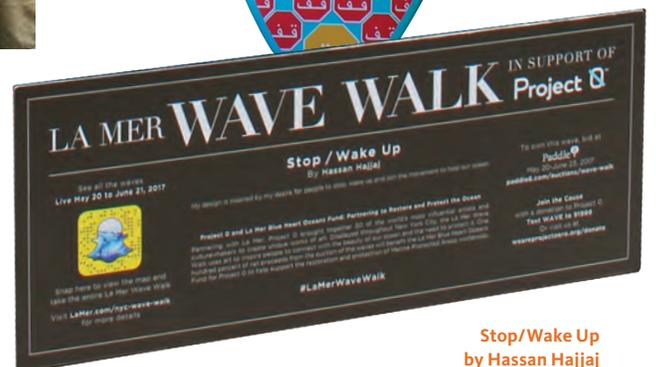
The sculptures, by Chen Man and Hassan Hajjaj, joined 52 others on display at locations across the five boroughs, including at the World Trade Center Oculus, the Intrepid Air & Space Museum, and Rockefeller Center. The sculptures were installed in May in time for World Oceans Day on June 8.



The Circular Wave by Chen Man

The surfboard sculpture by Hajjaj, titled “Stop/Wake Up,” was inspired by the artist’s desire for people to “join the movement to help our oceans.” The circular wave by Man is titled “The Elements” and was inspired by the five fundamental elements of wood, fire, earth, metal, and water, according to the artist.

When the exhibit ended, the sculptures were auctioned, with all proceeds benefiting the La Mer Blue Heart Oceans Fund for Project o. The fund benefits marine-protected areas such as the Azores, the EastChina Sea, and mangroves in the Caribbean. ■



Stop/Wake Up by Hassan Hajjaj



(Left to right) Kara McCabe '18, Michael Seiden '17, Martin Passante '18, CUBE CEO John Rudikoff '06, and Jesse Mautner '19

Entrepreneurship Club Assists Local Food Startups

In April, the Brooklyn Law School Entrepreneurship Club held its third annual Legal Eats event, transforming the courtyard at 250 Joralemon St. into a food market. Open to students, faculty, and staff members of the Law School, Legal Eats gave local food entrepreneurs the opportunity to share their creations and get free legal consultations and referrals to student clinics. Legal Eats is part of a larger mission of the Center for Urban Business Entrepreneurship (CUBE) aimed at creating a hub for exploring legal issues around entrepreneurship and providing effective legal representation and support for new commercial and not-for-profit businesses. ■



Vendors from Brooklyn sandwich shop Gaddy Lane

Race Judicata

Brooklyn Law School participated in the 11th annual 5K Race Judicata in Brooklyn Bridge Park in April, helping to raise more than \$10,000 to support the Urban Assembly School for Law & Justice. Professor Maryellen Fullerton (in red) poses with the family of the late Professor Barry Zaretsky, who was an avid runner and in whose honor the race is run. His wife Joan Glatman (in black) and children Ari Glatman Zaretsky, Joseph Glatman Zaretsky, and Tamar Glatman Zaretsky, attended the race along with students, alumni, and other faculty members.



Safe Harbor Project Helps Transgender Client Win Asylum Case

A TRANSGENDER WOMAN FROM A TOTALITARIAN NATION has been granted asylum in the United States thanks to the work of students in Brooklyn Law School's Safe Harbor Project clinic.

The students began working on the case in fall 2009, gathering evidence of the client's anti-government activities in her home country. But as they were preparing the asylum application, the client was taken into custody by Immigration and Customs Enforcement. The client remained in custody for almost a year, during which time the case was heard in Immigration Court over the course of seven sessions. **Professor Stacy Caplow** and clinic students made several bond applications, and the client was finally released just in time for the asylum application to be denied in September 2011. A subsequent appeal was also denied by the Board of Immigration Appeals.

In the meantime, the client came out as a transgender woman.

"Had she been able to share this information, this would have presented another, even stronger, claim for asylum because her home country was a well-documented violator of human rights of LGBT individuals," said Caplow.

The Board of Immigration Appeals rejected a motion to reopen her case, arguing that she should have raised this claim previously because she must have been aware to some extent of her gender identity.

The clinic lost appeals of both the original denial and the denial

of the motion to reopen. In fall 2014, the Circuit Court also said the client should have raised the claim originally and that the only changed circumstance was that her outward appearance now conformed to her gender identity.

"What the court said seemed outrageous, ignorant, and insensitive, but it was the last word," said Caplow. "Nevertheless, we couldn't accept that."

The client faced deportation, so the clinic made a last-ditch effort to have the asylum application reopened in light of the fact that by 2015 she had

medically and legally changed her gender identity. The case was finally reopened in May 2015 and remanded for a new hearing, which took place before a different judge in September 2016.

On June 21, 2017, the client was finally granted asylum. ■

LGBT Advocacy Clinic Assists with Asylum, Adoption, and Abuse

STUDENTS IN THE NEW LGBT ADVOCACY CLINIC, UNDER THE supervision of **Professor Susan Hazeldean**, have handled a variety of cases, including several applications for asylum.

This spring, **Diandra Hayban '17** and **Margiselle Estevez '18** represented an African gay activist arrested multiple times and physically abused for his sexual orientation. They helped prepare documents in support of his application for asylum in the United States. **Jake Lavelle '18**, **Will Stanton '18**, **Christina Rhode '18**, and **Charles Harris '18** assisted another client from an



Africa nation, who fled his home country after facing sexual assault and beatings—including attacks videotaped by the perpetrators in an effort to extort money from him later. When he went to the police, they threatened him with arrest for being gay. He can now live permanently in the U.S.

Kelly Ferrell '17 and **Patricia Vazquez-Rosario LLM '18** represented a gay man from Central America who was detained by immigration officials at the U.S. border while attempting to escape homophobic abuse. They prepared his asylum application and filed it this summer. Ferrell and Vazquez-Rosario also worked together on a second parent adoption case for a lesbian couple with infant twins.

Rachel Russell '17 and **Chiara Apici '18** took on the case of a transgender woman who was abused and assaulted by a corrections officer at Rikers Island. The clinic began working on this case last fall, with Russell and Apici taking over this spring. They drafted a new federal court complaint on the client's behalf and filed it in April. ■

“What the court said seemed outrageous, ignorant, and insensitive, but it was the last word. Nevertheless, we couldn't accept that.”

—Professor Stacy Caplow

Disability and Civil Rights Clinic Advocates for Clients, Achieves Victories

LAUREN WECHSLER, A 30-YEAR-OLD WOMAN WITH SEVERE developmental disabilities, is no longer confined to her home following the year-long advocacy of students in the Disability and Civil Rights Clinic, under the direction of **Professors Natalie Chin** and **Amy Mulzer**. Students, including **Kim Kopff '16**, **Sam Tarasowsky '16**, **Camillia Brown '18**, and **Catie Marie Martin '18**, challenged the discriminatory actions of two private health insurance companies that left Wechsler homebound despite her ability to participate in the community.

"Brooklyn Law School's clinical program changes lives, and victories like these are a reminder of our impact as a law school community," said Chin.

Archana Sundar '18 and **Samuel Zaretsky '17** recently filed an *amici brief* in the Appellate Division, Second Judicial Department, arguing that the New York City Administration for Children's Services violated the rights of a mother and her child by not accommodating her intellectual disability.

In other clinic activities, **Erin McMullan '17** and **Victoria Pontecorvo '18** represented twin 32-year-old siblings with intellectual disabilities facing eviction after their mother moved to a nursing home. **Alli Broad '18** and **Caroline Roe '17** represented a woman with an intellectual disability who was told by the state that she was not eligible for support services. Roe and Sundar gave a know-your-rights presentation at the Brooklyn Center for the Independence of the Disabled. **Morgan Mickelsen '17** and **Nicole Zolla '17** represented a young mother with an intellectual disability in a motion alleging discrimination under the Americans with Disabilities Act, in collaboration with Brooklyn Defender Services. ■



"Brooklyn Law School's clinical program changes lives, and victories like these are a reminder of our impact as a law school community."

— Professor
Natalie Chin

BLIP Helps Launch Legal Technology Lab and Intelligent Legal Compliance Tool



LAST FALL, **PROFESSOR JONATHAN ASKIN** HELPED TO launch the Global Legal Technology Laboratory, which pairs law schools with developers to create legal technology apps, services, and ventures. Several BLIP students are working on one of its initial showcase projects, Intelligent Legal Compliance, which uses machine learning to help ventures determine when they might run afoul of the soon-to-be-implemented European Privacy Laws.

The goal is to build a system that will assess corporate compliance within the EU's new General Data Protection Regulation, using various automated techniques. The system will develop a process that will make it easier for corporations of any size to sort through all of their documents and data to be sure they don't breach data usage and privacy laws and practices.

"We are also tasked with building a repository for legal tech 'hacks' and projects around the world so that we are no longer working in our own silos, and so that we may build upon the innovative work of other legal technologists around the world," said Askin. "Our objective is to harness new technologies and other innovative tools to advance the law and legal process."

The project grew out of BLIP's work to launch the Legal Hackers movement collaborations between Brooklyn Law School students and MIT Media Lab technologists.

The group, led by **Daniel Kearney '18** and **Mark Potkewitz '17**, hopes that the processes and techniques developed can be modified to address other compliance issues, as well as matters of corporate copyright and open source license audits. ■

Sparer Forum Addresses Wrongful Convictions In the U.S. and Abroad

IN MARCH, THE EDWARD V. SPARER Public Interest Forum, “Righting Wrongful Convictions,” featured a panel of criminal law experts from around the world. Following **Professor Liz Schneider**’s opening remarks, Daniel S. Medwed, professor of law and criminal justice at Northeastern University School of Law, outlined the history of wrongful convictions, noting that since 1989 there have been 349 documented DNA exonerations in the U.S. “We now have a data set to study and figure out what went wrong in the first place so we can prevent it from happening in the future,” he said.

Adel Bernhard, a public defender and head of the Post-Conviction Innocence Clinic at New York Law School, discussed a New York statute that allows trial courts to vacate a conviction when new evidence is presented.

Assistant U.S. Attorney Laurie Korenbaum ’96 (pictured), a federal prosecutor for almost 18 years, explained how her



role—which she created at the Southern District of New York—like that of an ombudswoman for the criminal justice community. In this position, she provides information and witnesses to help with wrongful convictions. “When you have a cooperating witness tell you, ‘That guy who’s been in jail for 20 years? He didn’t do it.’ That is quite a moment,” she said.

Lissa Griffin, professor of criminal procedure at Pace Law School, compared how wrongful convictions are handled in the U.S. and the U.K., where the government bears responsibility rather than entrusting the adversary system to correct itself. The U.K.’s Criminal Cases Review Commission—though it has full subpoena powers and a large investigative staff—is not driven by a mission of proving “innocence,” but of “correct[ing] miscarriages of justice.”

Professor Glenn Garber, who leads the **BLS/EXI Innocence Clinic**, also took part in the discussion. The forum was part of a celebration for the launch of the **Public Service Law Center** and the annual Public Service Awards given to students who have performed many hours of selfless service. ■

▶ **VIDEO:** brooklaw.edu/sparer-forum



Labor Bureau Chief ReNika Moore (left) and Professor Steven Kayman (right)

TSI Tackles How to Manage Employee Trade Secrets

RUSSELL BECK, A PARTNER AT BECK REED RIDEN, SURPRISED A ROOMFUL OF STUDENTS and attorneys at the **Trade Secrets Institute (TSI)** symposium, “Working Knowledge: Managing Employee Trade Secrets,” in February with the statistic that around 50 percent of employees take trade secrets with them when they switch from one employer to another.

“Companies can use confidentiality agreements to avoid this, but enforceability is a problem,” said Beck. That leaves companies with few options aside from the noncompete agreement, which was the focus of the symposium.

TSI Fellow **Marissa Potts ’17** moderated the panel titled “Noncompete Agreements: Reactions and Reform,” which included **Adjunct Professor Steven Kayman**, Peter L. Altieri, member of the firm at Epstein Becker Green, and ReNika Moore, bureau chief at the Labor Bureau of the Office of the New York Attorney General.

“We’re particularly concerned about worker mobility and limits on economic mobility,” Moore said. “There’s a chilling mechanism before the question of whether a noncompete is enforceable ever reaches the courtroom.”

The second panel, “Trusted Colleagues or Enemies Within? Employees and Trade Secrets,” was moderated by TSI Fellow **Kelly Malloy ’18** and included Kayman; Joe McFadden, associate general counsel at McKinsey & Co.; and Marisa Warren Sternstein, partner at Pedowitz & Meister.

Professor Christopher Beauchamp, director of TSI, organized the symposium. ■

▶ **VIDEO:** brooklaw.edu/tsi-symposium

Neuroscience Meets Law in Health, Science and Public Policy Roundtable

BRAIN INJURIES, THE ETHICS OF PAIN AND SUFFERING, and possible changes to health insurance and rehabilitation rights under the Trump Administration, were among the topics discussed at the panel, “Measured Experience: Neuroimaging, Consciousness, and the Law,” sponsored by the Center for Health, Science and Public Policy in February.

Joseph J. Fins, professor of medical ethics in neurology at Weill Cornell Medical College, spoke about the ethical and public policy issues that can arise when an



individual suffers a brain injury and experiences disorders of consciousness, especially when new technologies made to measure consciousness get added to the mix.

Professor Adam Kolber, an expert on brain science and law, delivered remarks on “Pain, Suffering, and the Experiential Future.” He examined the “experiential point of view” and the idea that accurately measuring pain is a subjective experience. Stacey A. Tovino, professor of law at UNLV William S. Boyd School of Law, discussed the health insurance and rehabilitation rights of individuals affected by disorders of the brain.

“This is a broad rights issue, and not just a health insurance coverage issue,” Tovino said. ■

▶ **VIDEO:** brooklaw.edu/neuroscience

Lessons in Leadership from Alumni Participants in Business Boot Camp



THE LAW SCHOOL HELD ITS ANNUAL BUSINESS BOOT CAMP in January in collaboration with Deloitte Financial Advisory Services and **John P. Oswald '84**, president and CEO of the Capital Trust Group and a member of the board of trustees. Now in its fifth year, the four-day “mini MBA” winter session course, led by **Professor Michael Gerber**, brought together industry experts, alumni, and students to discuss business issues often faced by lawyers and their clients.

Presentations and panels focused on everything from cybersecurity to how to buy and sell a business, culminating with a Q&A session between **Dean Nick Allard** and **Susan Posen '78** (pictured above), chair of The House of Z, the fashion house founded by her son, designer Zac Posen. “My philosophy has always been, don’t regret anything. You can learn from every experience,” Posen said.

Earlier in the week, Oswald held a Q&A with **Fred Curry '03**, practice leader of anti-money laundering and economic sanctions at Deloitte. He encouraged students to take personal responsibility for their continued education and careers after law school.

A panel on advising new businesses and ventures led by **John Rudikoff '06**, CEO and managing director of the **Center for Urban Business Entrepreneurship (CUBE)**, included **Greg Zamfotis '07**, founder of coffee chain Gregor’s Coffee; **David Porzio '06**, a venture capital investor; **Louis Smookler '02**, general counsel of Insomnia Cookies; **Kathleen Warner '92**, former vice president and managing director of the New York City Economic Development Corporation’s Center for Urban Innovation; and **Neil Goldstein '67**, chairman of Robinson Brog Leinwand Greene Genovese & Gluck’s real estate department.

Professor Minor Myers led a panel on buying and selling businesses that included Oswald, **Mitchell Littman '83**, founding partner of Littman Krooks, and **Andrew Sturner '90**, an entrepreneur who most recently founded Boatsetter.com, an Airbnb-like company for sharing boats. ■

Ethics Roundtable Questions Assumptions About Moral, Causal Judgment

“PEOPLE THINK MORALLY BAD ACTS are more intentional than good ones, regardless of the moral goodness or badness of the person,” Joshua Knobe, professor of philosophy, psychology, and linguistics at Yale University, told an audience at the Ethics Roundtable in March, sponsored by the **Center for the Study of Law, Language and Cognition**.

Knobe discussed his theory of the relationship between causal and moral judgments and the “Knobe effect”— what happens when people assume that an unintended negative side effect of something was done intentionally but do not assume the same when the unintended effect is positive.

Knobe offered an example that he used in a recent study: There’s a jar of pens on a desk, and only administrative assistants can use them.



Still, professors often come by and take pens. One day, both an administrative assistant and a professor each take a pen, and there are none left for the next person. When asked who caused the problem of the lack of pens most people say it was the professor. Knobe argues this is because people make a moral judgment first, finding that the professor did something he or she was not supposed to do and therefore has a greater effect on the outcome. In similar experiments, even when the result is something good, people tend to say that it was caused more by the actor they view as “bad.”

The talk was part of a popular series for students, alumni, and academics sponsored by the Center for the Study of Law, Language and Cognition, under the direction of **Professor Lawrence Solan**, the Dan Forchelli Professor of Law and Director of Graduate Education. ■



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Boardroom Battles: Book Talk

Jeff Gramm of hedge fund Bandera Partners and Amy Miller (*pictured left*), deputy general counsel and corporate secretary at New York Life Insurance Company, visited the Law School in April to discuss Gramm’s book, **DEAR CHAIRMAN: BOARDROOM BATTLES AND THE RISE OF SHAREHOLDER ACTIVISM**. They discussed recent boardroom disputes at major corporations and tackled corporate governance issues through both a legal and a business lens. The event, moderated by **Professor Minor Myers**, was sponsored by the **Center for the Study of Business Law and Regulation**.

CUBE Panels Tackle eSports and Urban Agriculture

THE CENTER FOR URBAN BUSINESS ENTREPRENEURSHIP (CUBE) hosted two panels on innovative legal issues during the spring semester. In February, **Professor Jodi Balsam** moderated a panel on the growth of the eSports industry. Once an obscure pastime, today watching players practice and compete against one another in video games, like the multiplayer online battle arena game League of Legends, is approaching a \$1.1 billion industry and in dire need of good lawyers. The panel included Rachel Young Gu, associate editor of ESPN's eSports; Joe Ragazzo, cofounder and CEO of Slingshot Media; Ryan Morrison, founding partner of Morrison & Lee; Harris Peskin, eSports and corporate attorney; and **Keith Sheldon '07**, senior vice president of programming at Barclays Center. The panelists had an animated discussion about everything from player representation to the future of the industry as traditional sports franchises and media companies cash in on its growth.

Sheldon, who handles booking for Barclays Center and Nassau Coliseum, said he expects an international sports broadcaster to start its own eSports league in the next few years. In the meantime, he said, eSports

attorneys—of which there are currently very few—need to come to a consensus on governance.

In April, CUBE hosted “Growing Greens in the Grid: The Future of Urban Agriculture in NYC,” a two-part discussion that featured Brooklyn Borough President Eric L. Adams and New York City Councilman Rafael L. Espinal.

The first panel covered the importance of local sourcing, New York City's diverse farms and gardens, and the Five Borough Farm Project, the first citywide urban agriculture plan for the city. Adams and Espinal joined Nevin Cohen, director of research at CUNY Urban Food Policy Institute, at the second panel to discuss the importance of access to fresh produce in public housing areas, methods for rating the success of urban agriculture projects, and the economic benefits of urban farming.

The event also included a presentation of a white paper on food deserts by CUBE Fellow **Tatiana Pawlowski '17** (see page 15). ■

▶ **VIDEO:** brooklaw.edu/cube-agriculture





Defending Justice

Against the odds, Brooklyn Law School graduates are deeply engaged in defending clients in need

*By Kaitlin Ugolik Phillips
Illustration by Brian Stauffer*

ON A SATURDAY AFTERNOON IN AUGUST, a young black man with close-cropped hair stood in front of a judge in a small courtroom at the Kings County Criminal Court in downtown Brooklyn. He told the judge that he would like to plead guilty rather than face a trial for his alleged crimes. It's a conversation that plays out hundreds of times a day in courtrooms all around the country—about 94 percent of felony convictions at the state level and 97 percent at the federal level are the result of plea bargains, with very few cases going to trial. 🗳️ In jurisdictions around the country, public defenders must navigate dozens of similar scenarios every day. The job is complex and can be wearing—criminalization of nonviolent crimes such as turnstile-jumping and possession of small amounts of marijuana contributes to the high number of low-income people who end up charged with criminal offenses, and a shortage of public defenders and resources to fund their work in some areas of the country helps to fuel the already high incarceration rate. Brooklyn Law School has a long history of producing graduates who are attracted to public defense because of a desire to make a difference and, despite the hurdles, have long and successful careers. ➔

“A person involved in the criminal justice system is at one of their most broken moments in their lives, and that’s when a person needs someone fighting for them the most,” said **Kristie Ranchurejee ’17**, who now works for the Legal Aid Society in New York. This sentiment is representative of many Brooklyn Law School graduates who choose to enter this field. For some, like **Tina Luongo ’02**, that means advocating policy; she is attorney in charge of the criminal practice at the Legal Aid Society, where she oversees more than 1,000 attorneys. For others, like **Robert Riether ’08**, a senior staff attorney at Brooklyn Defenders, it means standing by clients in court and making sure they have the resources to avoid being caught back up in the system once their cases are adjourned.

As public defenders at the state, federal, trial, and appellate levels, as well as leaders of criminal defense organizations, Brooklyn Law School graduates—including seven members of the Class of 2017—handle thousands of cases and push dozens of measures that they hope, bit by bit, will help make the criminal justice system more equitable.

Riether began his career on Wall Street, but came to the Law School as a night student with the goal of beginning a more fulfilling career. Now, at Brooklyn Defenders, he handles mostly felonies, including many domestic violence cases. He is in the Kings County Criminal Court two or three times per month, picking up 10 to 20 new cases each time. Riether acknowledged that there is often tension between the prosecution and the defense, but he lives by the credo that “so long as the D.A.s act professionally and play by the rules, you catch more flies with honey.” He happens to be married to a prosecutor: **Natalie Riether ’02**, a senior ADA at the Kings County D.A.’s Trial Bureau Blue Zone covering the neighborhoods of Brooklyn Heights, Red Hook, East Flatbush, and Bay Ridge.

The criminal court at 120 Schermerhorn Street is open 365 days a year, and Riether usually juggles 70 to 80 cases at a time. “I’ll have this case for at least a year,” Riether explained of the rape case he’d been handed that day. It may sound like a lot, but it’s nothing compared to the 180-plus cases that many public defenders in other parts of the country carry.

“We have it good in Brooklyn, especially compared to other jurisdictions around the country,” Riether said, noting the resources dedicated to representing indigent clients. Brooklyn Defenders, for example, is one of the top public defense organizations in the country, and the city itself has many more resources than others. There are a lot of alternatives to incarceration, especially for youth, and Brooklyn Defenders prioritizes “self-care” to ensure good attorneys aren’t lost to burnout.

“The toughest part is that you have 100 balls in the air at a time, and you have to manage it by triaging,” he said. “The work is rewarding and challenging, and you see results every day; you see changes in clients’ lives. But it also takes a certain kind of person to do this—you’re dealing with things that most members of polite society are not dealing with. If you tend to wear your heart on your sleeve, there are cases that will break it.”

As Riether sat on the bench in the courtroom waiting for the judge to call his case, a large man in a Jets Jersey, arms behind his back, hands in cuffs, walked slowly into the courtroom from a holding cell. He quietly took a seat in the corner as Riether took notes. He had just met the man about 30 minutes before and learned of the charges against him—rape in the first and second degree. He knew his client was being prosecuted for the alleged 2010 rape of a young girl, who later went on to give birth to his child. Riether was there to ask the judge to release his client on his own recognizance until more evidence could be gathered, known as “ROR.”

There was a lot in the balance: the life of this man, but also of the mother of his child, and of the child. With bail set at \$100,000, he would likely head straight from the courtroom to Rikers Island, where he would remain for some time before seeing a judge again. Riether noted that his client previously had custody of the child and was by all accounts an involved father. He also had no prior arrests, worked full time, and was not considered a flight risk.

After contemplating for a moment, the judge issued an order of protection and released the man on his own recognizance until his next court date. If the complainant didn’t cooperate by that time, the case would be put up for dismissal.

When Riether moved back toward the audience benches along with his client, he looked relieved his client had been released without bail. He flashed a quick grin. “\$100,000 bail,” he said, seeming to marvel a bit at what had just happened. “That’s a lot of money.” Then it was on to the next arraignment.

“Everybody Is in an Emergency State”

In 1961, Clarence Earl Gideon was arrested for stealing a soda in Fort Lauderdale, FL. Unable to afford representation, he was sent to prison. His case reached the Supreme Court, which ruled in 1963 in the landmark decision *Gideon v. Wainwright* that every American has a constitutional right to an attorney.

Although *Gideon* has improved the plight of defendants unable to afford attorneys in the decades since the ruling, today many areas of the country are struggling to adequately and efficiently represent indigent clients. In under-resourced areas, public defenders routinely handle dozens of cases in a day, often juggling nearly 200 open cases at once, including a mix of misdemeanors and felonies.

“Everybody is in an emergency state,” attorney Travis Williams said in *“Gideon’s Army,”* the award-winning 2013 documentary chronicling the lives of several overworked public defenders in the Deep South.

In a stark example of how dire the situation has become in some parts of the country, the American Bar Association and the Baton Rouge-based consulting firm Postlethwaite & Netteville released a study in early 2017 showing that the state of Louisiana had only one-fifth of the public defenders needed to handle the nearly 150,000 cases per year that involve an indigent defendant. In Missouri, where

“What amazes and inspires me is the number of people coming out of law school wanting to do this work.”

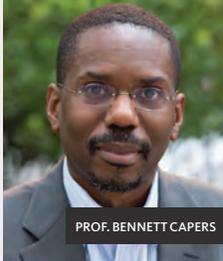
— **Tina Luongo ’02**
Attorney in Charge of the Criminal Practice
at the Legal Aid Society

CRIMINAL LAW FACULTY RENOWNED FOR EXPERTISE AND LEADERSHIP

The Law School has long been a leader in criminal law scholarship and teaching, preparing generations of students for successful careers as public defenders, private criminal defense attorneys, prosecutors, and judges. The faculty are renowned for their expertise across multiple areas of criminal law as well as a range of complementary disciplines.



PROF. MIRIAM BAER



PROF. BENNETT CAPERS



PROF. STACY CAPLOW



PROF. CYNTHIA GODSOE

Professor Miriam Baer is a noted scholar in white-collar crime, corporate law, criminal law, and criminal procedure. Her scholarship on organizational wrongdoing in public and private settings has twice been selected for the prestigious Stanford-Yale-Harvard Junior Faculty Forum and for the American Law and Economics Association's Annual Meeting. She was elected to membership in the American Law Institute earlier this year. Baer is a former prosecutor in the U.S. Attorney's Office for the Southern District of New York.

Professor Bennett Capers, the Stanley A. August Professor of Law, explores the relationship between race, gender, and criminal justice. His recent scholarship has focused on the ways technology can de-racialize policing. This past spring Capers, a former federal prosecutor, and Professor Jocelyn Simonson, a former public defender, taught a new seminar examining the legal issues in the popular documentary series "Making a Murderer."

Professor Stacy Caplow, associate dean of professional legal education, is an international leader in clinical legal education. She created and teaches the Clemency and Pardon Project, in which students handle clemency and pardon petitions with the governor of New York. She is codirector of the Center for Criminal Justice, which launched last year.

Professor Cynthia Godsoe is an expert in family law focused on the regulation of intimate behavior and gender roles through family and criminal law, encompassing the path to marriage equality, the designation of victims and offenders in intimate violence, and the criminalization of nonconforming girls. She previously represented children and youth at the legal aid society and Advocates for Children.

Professor Adam Kolber is a leading expert in the relationship between brain science and the law. He has argued that the presence of traumatic brain injuries should affect the way we treat incarcerated offenders. Kolber writes and teaches in the areas of criminal law, health law, bioethics, and neurolaw. He created the Neuroethics & Law Blog and taught the first law school course devoted to issues in this area. He has also taught federal and state judges as part of a MacArthur Foundation grant.

Professor Kate Mogulescu, an expert on gender issues in the criminal legal system and human trafficking, recently joined the Law School after 14 years with the Legal Aid Society. She developed the Exploitation Intervention Project to provide better representation for individuals in the sex industry. The project focuses on learning from the clients about their lives (see page 42).

The Law School welcomed **Professor Alice Ristroph** this fall, a noted expert in the field and an acclaimed political theorist whose scholarship examines how assumptions in criminal law and procedure have impeded reform efforts (see page 42).

Professor Jocelyn Simonson, codirector of the Center for Criminal Justice, is a leading voice on the issue of bail reform. Her writing focuses on how community action can decrease the number of arrests of the poor and people of color for quality-of-life offenses and on the emerging practice of residents filming police-citizen interactions to hold police departments accountable. She was a public defender in the Bronx for five years.



PROF. ADAM KOLBER



PROF. KATE MOGULESCU



PROF. ALICE RISTROPH



PROF. JOCELYN SIMONSON

For the Prosecution

Brooklyn Law School has a strong tradition of graduates working in criminal justice, and in particular becoming state and federal prosecutors. In the Class of 2017 alone, 30 members are now working in District Attorney offices around the country, including the five boroughs of New York City, the tristate area, Washington, D.C., and beyond.

the system is 100 percent state-funded, Michael Barrett, the director of the public defender system, last year sent a letter to Gov. Jay Nixon that went viral. Barrett planned to call on any private attorney in the state—including Nixon—to take on indigent defense cases that overloaded public defenders could not handle.

In New York, where funding for public defense is split about 60–40 between counties and the state and operates on a county-based delivery system, the picture is more hopeful. Public defenders have a limit of 150 felony and 400 misdemeanor cases at a time as dictated by law. Other more recent reforms, such as a law shifting funding back to the state, have improved the outlook for public defenders and their clients. And Brooklyn Law School graduates continue to push for more effective representation of indigent clients.

Karen Smolar '92, who was an Edward V. Sparer Public Interest Law Fellow, is now trial chief at Bronx Defenders. She works constantly to train attorneys to triage cases as professionally and effectively as possible. She created and directs the Defenders' Academy, which teaches trial skills to public and private attorneys around the country. The program includes instruction from artists, actors, voice coaches, and storytellers, as well as legal experts, and is aimed at improving attorneys' courtroom skills no matter how many cases they are carrying.

"The ability for public defenders to actually get that kind of training is pretty limited—the budget for training is often one of the first things cut," said Smolar. "The effect is that you have lawyers who are being saddled with very significant caseloads and really complicated cases, and some are not able to adequately defend their clients."

Bronx Defenders takes what it calls a "holistic" approach to lawyering, in which defendants have a whole team of attorneys behind them in every aspect of their case, plus any collateral consequences that stem from the case such as housing or employment issues. But it is the beginning of the process—the arraignment—that can often be the most important, according to Smolar, and it is often the most fraught because of an ongoing controversy involving which defendants must be locked up before facing trial.

"What happens to a person at arraignment changes every single thing about what happens afterward," she said. "It's very easy to say let's just take nonviolent offenders and let them out of jail," but that's

not actually solving the problem either. Our jails and prisons are filled with people who are charged with serious violent offenses, but there aren't a lot of people assessing whether keeping them in is actually a thoughtful, useful, productive thing for either that person or society."

New York City is home to some of the biggest and most innovative public defense organizations in the country, but even here, said Luongo of the Legal Aid Society, it can feel like the "deck is stacked."

"As public defenders, it's our job to be on the front line of reform efforts that talk honestly about the issues, the past, racism, and oppres-

sion, and try to be proactively involved in holistic approaches that make things better," she said.

Legal Aid works to set standards for speedy arrests and practice vertical representation of clients, staying with them for their entire case. Many other public defense organizations around the country do the same. In hopes of cutting down on the number of clients in need of public defense, Legal Aid is

currently working on many reform efforts, such as New York's gravity knife law, which jails people who carry knives that can be flipped open, and the organization is responding to a recent uptick in activity by Immigration and Customs Enforcement (ICE) in New York City courtrooms. In 2015, the organization created a "cop accountability" database to give public defenders easier access to police misconduct records.

"What amazes and inspires me is the number of people coming out of law school wanting to do this work," said Luongo. "We win a hearing, win a suppression, win a trial—there are those wins. But we quickly learn, in our work, how to redefine a win. It must be about how we practice, not about legal wins."

Professor Jocelyn Simonson, who spent five years as a public defender in the Bronx, said she had to make the same kind of mental adjustment. "I had more than 2,000 cases during that time. A lot of them were just five-minute arraignments; some were monthlong trials. I was a darn good attorney, but was it really possible for me to be a good attorney in less than five minutes?"

In addition to teaching at the Law School, Simonson is still trying to make a difference in the lives of indigent defendants. She is a prominent voice in the bail reform movement, writing often about the emerging practice of creating community bail funds and the movement to end cash bail, which keeps 450,000 criminal defendants in jails every day because they cannot afford to pay.

“You’re dealing with things that most members of polite society are not dealing with. If you tend to wear your heart on your sleeve, there are cases that will break it.”

— **Robert Riether '08**
Senior Staff Attorney at
Brooklyn Defenders

Making Change Around the Country

Brooklyn Law School alumni in other parts of the country are also working hard to defend justice for indigent defendants. As an appellate public defender in Minnesota who represents clients in both state and federal court, **Leslie Rosenberg '83** has a caseload full of serious felonies, and the defendants are often juveniles. She handles post-conviction proceedings in district courts, as well as direct appeals to the Minnesota appellate courts, and occasionally she finds herself appealing to the nation's highest court. She recently filed a petition for *writ of certiorari* with the U.S. Supreme Court for a client convicted of shooting a store clerk and two eyewitnesses. The juvenile defendant was given three consecutive life sentences for the crimes, with no possibility of parole. Rosenberg is challenging whether the sentence violates the 2012

Supreme Court decision in *Miller v. Alabama*, which held that the Eighth Amendment prohibits a juvenile from being sentenced to mandatory life without the possibility of release.

Rosenberg admits that it takes a certain kind of emotional strategy to do the job day in and day out, especially since at the appellate level she and her colleagues lose most of their cases because the standard of review is against them—their clients already have been convicted. But she believes the simple fact that they are there, doing this job, as evidence of the system working. “Even if we lose our cases, we are still maintaining that system of checks and balances. That is how the Constitution is sustained and protected—just by us being there to appeal.

“I try to remember that I'm just one person doing my best,” said Rosenberg. “I can't blame myself for losing cases where the law is against me and the facts are against me. What's hard about being a lawyer for many people is that you might be a bright, high-achieving person used to doing well at school, but as a lawyer you can't control whether you win.”

Michael J. Novara '87 is the first assistant federal public defender for the Western District of Pennsylvania, which includes Pittsburgh. He started his career with a federal judicial clerkship in Pittsburgh, which showed him the power of the federal government generally, and the Department of Justice in particular. He was drawn to the role played by assistant federal public defenders in keeping that power from overwhelming the rights of the individual. Novara joined the Federal



“At the end of the day, I know in my heart that I am helping people at some of the most vulnerable moments in their lives.”

— **Michael Novara '87**

First Assistant Federal Public Defender for the Western District of Pennsylvania

Public Defender's Office for the Western District of Pennsylvania in 1992, and has been second in command of the office of more than 40 attorneys since 2004.

Novara's work includes pretrial hearings, research, investigations, and sentencing memoranda similar to those of other public defenders, and he also occasionally handles cases before the U.S. Court of Appeals for the Third Circuit.

“At the end of the day, I know in my heart that I am helping people at some of the most vulnerable moments in their lives—fighting to keep the government honest—and that feeling will hopefully keep me motivated and going for many years to come,” he said.

In San Francisco, former Edward V. Sparer Public Interest Law Fellow **Anita Nabha '09**, deputy public defender in the Office of the San Francisco Public Defender, typically spends her days in various courtrooms handling arraignments, trials, and set-

tlements, and in jails visiting clients in custody. “The cool thing about being a public defender is that you can get knee-deep into all kinds of issues you didn't know anything about,” she said. She hadn't had a fingerprint case until recently, and suddenly found herself doing research about the forensics of fingerprint evidence because of a residential burglary case in which the only evidence was a single print.

Many public defenders would love to spend time doing that kind of work, but the reality is that they often don't have the time or resources to devote to this kind of deep investigation; even when they do, cases end in plea deals. The San Francisco Public Defender's Office is an example of what many public defense offices aspire to, especially when it comes to training. Attorneys there must spend about two years in the misdemeanor unit and are allowed to go into the felony rotation only after they've done 20 misdemeanor jury trials.

Alumni of the Law School are among the thousands of public defenders working through a thicket of laws, policies, and institutional problems to provide fair and efficient representation to their clients. There are no easy answers. Whether they work in New York, California, or elsewhere in the country, many face the same difficulties, but all come to the work with a sense of mission that keeps them going.

“When I am faced with high-risk situations and very difficult decisions,” said Nabha, “I assure my clients that I am going to give them what we call ‘the best defense that money cannot buy.’” ■

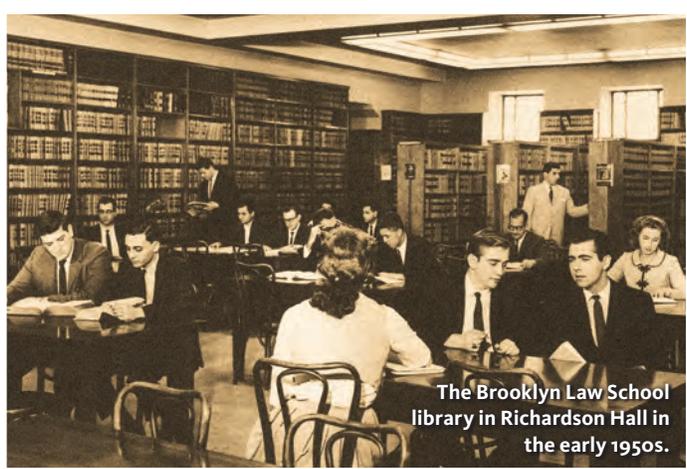
Beyond the Stacks

Library renovations are meeting the changing needs of a new generation of law students

Walk into the Brooklyn Law School library on any of the 350 days a year it is open and you will find students, faculty, and sometimes graduates in a buzzing hub of activity related to research, course work, and collaborative study. This fall, new and returning students discovered a renovated third-floor reading room and new journal offices, specifically designed to foster group work in a modern, professional atmosphere. →

By Kaitlin Ugolik Phillips

PHOTO BY RAIMUND KOCH ARCHIVAL PICTURE FROM BROOKLYN LAW SCHOOL; THE FIRST HUNDRED YEARS



The Brooklyn Law School library in Richardson Hall in the early 1950s.



PHOTOS BY RAIMUND KOCH

Traditionally bound by books and physical archives, legal work and education are being disrupted by technology along with every other industry and area of expertise, but the library is still central to the lives of law students, lawyers, and legal scholars. In fact, the library is as essential to today's law students as it was in the early years of the Law School more than a century ago when the telephone was the latest technology. To keep up with changing needs and expectations of law students, the library recently underwent a renovation, including a new collaborative work space on the third floor and a new suite of offices for the Law School's journals, which previously were housed at One Boerum Place.

Library Director Janet Sinder has been working in law libraries

since 1985 and at Brooklyn Law School since 2012. She said that although there is less need now to visit the physical library to conduct research, students still flock there in search of a quiet place to study. But many are also looking for a place to meet and work with others. The new third-floor reading room has been designed to be more comfortable and inviting, with plenty of couches, chairs, and tables. On a recent afternoon, dozens of students sat studying at the circular tables or working together in the booth-style seating. Around the perimeter of the room, the four reference librarians—Kathy Darvil, Harold O'Grady, Loreen Peritz, and Eric Yap—have offices where students and others conducting research can easily access their expertise.

Downloadable Knowledge

brooklynworks.brooklaw.edu

BrooklynWorks is a digital scholarly repository that allows people from all over the world to download articles without a fee or subscription.

- In July, BrooklynWorks hit the 200,000-download mark after just two years of operation.
- 75 percent of downloads are for articles in the four Law School journals; 25 percent are for the over 800 articles written by Law School faculty. The three most frequently downloaded faculty articles are:
 - ① Bennett Capers, "The Trial of Bigger Thomas: Race, Gender, and Trespass," 31 N.Y.U. Rev. L. & Soc. Change 1 (2006-2007)
 - ② James A. Fanto, "Braking the Merger Momentum: Reforming Corporate Law Governing Mega-Mergers," 49 Buff. L. Rev. 249 (2001)
 - ③ Elizabeth M. Schneider, "Feminism and the False Dichotomy of Victimization and Agency," 38 N.Y.L. Sch. L. Rev. 387 (1993)
- Articles have been downloaded on every continent except Antarctica.



Scholarly Research in a Digital World

Sinder points to the library's robust research resources, both online and off, as indispensable to students and faculty at the Law School as well as to lawyers and legal scholars around the world. Although databases such as Westlaw and LexisNexis are available to students and faculty from anywhere, library users also still rely heavily on real people.

The digital age has not lessened faculty members' need for library resources or expertise. "In one sense, I'm using the library now more than ever before," said Professor Aaron Twerski, who has taught at the Law School for more than 30 years. "When I was doing traditional case law analysis, I knew my way around very well, but when there are huge amounts of material I need the librarians."

He is currently working on a new project that requires sifting through a caseload of more than 15,000 cases, which he said would be impossible to do without the librarians' data and organizational savvy.

"As far as books are concerned, they're a secondary matter. But I need expertise," he said.

"The basics of what we do is getting the right information to the right people at the right time," said Sinder, who was granted tenure this spring (see page 44). This can mean subscribing to Westlaw, answering questions via email or instant message, or working with researchers one-on-one to determine the best strategy for accomplishing their goals.

A New Home for Journals in the Library

The summer renovations also include new individual offices and common space on floors 2 and 2M of the library for the Law School's four journals, a boon for student writers and editors.

When **Anne Conroy '18** joined the *Brooklyn Law Review* in 2016, she began making frequent visits to the library to pull cited books and official reports from the stacks to confirm publication details and quotations. While writing and editing a note about the effect of publicized data hacks on attorney-client privilege, she



spent many hours sitting in the library doing research, asking the reference librarians for help refining search terms, and editing the many iterations of her work. Physical sources are still a big part of legal research, and Conroy—now editor-in-chief of the *Law Review*—is excited that her team has a new dedicated space for their work in the library.

The journal offices were previously housed across the street from the Law School, at One Boerum Place, in small rooms that could sometimes be less than inviting and that did not provide enough individual space for each journal. Now, Conroy and other students will be able to conduct their work in a more professional, productive atmosphere.

"The office is used for tasks ranging from printing sources to bouncing note topics around with fellow members," she said. "Having this new space will provide more room for the senior and junior staff to interact with and get to know one another. So much of law school is solitary, but being on *Law Review* provides students with the opportunity to produce quality, cutting-edge legal scholarship as a team." ■

Alumni Access to the Library

An Alumni Association membership card gives graduates unlimited access to the library's print resources and limited access to certain digital resources for research purposes while in the library. Members also have access to LexisNexis Academic, a version of Lexis accessible from the Library home page under the database list. Books cannot be checked out.

Alumni Association members with their own laptops can access the Internet in the library wirelessly with a guest username and password obtained from the Circulation Desk or with an Ethernet cord.

If you do not yet have your Alumni Association membership card, please contact alumni@brooklaw.edu, or 718-780-7505.

6:50AM
WHOLE WHEAT
75 CALORIES



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6:46AM
SOURDOUGH BAGEL
280 CALORIES

Your Toaster Is Watching You

**How the Internet of Things challenges our understanding
of privacy, security, and ownership**

By Professor Christina Mulligan

In the 1990s and early 2000s, technology enthusiasts wondered how the rapidly growing Internet would change everyday life. The idea that the Internet—“cyberspace”—was like a place you could travel to, a Wild West separate from the constraints imposed by governments and society, gripped imaginations. In a famous 1996 essay, Grateful Dead lyricist and Electronic Frontier Foundation founder John Perry Barlow set forth a utopian vision for the independence of cyberspace from powers in the physical world, the “weary giants of flesh and steel.”

At the time, the essay resonated. Anyone could hook their computer up to a phone line, dial a connection, and find their minds and words transported to chat rooms and web pages with people across the globe, even as their bodies stayed sitting in a chair, typing on a clunky beige keyboard.

But cyberspace didn’t develop as Barlow and others anticipated. Today, we don’t glue ourselves to a chair in the corner of a den to “go online.” The Internet is with us everywhere we go, not only on our cell phones and tablets and laptops, but also in our home appliances, in our cars, and on drone-mounted cameras that we fly around outside. Developments in computing technology didn’t lead to freedom from a physical reality—they led to augmenting the reality we already inhabit.

Maybe you wear an activity tracker or wristwatch that records how much you have walked, stood, and exercised throughout the day. Maybe your digital camera or phone automatically uploads the pictures you’ve taken to the Internet. Maybe your smart vacuum has created its own map of the layout of your home in its never-ending journey to remove dust from your carpet. Network-connected devices—better known as the objects that make up the “Internet of Things”—allow both their users and their manufacturers to behave in ways that were not technologically possible even →

Illustration By Viktor Koen

five or 10 years ago. Users gain functionality, such as the ability to automate tasks (like vacuuming) or acquire information that could not easily be gathered before (like counting every step you take). Meanwhile, product makers gain the ability to know and change what devices do after they leave the store. Self-monitoring products can communicate to their makers what they have been up to; manufacturers also can install updates in devices after they've been sold, improving their security or changing their functionality.

Innovation or Invasion?

Networked devices raise a host of hard legal questions, largely separable into questions about privacy, security, and property. In the privacy realm, we are beginning to ask whether there should be any limits on what devices can record and share with their manufacturers, and how that information should be used by device sellers and other parties with whom they choose to share that data. In one recent controversy, iRobot, the company that makes and sells the popular "smart" vacuum Roomba, made headlines when it considered selling the maps Roomba makes of users' homes to third parties.

How much unwanted invasion into our private lives is permissible? We're all familiar with apps and streaming services that let us play games and listen to music for free in exchange for watching advertisements, but what if our smart toaster makes us listen to an ad for a new brand of English muffin because it knows we are toasting a bagel? Should your blender be able to try to sell you a new brand of diet drinks before you make a smoothie?

Closely related to privacy concerns are security concerns. Networked objects can be hijacked and used to target their owners—one famous example involved someone hacking a network-connected baby monitor and using it to spout obscenities at a small child—but even more troubling are cases in which devices are co-opted not to cause problems for their owners, but to participate in completely separate activities. A distributed denial of service (DDoS) attack last year that was executed by co-opted smart appliances rendered several major websites, including Twitter and

Spotify, inaccessible. During a DDoS attack, many computers flood a target computer with requests to overload the target's systems and stop it from functioning normally. In this case, smart appliances had been hacked and programmed to participate in the DDoS attack, while their owners remained ignorant of the harm being caused by devices in their own homes. The danger in these attacks is

that, because the harm is not felt by the networked product's manufacturer or purchaser, manufacturers won't necessarily have incentives to make their devices secure enough to fend off outside attacks. Incidents like these spurred renowned security researcher Bruce Schneier to state in testimony before Congress, "It might be that the Internet era of fun and games is now over, because the Internet is dangerous." Indeed, as more mobile objects—including cars—are designed with embedded computers that run code, we have to grapple with the striking realization that the Internet can become physically dangerous. Hacked or error-filled code can cause a networked device to malfunction and physically harm the surrounding people or environment. Scholars and policy analysts are now asking how the law

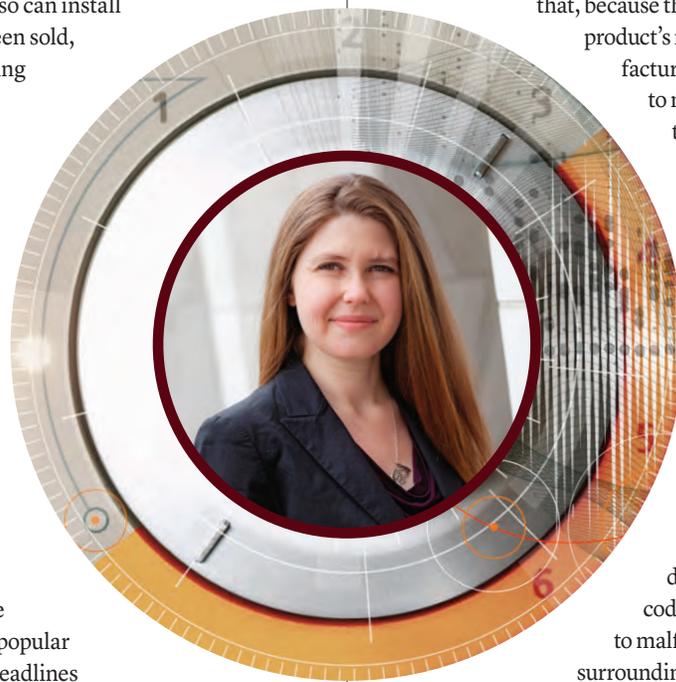
can be used to create the right incentives to make secure devices and, given that all major software projects inevitably have bugs, what kind of standards can be used to determine if a product is secure enough.

What's Yours is Theirs

The Internet of Things also raises challenging questions about property rights. While this area may seem less fraught than privacy or security, the question of who has what rights to the objects that make up the Internet of Things has direct and

critical implications for privacy and security issues as well.

Personal property rights have historically been simple. Objects such as watches, jewelry, cameras, and vacuum cleaners were usually owned in "fee simple"—purchasers of those products owned, to phrase their rights colloquially, the whole thing, forever. Once a product was sold, the manufacturer's legal power to direct its use was done. Simply put, you owned the things you bought, and you could do with them as you pleased.



Christina Mulligan is associate professor of law at Brooklyn Law School where she teaches courses on cybercrime, Internet law, intellectual property, and trusts and estates. She was recently appointed chair-elect of the American Association of Law Schools Section on Internet and Computer Law. Her scholarship addresses intellectual property, property, and the relationship between law and technology, and her research seeks to better adapt intellectual property law for the digital age. Her work has appeared in a variety of journals and law reviews, including the *Georgia Law Review*, *SMU Law Review*, and *Constitutional Commentary*. She earned her bachelor's degree and J.D. from Harvard University, where she served as a production and articles editor for the *Harvard Journal of Law & Technology*.

Not so anymore, at least when the objects you buy contain computers and execute software code. If you've "upgraded" from a Hoover to a Roomba or from a Rolex to an Apple Watch in recent years, you might be surprised to learn that your "ownership" of that appliance or accessory has become a lot more complicated. You own the chassis—the physical shell of the device, along with the wheels of the Roomba, or the strap of the watch. But, if the device you buy is like most others on the market, you don't own the copy of the software running inside it. Likely you had to agree to a set of terms when you turned the device on, or your device came with a piece of paper that contained words that stated something like, "This software is licensed and not sold to you." The terms might have stated that the software was, for example, licensed "for personal use" only, or for "noncommercial" use. They might have stated that the software and its license could not be transferred to another person, or could only be transferred under certain circumstances (such as through an officially sanctioned resale program). Or, they might have specified that the purchaser was not allowed to change the code, or that the device could only be repaired by an officially licensed repair person if the repair involved access to the device's software.

Courts tend to enforce these license agreements, although scholars disagree about whether it is appropriate for manufacturers to license, rather than sell, the copies of software in smart products. Most device sellers opt to license use of software copies to consumers, denying them the benefits of ownership and imposing restrictions on how the software may be used or transferred. Manufacturers could choose instead to sell the software in their products, but almost none do because using licenses affords them greater control over how the product is used. Selling copies of the program would trigger the "first sale doctrine" and other copyright exceptions, which would give consumers roughly the same rights to the software copy that the common law would give them over purchased nondigital products: the right to have and use the copy and to resell it. In other words, if manufacturers sold the software embedded in their devices, buyers would have roughly all the same rights in their digital cameras and smart watches that they have in their older film cameras and analog watches. Several scholars have critiqued the notion that the copyright statute contemplates the idea that use of a copy can be "licensed" indefinitely, or that a manufacturer can avoid transferring ownership of a copy to consumers merely by stating that the work is "licensed, not sold" and is subject to restrictions. But despite these sorts of arguments, courts typically have found that licensing copies is

permitted and does not amount to a sale of that copy.

Product manufacturers further fortify the control that licensing affords by using what's known as digital rights management (DRM) technology or technological protection measures (TPM). If you have ever had to type in a password to open an encrypted file or log into an account to play a piece of digital media, you have encountered DRM. Recent examples include John Deere's ongoing attempts to force the buyers of its tractors to only use Deere-approved repair persons—no one else is authorized to access the software inside John Deere tractors. Deere maintains that it has the authority to decide who can access, change, and repair the software inside the John Deere tractors because the tractors' software is merely licensed to the farmers. Meanwhile,

farmers using John Deere tractors have publicly complained that they can't afford to wait for an official John Deere repair person to come out to their farm if their tractor is broken.



Scholars and policy analysts are now asking how the law can be used to create the right incentives to make secure devices.



New Policy for a New World

Privacy, security, and property rights in the Internet of Things can interact in complex ways. If consumers aren't allowed to control the objects they buy, product makers will be more able to effectively monitor their consumers. Ongoing control over products' software allows product sellers to put out security updates, but also can prevent end-users from taking matters into their own hands if the manufacturers do not. Ultimately, all these issues lead to a key question:

who should control the objects in your home, the devices you wear on your body, and the vehicles that transport you?

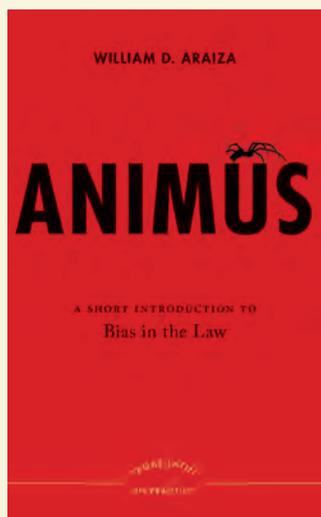
There are many reasons to prefer a legal regime where ultimate authority over our personal property rests with individual owners, not with manufacturers, but two reasons stand out as particularly resonant. First, consumers are in a better position to know what they need their property to do and when. Second, even when our property isn't tied up in our economic well-being, personal property still helps us establish our identity and personal autonomy. We create our sense of self in part by constructing the space immediately around us. That process is undermined when the objects closest to us spy on us, advertise to us, or refuse to obey us in favor of their manufacturer.

Our new augmented reality has changed the world in ways that we are still trying to understand. What do privacy, security, and property mean now that objects in our own homes aren't entirely under our control? As lawyers, we stand in a promising position as these questions are raised. With so many issues still unresolved, we each have the opportunity to steer technology law and policy in the right direction. ■

FACULTY Highlights

Brooklyn Law School faculty are nationally recognized not only for their superb teaching but also for their innovative and award-winning scholarship that has a significant impact on the law and policy. They are prolific scholars who publish influential books and articles that appear in the country's top law reviews. Following are selected highlights of recent faculty scholarship. To learn more about their work, visit brooklaw.edu/faculty.

Faculty Scholarship



Animus, A Short Introduction to Bias in the Law

(NYU Press, 2017)

by Professor William D. Araiza

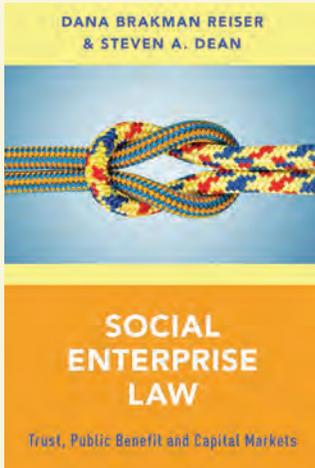
In his latest book, constitutional law professor William D. Araiza explores an important and under-theorized area of constitutional law—the concept of animus. The idea goes like this: If a town council denies a zoning permit for a group home for intellectually disabled persons because residents don't want “those kinds of people” in the neighborhood, the town's decision is motivated by the public's dislike of a particular group. Constitutional law calls this rationale “animus.” Using the Supreme Court's most

important discrimination cases through the lens of animus, Araiza traces the concept from nineteenth century legal doctrine to today's landmark cases, including *Obergefell vs. Hodges* and *United States v. Windsor*, both related to the legal rights of same-sex couples, illustrating what constitutes animus, and why the prohibition against it matters more today than ever in our pluralistic society.

Social Enterprise Law: Trust, Public Benefit and Capital Markets

(Oxford University Press, 2017) by Professors Dana Brakman Reiser and Vice Dean Steven A. Dean

Here's the controversial concept set forth in Professor Dana Brakman Reiser and Vice Dean and Professor Steven Dean's newest book on social enterprise: law can make corporations better citizens and make it easier for start-ups to raise capital by preventing insiders from selling out a social mission for increased profit. In *SOCIAL ENTERPRISE LAW: TRUST, PUBLIC BENEFIT AND CAPITAL MARKETS*, their first book together, they explore the potential impact of new crowdfunding rules and increasingly popular hybrid legal forms such as the benefit corporation on the ability of start-ups to raise capital. Brakman Reiser and Dean advocate for creating a stable balance between financial returns and public benefits, which will allow social entrepreneurs to team up with impact investors that share



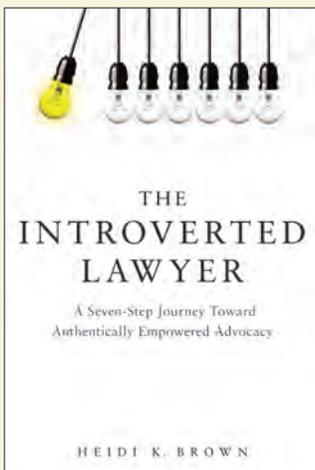
Law can make corporations better citizens and make it easier for start-ups to raise capital.

their vision of a double bottom line. They demonstrate how a social mission can even be shielded from the turbulence of an acquisition or bankruptcy. Their comprehensive book explores how legal institutions across the globe could be reformed.

The Introverted Lawyer: A Seven-Step Journey Toward Authentically Empowered Advocacy

(Ankerwycke Books, 2017)
by Professor Heidi K. Brown

Associate Professor of Law and Director of Legal Writing Heidi K. Brown champions the important skills of quiet lawyers in a field dominated by extroverts. This book highlights the valuable gifts of introverted and socially anxious legal professionals, such as empathy, impactful writing, creative problem-solving, and active listening. The second half of the book is dedicated to helping quiet law students and lawyers become more powerful advocates without rejecting their authentic personalities. Brown uses a holistic approach to help introverted and shy students and legal professionals stake their claim in the legal industry and make the

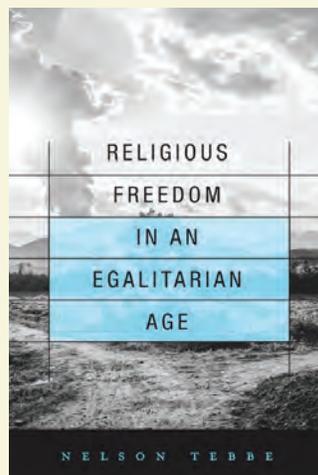


case for compassionate collaboration and self-awareness in a world that often prioritizes extroversion and rapid-fire communication.

Religious Freedom in an Egalitarian Age

(Harvard University Press, 2017)
by Professor Nelson Tebbe

When a bakery refuses to prepare a cake for a gay couple's wedding, how does that square with the Constitution? As lawmakers work to protect LGBT citizens and women seeking reproductive



freedom, religious traditionalists assert their right to dissent from what they see as a new liberal orthodoxy, and tensions between religious freedom and equality law are newly strained in America. In his new book, Professor Nelson Tebbe, who teaches courses on constitutional law, religious freedom, legal theory, and professional responsibility, explores this heightened polarity. Tebbe advances a method called social coherence, based on the way that people reason through moral problems in everyday life. Social coherence provides a way to reach justified conclusions in constitutional law, even in situations that pit multiple values against each other.



Nicholas W. Allard
President and Joseph Crea Dean
 Nonsense You Say, 48 *Toledo Law Review* 189 (2017)

TODAY'S LAW STUDENTS, take a more consumerist attitude toward education. They also are primarily "digital natives," who "think and process information in fundamentally different ways from their predecessors" and are quick to communicate by email or text with often little thought of the privacy or security of their correspondence. This article in the Dean's Leadership issue explores how the ease of students' electronic communication with law faculty and deans may make for some curious, and sometimes humorous, exchanges.

Miriam Baer
Professor of Law
 Reconceptualizing the Whistleblower's Dilemma, 50 *U.C. Davis Law Review* 2215 (2017)

BAER IN THIS ARTICLE ADVANCES an explanation for the SEC's whistleblowing program's modest "hit rate," namely whistleblowing's effect on the probability of criminal sanction. If employees who possess the most concrete information of wrongdoing are also those most exposed to criminal prosecution, whistleblowing morphs into self-incrimination. This is so because the whistleblower who voluntarily discloses her participation strips herself of her most effective legal protection, the government's difficulty in establishing her guilty state of mind.

Bradley Borden
Professor of Law
 Boundaries of the Prediction Model in Tax Law's Substantive Authority, with Sang Hee Lee, 71 *The Tax Lawyer* (2017)

TAX LAW IMPOSES A 20-percent penalty on substantial understatements of income tax, but taxpayers avoid that penalty

by showing "substantial authority" supports the reporting position that causes the understatement. The substantial-authority standard is meaningful to taxpayers making reporting decisions in the face of uncertainty and confronting IRS challenges to uncertain reporting positions. Borden provides a framework for piecing together the legislative history and provisions in the regulations to create a structured analysis of the substantial-authority standard.

Bennett Capers
Professor of Law
 Race, Policing and Technology, 95 *North Carolina Law Review*. 1241 (2017)

MINORITY COMMUNITIES FACE a number of policing problems, including police violence, under-enforcement, and racial profiling. The solution Capers proposes is focused on technology, specifically harnessing technology in ways that can de-racialize policing. He suggests changes that may cause some Americans to give up some of their privacy, but will ultimately make millions of citizens safer.

Robin Effron
Professor of Law
 Ousted: The New Dynamics of Privatized Procedure and Judicial Discretion, 98 *Boston University Law Review* __ (forthcoming 2018)

IN THIS ARTICLE EFFRON examines the link between the scope of judicial discretion and the acceptance or even endorsement and encouragement of private procedural ordering (the use of private agreements to alter or avoid procedural rules). Examples from civil procedure demonstrate the varying dynamics of the relationship between judicial discretion and private procedural ordering, from the uneasy compatibility found in the rules of discovery to the outright clash of values in the enforcement of forum selection clauses.

Maryellen Fullerton
Professor of Law
Refugees and the Primacy of European Human Rights Law, 21 *U.C.L.A. Journal of International Law @ Foreign Affairs* 45 (2017)

THIS COMMENTARY ARGUES that the European Court of Human Rights has become the primary guarantor of refugee rights in Europe, overriding and overshadowing the European Union's much vaunted common asylum system. Fullerton, an expert on asylum and refugee law, examines the events that led up to the crisis, describes and distinguishes the basic features of European Union asylum law and European human rights law, and analyzes how EU asylum law has responded to the mass influx of refugees and individuals seeking asylum.

Heidi Gilchrist
Assistant Professor of Legal Writing
 The Security Clearance Conundrum: The Need for Reform and Judicial Review, 51 *University of Richmond Law Review* 953 (2017)

AS IMPORTANT AS SECURITY clearances are, most people, even those with a security clearance, do not fully understand the process or the fact that if their clearance is revoked, they have little recourse. Gilchrist, a former national security analyst, examines the case law and history of security clearances and argues that reform is needed to guard against discrimination and retaliation, and to assure independent oversight of national security.

Cynthia Godsoe
Professor of Law
 Recasting Vagueness: The Case of Teen Sex Statutes, 74 *Washington @ Lee Law Review* 173 (2017)

WHEN TWO MINORS BELOW the age of consent have sex, who is the victim and who is the offender? Where half of high school students have had sex,

the law's immense scope and inevitable underenforcement allow prosecutors to define the crime by the tiny percentage of cases they choose. Godsoe brings juveniles into the overcriminalization conversation that has largely ignored them, charting the past use of the constitutional vagueness doctrine and its potential, arguing that vagueness can serve as a blueprint for criminal justice reform.

Susan Hazeldean
Assistant Professor of Law
 Anchoring More Than Babies: Children's Rights After *Obergefell v. Hodges*, 38 *Cardozo Law Review* 1397 (2017)

THE SUPREME COURT'S RECENT decision upholding a constitutional right to same sex marriage in *Obergefell v. Hodges* was a huge advance not just for LGBT Americans, but also for children. *Obergefell* suggests children have a fundamental right to be raised by their parents without being demeaned or marginalized by the state, including U.S. citizen children with undocumented parents. Hazeldean argues that deporting these children's parents contravenes their fundamental rights.

Edward J. Janger
David M. Barse Professor of Law
 Tracing Equity: Realizing and Allocating Value in Chapter 11, 96 *Texas Law Review* __ (forthcoming 2018)

THE AUTHORS EXPLORE HOW state law (Article 9) and the Bankruptcy Code use equitable tracing principles to allocate a firm's going concern value in bankruptcy. They argue that even a secured creditor claiming a blanket lien on all the firm's assets is not entitled to the going concern value of the firm that cannot be tied to specific encumbered assets. This article was originally presented as the John C. Akard Lecture at the University of Texas Law School.



Adam Kolber
Professor of Law

Punishment and Moral Risk,
University of Illinois Law Review
__ (forthcoming 2018)

ESSENTIAL FACTS MUST BE proven “beyond a reasonable doubt” in a criminal trial, but we tolerate much greater uncertainty about whether our punishments are otherwise justified. Kolber argues that moral justifications of punishment are inconsistent when they have a high bar for questions of fact but a low bar as to other requirements of just punishment such as whether defendants are morally responsible, punishment is proportional, law is correctly interpreted, and so on.

Rebecca Kysar
Professor of Law

The State of the Budget Process, Law and Contemporary Problems, 81
Law & Contemporary Problems
__ (forthcoming 2018)

PARTISAN CONFLICT OVER TAX reform has recently threatened fundamental aspects of the budget process—budget windows, baselines, even the independence of the estimators. Instability surrounding these concepts disrupts longstanding congressional norms that heretofore have assisted in keeping the budget process somewhat intact. Current conditions indicate that a historically significant failure of the budget process may be on the horizon. In the past, reforms of the budget process have happened at times when the process has broken down. Optimistically, then, these recent events, while endangering the budget process, may also signal an opportunity to reform it. Considering potential reforms now, Kysar argues, potentially protects against squandering an opportunity to modernize the budget process.

Christina Mulligan
Associate Professor of Law

Licenses and the Property/Contract Interface, 93
Indiana Law Journal
__ (forthcoming)

MULLIGAN ARGUES IN THIS article that End-User License Agreements’ hybrid status indicates that these licenses will be most economically efficient and socially beneficial when they are less standardized than property interests and less flexible than contract interests can be. In particular, more effective EULA regulation can be achieved by providing better notice to licensees about the content of licenses and by creating substantive legal protections for licensees.

Norman Poser
Professor Emeritus

Lord Mansfield: The Reasonableness of Religion in Great Christian Jurists in English History, *Cambridge University Press* (2017)

ALTHOUGH LORD MANSFIELD, who was Chief Justice of the Court of King’s Bench from 1756 to 1788, is not known particularly for his religious beliefs, there is evidence that he was a deeply religious man. In this chapter, Poser covers how Mansfield’s faith is reflected in decisions supporting religious toleration and establishing that morality was a fundamental element of the common law, as well as in the conscientious conduct of his own life.

Alice Ristroph
Professor of Law

The Constitution of Police Violence, 64
U.C.L.A. Law Review 1182 (2017)

RISTROPH CONSIDERS THE full scope of Fourth Amendment seizure authority, arguing that constitutional doctrine could and should protect certain forms of non-violent resistance both in police encounters and in later court proceedings. Embracing resistance could help constrain police authority and mitigate racial disparities in criminal justice, and reduce violence.

Jocelyn Simonson
Assistant Professor of Law

Bail Nullification, 115
Michigan Law Review 585 (2017)

AMID A NEW WAVE OF REFORM efforts aimed at reducing the criminal justice system’s reliance on money bail, a new form of bottom-up community resistance to the practice has emerged as a powerful force. Community groups in jurisdictions across the United States have increasingly begun to post bail on behalf of strangers, using a revolving pool of money known as a bail fund. Simonson explores the possibility of community nullification and analyzes the growing phenomenon of community bail funds.

Lawrence Solan
Don Forchelli Professor of Law
Patterns in Language and Law, 6
International Journal of Language & Law 46 (2017)

SYNTAX IS MOST OFTEN described using a set of rules, while the range of meanings is best described in terms of patterns. Legal systems default to an expression’s “ordinary meaning,” requiring estimates of patterns of usage. But legal terms such as “pattern” are by their nature more describable by their application than by hard

and fast rules. Solan attempts to describe in this article how this duality in both linguistic description and law interact with one another.

Alex Stein
Professor of Law

The Domain of Torts, 117
Columbia Law Review 535 (2017)

STEIN ADVANCES A NOVEL positive theory of the law of torts that grows out of a careful reading of the caselaw. The core insight is that the benefit from the harm-causing activity determines the form and substance of tort liability. This finding is both surprising and innovative, since the operation of the doctrines that determine individuals’ liability for accidents—negligence, causation and damage—is universally believed to be driven by harms, not benefits. The article was the focus of a program at Columbia Law School in September.

Aaron Twerski
Irwin and Jill Cohen
Professor of Law

Bringing the Science of Policing To Liability for Third-Party Crime at Shopping Malls, 101
Marquette Law Review __ (forthcoming 2018)

SHOPPING MALLS ARE REGULARLY the targets of crime victims in tort actions for failing to provide adequate security. Twerski, a renowned expert in tort law, argues that once a court, based on objective data, sets the standard of reasonable care that the burden of proof that additional security would not have averted the crime to the victim, the responsibility should shift to the defendant management of the mall.

Professor Alice Ristroph, Criminal Law Expert and Distinguished Political Theorist, Joins Faculty

PROFESSOR ALICE RISTROPH, AN EXPERT IN CRIMINAL LAW, criminal procedure, and constitutional law, joined the faculty as professor of law in July. Ristroph previously taught at Seton Hall University School of Law, where her scholarship focused on the relationships among legal concepts and legal practices.

“It’s wonderful to have the opportunity to join the faculty at Brooklyn Law School,” Ristroph said. “There is so much energy and

talent at the school—among the criminal law faculty, in faculty working across other fields, and in the students. And of course, there is so much energy and talent in this borough, which has been my home for years. As Brooklyn Law School continues to educate excellent lawyers, I’m honored to become a part of the team.”

Ristroph has deep experience as a political theorist. She explores in her scholarship, among other topics, how dominant conceptual assumptions in criminal law and criminal procedure have impeded reform efforts and suggests more promising alternative frameworks to minimize the state’s use of force.

“We are proud to welcome Professor Ristroph to our distinguished faculty,” said Dean Nick Allard. “Her compelling work in criminal law and criminal procedure will further enrich our vibrant intellectual community. I look forward to her contributions to our great tradition of advancing scholarship and teaching.”

Ristroph’s previous work has addressed various topics in constitutional theory and criminal law theory, and has appeared in the *Yale Law Journal*, *California Law Review*, *Journal of Criminal Law & Criminology*, *Duke Law Journal*, among other publications. Her most recent article, “The Constitution of Police Violence,” appeared in the *UCLA Law Review*. She joined the Seton Hall faculty in 2008 after serving as associate professor at the University of Utah, S.J. Quinney College of Law. Previously she was an associate at Paul, Weiss, Rifkind, Wharton & Garrison in New York City. She holds a J.D. and Ph.D. in political theory from Harvard University. ■



Professor Kate Mogulescu, Gender Justice Expert, Joins the Law School

Professor Kate Mogulescu, an expert on gender issues in the criminal legal system and human trafficking, has joined the faculty and will lead a new clinic in criminal justice.

“I want to update the clinical model for criminal justice education,” said Mogulescu, who previously served as a supervising attorney in the Criminal Defense Practice at the Legal Aid Society.

Mogulescu believes the Law School is the ideal place to take on this endeavor because of its close relationships to the agencies, organizations, and stakeholders influencing the criminal justice system daily. She is excited to work with Brooklyn students, who are known for being motivated to do

public interest work and to cultivate a deep understanding of their practice.

Mogulescu said that she always wanted to be a public defender. During college at SUNY Binghamton, she was an intern investigator at the Legal Aid Society, an experience that crystallized her interest in defense work. She attended law school at Yale with this goal in mind and joined Legal Aid as soon as she graduated. She served as a staff attorney for five years before taking leave to lead the criminal defense clinic at Pace University Law School for a year.

She went on to develop the Exploitation Intervention Project, to provide better representation for individuals in the criminal sex industry. The project focuses



on learning from the clients and about their lives. It is now a fully functional, citywide unit of Legal Aid with eight team members, handling all prostitution cases, including non-sexual crimes fueled by tracking. ■



Professor Roberta Karmel Receives William O. Douglas Award

Professor Roberta Karmel, Centennial Professor of Law, was presented with the William O. Douglas Award at the 25th annual Association

of Securities and Exchange Commission Alumni (ASECA) dinner in February in Washington, D.C. The award, instituted in 1992, is presented each year to an SEC alumnus or alumna who has contributed to the development of the federal securities laws or who has served the financial and SEC community with distinction and whose achievements are considered extraordinary by his or her peers.

“I am honored to be receiving this prestigious award, and to be listed in the company of such outstanding SEC officials who received this award in the past,” Karmel said. “I have always been grateful to the SEC for providing me with such a good foundation for my career as a securities lawyer. I also appreciate ASECA’s contributions for scholarships and awards for my students and others.”

Professor Karmel is a former commissioner of the SEC, a former public director of the New York Stock Exchange, and was in private practice for 30 years. Before joining the Law School, she was a Fulbright Scholar studying the harmonization of the securities laws in the European Union.

She is the author of the recent two-volume treatise *LIFE AT*

THE CENTER: REFLECTIONS ON FIFTY YEARS OF SECURITIES REGULATION (PRACTICING LAW INSTITUTE, 2014) as well as *REGULATION BY PROSECUTION: THE SECURITIES AND EXCHANGE COMMISSION VERSUS CORPORATE AMERICA* (1984). She has widely published articles on securities regulation and international securities law in dozens of law reviews and journals, and her column, “Securities Regulation,” appears bi-monthly in the *New York Law Journal*.

Professor Karmel is also the chair emerita of the board of trustees of the Practicing Law Institute, a member of the American Law Institute, and a Fellow of the American Bar Foundation. She serves on the ABA’s Presidential Task Force on Financial Markets Regulatory Reform, and she previously served as a director of the New York Chapter of the National Association of Corporate Directors and vice-chair of the International Coordinating Committee of the American Bar Association Business Law Section.

A member of the Law School faculty since 1985, Professor Karmel has played an instrumental role in leading the activities of the Dennis J. Block Center for the Study of International Business Law as the Center’s codirector, and with developing the Center for the Study of Business Law and Regulation.

In addition to receiving the Douglas award, other recent career honors include Phi Beta Kappa Alpha Iota of Massachusetts at Harvard College (Hon.) and the American Bar Association Women Lawyers of Achievement Award. ■

Professor Sal Russo Named NYAM Fellow

Adjunct Professor Salvatore Russo, a highly regarded legal expert and leader in the health care field, has been named a Fellow of the New York Academy of Medicine. Fellows are distinguished health professionals who have completed their professional training, been active in their field for at least 10 years, and demonstrated outstanding accomplishments in their profession.

Russo is senior vice president, general counsel, secretary to the Board of Directors, and a corporate officer for the New York City Health & Hospitals Corporation, the largest public health care system in the United States, providing services to more than 1 million New Yorkers every year. He has spent more than 30 years in the health care field, previously serving as in-house counsel for Maimonides Medical Center of Brooklyn, director of legal affairs for the Greater New York Hospital Association, and counsel to the Metropolitan Health Administrators’ Association.

At the Law School, Russo teaches Representing Hospitals, which gives students a practical perspective on the legal issues facing lawyers who represent health care facilities. ■

Professor David Reiss Named to Rent Board

Mayor Bill de Blasio has appointed Professor David Reiss to the New York City Rent Guidelines Board. The board’s main mandate is to establish rent adjustments for approximately 1 million dwelling units subject to rent stabilization in the five boroughs. It also holds public meetings and hearings to consider research from staff and testimony from owners, tenants, advocacy groups, and industry experts. Reiss and Hilary Botein of Baruch College will serve as public members of the board.

“Professors Reiss and Botein are experts in real estate law and urban policy planning and will serve New Yorkers fairly as they work to strike the right balance on any rent adjustments,” de Blasio said. “I am honored to have them accept these positions on the Rent Guidelines Board as we work to make this City more just and more equitable.” Reiss directs the Community Development Clinic and teaches real estate courses. He is also the founder and editor of the REFin Blog. ■

Tenure for Professor Beauchamp: Yesterday is a Roadmap for Today

If Professor Christopher Beauchamp, who received tenure this spring, had the chance to whisper in Lin Manuel Miranda’s ear, chances are the Tony-award winning playwright’s follow up to “Hamilton” would be called “Bell.” It would be an epic rhyme and verse musical chronicling the story of how Alexander Graham

Bell became the inventor of the telephone, which Beauchamp recounted in his acclaimed book, *INVENTED BY LAW: ALEXANDER GRAHAM BELL AND THE PATENT THAT CHANGED AMERICA* (HARVARD UNIVERSITY PRESS, 2014). On its face, the book is about the history of patent law, along with the rivalries of inventors and drama of love and politics, but the real hook for Beauchamp is the backstory



of the team of lawyers who made Bell *the* inventor of the telephone.

“Professor Beauchamp wrapped the Bell patent case in a compelling story about the centrality of innovation, inventions, and legal infrastructure governing commercial creative rights to the growth and success of our country from its earliest days,” said Dean Nick Allard.

The rich and surprising history of patent law and how it might be used as a guidepost for current legal decision-making and legislation has been at the heart of Beauchamp’s scholarship and teaching throughout his dynamic career. “The thrust of my work has been to say this: The past is more fun than you think and it can tell us more about where we are now,” he said. “There is a world of patent litigation that I am trying to bring back into the light.”

Beauchamp has a Ph.D. in history from Cambridge University and fell in love with patent law when he saw how the field was transforming and felt exploring its history would be invaluable. “There are many historical parallels and debates about this area of law,” he said.

He is currently working on an article about the constitutionality of a procedure for cancelling patents, related to a case before the U.S. Supreme Court, *Oil Sates Energy v. Greene Energy Group*. ■

Director of the Library Janet Sinder Receives Tenure

Professor Janet Sinder, the director of the library, who teaches in the area of legal research, was granted tenure this spring.

Sinder is highly respected by students and faculty colleagues, not only for her award-winning scholarship and institutional accomplishments, but for her enthusiasm for the Law School community. “If our incomparable Law Librarian Janet Sinder were a book, she would be showcased where rare and priceless treasures are securely featured by any institution fortunate to be her home,” said Dean Nick Allard.

Sinder joined the faculty in 2012 after working at the law libraries at Duke University and the University of Maryland. She began her legal career as an Assistant Defender at the Office of the State Appellate Defender in Springfield, Illinois.

At the Law School, she has championed and implemented several key initiatives including BrooklynWorks, a free, open-access digital repository that includes faculty scholarship and student journals,

which was introduced in 2015 (see page 32). “Anyone from anywhere in the world can download and read journal articles from BrooklynWorks,” said Sinder. “It widens accessibility to our faculty scholars and the important work produced in our journals. It’s all just a Google search away.” BrooklynWorks has been accessed from every continent except Antarctica, and it also serves as a preservation system.

When Sinder is not immersed in her professional work, she loves to travel. She has traveled extensively through Australia,

New Zealand, India, Egypt, Thailand, Cambodia, South Africa, and Europe. “I still need to go to South America and Antarctica, then I will have visited all seven continents,” she said.

“Professor Sinder is a forward-thinking, nationally and globally regarded leader among law librarians, a scholar, a widely-read award-winning author and editor, a superb teacher, a technology innovator, and someone who has totally insinuated herself into the heart and soul of our law school community,” said Allard. ■



Headliners

Brooklyn Law School Faculty Making News

“Nothing in the Fourth Amendment explicitly says you have to try to subpoena information before you obtain a search warrant. If I’m concerned that a target or subject is not going to fully comply with the request and the evidence I’m seeking is very important, I might choose instead to pursue a search warrant.”

Professor Miriam Baer in *The Wall Street Journal*:

Trump Attorney Calls FBI’s Raid on Manafort Home ‘Gross Abuse’

“Shuffling judges around the country is a shell game for Immigration Courts and a raw deal for immigrants that allows the administration to claim it’s taking steps to make good on its get tough promises to deport ‘bad hombres,’ but actually sells a false bill of goods to the public.”

Professor Stacy Caplow op-ed in the *Star-Ledger Herald*:

Deporting ‘Bad Hombres’ a Trump Sham if Region’s Immigration Courts are Crippled

“At a moment of deep disagreement about the nation’s best path forward, here comes a giant round shadow, drawing a line either to cut the country in two or to unite it as one.”

Professor Alice Ristroph in *The Atlantic*:

American Blackout

“The love affair and success of America and immigrant people, indeed of so many immigrant families of all faiths and backgrounds, has been intertwined and a mutual blessing. It is time to stand up, speak up, and work hard to assure that it ever be so. Keep America great, together.”

Dean Nick Allard op-ed in *The Times of Israel*: Intolerance Must Not be Silently Tolerated

As part of the ABA Annual Meeting in New York City in August, Dean Allard moderated the discussion “Jewish Supreme Court Justices from Brandeis to Kagan.”

“The CFPB is one of the most effective elements of the Dodd-Frank Act. Most importantly, it has changed the ethos of the financial services market from a ‘watch your wallet’ environment to one where consumers can feel they are getting a fair deal from lenders.”

Professor David Reiss in *The Hill*:

Americans are Better Off with Consumer Protection in Place

“T. Rowe Price runs mutual funds and allocates capital, but they may regret trying to do this themselves. This is just one of the pitfalls with appraisal, and it’s not for novices.”

Professor Minor Myers in *Reuters*: U.S. Court Rules \$24.9 Billion Dell Buyout Underpriced by 22 Percent

Myers’ article Appraisal Arbitrage and the Future of Public Company M&A (with Charles Korsmo) was named a Top 10 Corporate and Securities Article for 2016 by Corporate Practice Commentator.

“Prosecutors and the police work together arm in arm on a day-to-day basis and really rely on each other. So a lot of DAs really value, for good reason, their relationship between the NYPD and their offices.”

Professor Jocelyn Simonson on WNYC:

Brooklyn DA’s Pledge to Reduce Marijuana Prosecutions Makes Little Difference

“When jurors are questioned during voir dire ... they could be educated about how rape and sexual assault victims often behave ... and the fact that it’s not unusual for a woman to continue contact with someone who assaulted her, particularly when the man could influence her career.”

Professor Liz Schneider in *The New York Times*:

A Post-Cosby-Trial Question: Is the System Stacked Against Women?

“First Amendment rights are part of the heritage of all persons and groups in this country. They are not to be dispensed or withheld merely because we or the Congress thinks the person or group is worthy or unworthy.”

Professor Joel Gora in *Litigation*, published by the American Bar Association:

Money, Speech and Chutzpah

Professor Gora organized and spoke at the acclaimed 2016 symposium “Free Speech Under Fire: The Future of the First Amendment” last year, proceedings from which were published in the *Journal of Law and Policy*.

Alumni Events

OH, THE PLACES WE'LL GO Graduates gather in City Island and Saratoga



Standing left to right: Joel Schonfeld, Herbert Adlerberg, Seymour Reisman, A. Sheldon Edelman, Gerald Sheindlin, George Summerfeld, Ruth Schorr Roth, Ralph Nappi; Seated left to right: Hon. Gerard Rosenberg, Marvin Simms, Jack Schwartz, and Howard Finkelstein.

Schwartz '59 and Simms '59 Organize City Island Alumni Lunch

This summer, **Jacob (Jack) Schwartz**, a senior partner at Jacobson & Schwartz, and **Marvin Simms**, counsel at Guardian Land LLC, pulled together an impromptu get-together on City Island with some fellow members of the Class of 1959. The group enjoyed lobster rolls and lots of nostalgia, talking about everything from law school to retirement (though many are still practicing attorneys).



Stuart Subotnick '68 Leads Class Outing to Saratoga Race Track

Stuart Subotnick '68 (yellow tie), chairman of the Brooklyn Law School Board of Trustees, convened a group of 1968 graduates for a special race at Saratoga on August 20. The race was named The Brooklyn Law '68, and the champion was Purrfect Miss, who ran six furlongs in 1:10.3. **Stan Kaplan '68** and his wife Claire, **Alan Weiner '68** and his wife Susan, **Ron Farr '68** and his wife Laura, and **Ron Forster '68** joined Subotnick for the outing. The group is pictured with a group of friends and the winning jockey, Manuel Franco.

ALUMNI NETWORKS Trial lawyers group launches

In June, the Law School launched its Trial Lawyers Alumni Group, bringing together graduates who practice in the areas of personal injury, medical malpractice, mass tort, and products liability. Attendees included judges and plaintiff and defense attorneys, along with our world-renowned faculty members, Professors Alex Stein and Aaron Twerski. For more information about this group, or to get involved, please contact Caitlin Monck '02, Director of Alumni Engagement, at caitlin.monck@brooklaw.edu or 718-780-0322.

Below: Tara Johnson '14, Hayley Newman '12, and Karen Schnur '12; Right: Michael Kaplen '79 with Professors Alex Stein and Aaron Twerski.



REGIONAL NETWORKS SoCal group continues to grow



Brooklyn Law School's Southern California Alumni Network hosted a June reception for local graduates at the Crescent Hotel in Beverly Hills, where the 2017-2018 executive board members were introduced: (l-r) Outreach & Alumni Relations Chair Rick Berger '10, Operations Committee member Rachel Lappin Scheinman '10, Secretary Julie Adler '12, President Yana Rafailova '15, Publicity Chair Shawn Thomas '08, Publicity Committee member Meghan Moroney '11, Vice President Yasmin Coffey '05, Treasurer Everett Hendler '12. (Not pictured) Marshall Silverman '74, Harvey Oringher '73, and George Colman '67 continue to serve as advisory committee chairs. The group looks forward to planning a number of events throughout the year and encourages all local graduates to connect and get involved.

Save the date for Reunions 2018, which will take place on May 10, to celebrate alumni whose class years end in '3 or '8. If you are interested in serving as a Reunion Class Agent, please contact alumni@brooklaw.edu

Below: (l-r) Ratko Caricic '12, Tessa Romano '12, Nina Shulepina '12 and guest enjoying the celebrations at Cipriani 25 Broadway; Right (l-r) Class of 2002 graduates Carlos Lugo, Narissa Joseph, and Jeffrey Ferguson; Bottom (l-r): Class of 2012 graduates Sagar Dalal, David Sienko, Todd Henderson, Michael Fabiani, and Colleen Connolly at Brandy Library.



ALUMNI REUNIONS

This spring Brooklyn Law School celebrated the milestone reunions of the Classes of 1952, 1957, 1962, 1967, 1972, 1977, 1982, 1987, 1992, 1997, 2002, 2007, and 2012. To kick-off the Reunion festivities, **Max Leifer '72** hosted a reception and guided tasting at his bar and restaurant Brandy Library in TriBeCa on April 24. Alumni enjoyed cocktails and lively conversation in the intimate, amber-lit lounge, and made plans to reconnect at the larger event a few weeks later. In May, more than 350 alumni, faculty, and friends celebrated at New York City landmark Cipriani 25 Broadway in lower Manhattan, where they reconnected and reminisced over memories of their law school years.

Below: Class of 2012 graduates Jason Linden, Diana Mahoney, Melissa Moran, Gregory Sparer, and Scott Reing enjoying the celebrations; Deborah Grubman, Allen Grubman '67, Michele Crown '67, Chairman of the Brooklyn Law School Board of Trustees Stuart Subotnick '68, and Brooklyn Law School Trustee Frederick Cohen '67. Bottom: The Class of 2007 gathers for a photo with Dean Nick Allard.



Giving

WATCH MANNE'S Q&A WITH DEAN ALLARD AT
brooklaw.edu/robert-manne

Robert Manne '77 Named CUBE's First Entrepreneur-In-Residence



Robert Manne '77, general counsel and vice president of human capital management and benefits firm Ultimate Software, will become the first Entrepreneur-In-Residence with the Law School's Center for Urban Business Entrepreneurship (CUBE). The appointment of Manne, a longtime supporter of the Law

School, is an example of the dynamic ways alumni can become involved in the life of the school. In this role, Manne will spearhead one lunch-time event to discuss the balance between in-house and out-of-house legal services, hold lectures in the Law of Entrepreneurship course to focus on software licensing and real estate contracts, and serve as an ongoing mentor with access to CUBE students, recent alumni, and entrepreneurs from CUBE's Innovators Competition.

Launched in 1990, Ultimate Software is a publicly traded company with more than 3,400 corporate clients and locations in more than 160 countries. Manne's ability to think outside the box and his employee-centric attitude have played a significant role in Ultimate Software winning many awards, including being ranked by *Fortune* as one of the best places to work in the U.S. ■

Scholars and Benefactors Celebration

In March, scholarship recipients and the donors that help make their legal education possible gathered at Brooklyn Law School to attend the Scholars and Benefactors Celebration. The function, previously known as the Endowed Scholars Celebration, commemorates the generosity and gratitude shared between scholarship donors and recipients.

"The name change, after 35 years, reflects the increased breadth of scholarships available to our students, both endowed as well as our newly created opportunities scholarships," said Dean Nick Allard. "Monetary awards can make the difference between an outstanding student walking away, or saying 'Yes.'"

Abraham and Ruth Markhoff Memorial Scholarship Recipient **Naoufal Zouak '17** spoke on behalf of the scholarship recipients. "I honestly do not know if I would have followed this road without the donors. I believe more than a few in this room share this sentiment, and I hope I can pass the same gift of opportunity on."

Jay R. Fialkoff '76, founder of the Omer Foundation Scholarship awarded to a student of good academic standing who is blind, visually impaired, or living with a physical disability, also spoke at the reception. Fialkoff, who is the managing partner at law firm Moses & Singer, spoke about his experience as a scholarship recipient during his time at the Law School. "When I got to



(l to r): Denise Felipe, Hon. William Thompson '54, and the Judge William C. Thompson Scholarship recipient, Akeem Benn '18

school, I was fortunate enough after the first year to win a partial scholarship award," he said. "I thought I'd give the money back to the school after I graduated if I could, which I did in a couple of years. And I said, if I ever was fortunate enough to set up a scholarship, I would do so too. That took about 35 years longer, but I'm glad I was able to set that up to help future students." ■



A Conversation with Warren Estis '73, Gary Rosenberg '74, and Deborah Riegel '93

In a Q&A with Professor David Reiss, the partners at Rosenberg & Estis reflect on building a powerhouse real estate law firm and a family legacy at the Law School

When Gary Rosenberg '74 and Warren Estis '73 created Rosenberg & Estis in 1975, they never dreamed it would become one of the most prominent real estate law firms in New York City. Forty years and more than a dozen Brooklyn Law School hires later, they have been instrumental in the construction of much of the city's skyline. Deborah Riegel '93 joined the firm's litigation department in 1994, and she recently became equity partner. Rosenberg & Estis began with a focus on regulated residential housing, but today its 79 attorneys practice in all areas of commercial real estate, including transactions, litigation, development, and appeals. The firm was behind the construction of One Bryant Park, and the joint venture between The Durst Organization and the New York City Port Authority to build and lease One World Trade Center.

The partners have something else in common: a Brooklyn Law School legacy. Riegel and her father, Arthur Riegel '94, were law students at the same time. Estis is the son of Nathan Estis '34 and father of Alexander Estis '17. Rosenberg's daughter Jana is also a graduate, Class of 2006.

Professor David Reiss, who teaches a variety of real estate courses, recently sat down with the three graduates to discuss the creation and growth of their firm, the changing New York real estate market, and their strong connections to the Law School.

How did you balance being a manager of a business with developing your practice?

Gary Rosenberg: Out of law school I started my own firm, and I realized after a year or two that building a firm and going to court didn't work. I just couldn't service clients if I was in court—this was before cell phones. I decided I needed a litigator, so I hired Warren, who I had known since college.

What's a memorable case you worked on together in your many years of practice?

Warren Estis: Within the first year or so, we got a significantly important case about whether certain housing units would be covered under rent stabilization. It was a jury trial over a period of weeks, and Gary explained to me the relevant issues of rent stabilization as it pertains to the case. The judge questioned some of our arguments, and Gary, for the first time, said to me: "Warren, this is my theory of what the law should be!"

Gary Rosenberg: But we convinced the judge, and in the next case we established in the Court of Appeals that single-room occupancy units are not subject to rent stabilization. But then the State passed a law stating that they are. I have a number of those precedent-setting "and then they passed a law" cases.

Deborah, you also teach landlord-tenant litigation at the Law School in addition to your busy schedule at the firm. Why do you make the time to teach?

Deborah Riegel: I would not be where I am if not for the Law School. I told this story at Convocation when I spoke a couple of years ago: When the construction hoist fell off 4 Times Square in 1998, I was still a fairly junior associate. Everybody was in crisis mode, and I had research to do and no clue how to even start organizing my thoughts. I had maintained a relationship with Professor Jerry Leitner. Then this little voice in the back of



L to R: Warren Estis '73, Deborah Riegel '94, and Gary Rosenberg '74 on the terrace at the Rosenberg & Estis office in Manhattan

my head remembered Professor Richard Farrell's 'money-back guarantee.' So I picked up the phone to call them. They talked with me for about a half hour without any hesitation and helped me get my thoughts together so I could start to do this research. That story exemplifies the remarkable community the Law School really is.

I never in a million years thought that I would land here at this firm, and I think you have to pay it forward, and that has been incredibly gratifying for me.

What is the most significant development in the practice of real estate law that you have seen in the last few decades?

Gary Rosenberg: Across the country, real estate is a service. In New York, it's an industry. What has changed in the last 30 years is that it is now understood to be a practice of its own. The city used to be full of small boutique real estate firms, with two or three service partners who are in real estate. Now, real estate is a division of every New York firm.

Gary, you were one of the leaders in the relatively new field of green real estate when it first became a distinct practice area. What advice do you have for new attorneys who want to be leaders in new fields?

Gary Rosenberg: Follow the regulators. First thing you've got to do is figure out what's going to go wrong, and that's basically: What is government going to do? Our focus has always been how to make a deal and understand what could go wrong, not believe that you could prevent anything from going wrong, because if you try to prevent anything from going wrong, you will never make a deal. Clients are in the risk business. Lawyers

are not. And the difficulty I see is lawyers who think their job is to eliminate any risk as opposed to explaining that risk to the client. We always look at what will put the client out of business as opposed to what will cost him money.

Deborah, your dad graduated a year after you, so I'm sure you wanted to give him some words of wisdom.

Deborah Riegel: Attending law school together was a great bonding experience for us. He is an example of somebody who had a job that he loved, with the New York City Department of Education, but always wanted to be a lawyer. And when the opportunity came, and it came late in his life, he jumped at it. He took a huge leap, and I don't think he really needed advice from me other than how to navigate around the Law School.

What advice would you give to new lawyers?

Warren Estis: It's really a growing process of determining what you really like in the law and what you want to do. Don't decide in law school what you think you want to do. Go out, experience different aspects of the law, and then decide what you like and enjoy, because that's the most important thing. To me, every case is a challenge or a game of chess or Monopoly, and I enjoy the challenge.

Management was never one of my skills, and it never grew on me. I just love doing the litigation and going to court, and I told my son Alex, who just graduated from Brooklyn Law School, that he should find whatever he truly desires and likes. It shouldn't be just a job, and I could see over the three years of law school, he started feeling strongly that he wanted to get into litigation and do real estate litigation.

Gary Rosenberg: There is also a new skill that law students need to learn: how to talk on the phone. You cannot resolve differences in e-mail. Many of these students have lived their



Professor David Reiss in conversation with the graduates at Rosenberg & Estis

“Don’t decide in law school what you think you want to do. Go out, experience different aspects of the law, and then decide what you like and enjoy.”

— *Warren Estis '73*

lives being able to see what they write, and you can’t see what you speak. Once you’ve said it, you’ve said it. Right now, attorneys are coming out of law school, and they will not meet in person and they will not pick up the phone, and I think that’s really a skillset that people have totally lost. That needs to be taught, just like oral argument and moot court.

Your firm hires a lot of graduates of the Law School. What does the Law School do well to prepare our students for legal careers?

Deborah Riegel: They not only learn law, but they learn practice through the clinical programs—it’s useful to have students who walk in who have had some real experience. I also find that there is a real work ethic and a seriousness to how they approach what they’re doing. They are just smart, hungry, and collegial, and they all have a really good writing background as well, which is extremely important.

What is your greatest professional accomplishment?

Warren Estis: Gary and I started out with humble beginnings, and to be able to achieve the recognition and the reputation the firm has in the field of real estate litigation is something you could never dream of. When I look back and think about it, we made it in New York City, and Rosenberg & Estis is a household name when it comes to the field of real estate litigation. It’s quite an achievement.

Gary Rosenberg: One, the existence of the firm, but probably even more than that is the fact that the firm no longer is living or dying on Warren and myself.

Deborah Riegel: Becoming an equity partner here. It was a lot of work, but I made a conscious decision over the course of my career to make this my home. To watch the firm grow and then to have been honored to be asked to join the ownership is huge.

You’ve all been so generous to the Law School. What inspires you to give back?

Gary Rosenberg: The fact that I was able to afford law school is something that was very important to me. I owe a lot to Brooklyn, and I haven’t finished paying it yet.

Warren Estis: There have been three generations in my family going to Brooklyn Law School, so it’s important to us to give back.

Deborah Riegel: The Law School is the foundation for a lot of what I have done. I would love for every student to end up with a career arc like I’ve had, and to love what they’re doing, and to find their place. If I can help them do that, then it’s all good. ■

ClassNotes

1947

Joseph Crea, professor emeritus at Brooklyn Law School, celebrated his 102nd birthday in April. He was wished a happy birthday by Al Roker on the Today Show's Smucker's Celebrates segment.

1967

Harvey B. Besunder, partner at Bracken Margolin Besunder LLP, was the emcee of the Suffolk County Bar Association installation dinner in June 2017. He also served as moderator at the annual Forum on the Commercial Division with the Long Island Commercial Division Judges. He specializes in real estate and commercial litigation.

1971

P. Bruce Wright, partner in Eversheds Sutherland's tax practice group, was appointed chair for the captive insurance committee of the business law section of the American Bar Association. His three-year term began in September. Wright leads the captive insurance team of Eversheds Sutherland, counseling property and casualty insurance companies on tax and insurance law issues.

1974

Bernard V. Kleinman was interviewed by the *CTC Sentinel* (Vol. 10, No. 4), the journal of the Combating Terrorism Center at West Point. Kleinman maintains a private law

practice in White Plains, NY, specializing in federal criminal, civil rights, commercial, and constitutional law. He has served on the defense teams of several high-profile clients charged with terrorist crimes, including Ramzi Yousef and Khalid Sheikh Mohammed.

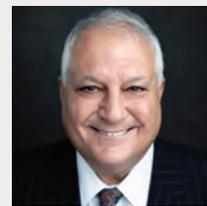
1975

Thomas F. Kelso, Middlesex County (NJ) counsel and senior partner of Kelso and Bradshaw, was honored by the American Repertory Ballet for his outstanding leadership in the arts community. He is a founding member and current chairman of the board of trustees of The New Brunswick Cultural Center, Inc. and previously served as the first chairman of the board of the State Theatre Regional Arts Center at New Brunswick, Inc. His practice focuses on land use, zoning and redevelopment, real estate, general litigation, and local government and public agency law.

1976

Harriett Galvin joined the Manhattan District Attorney's Office as its director of the legal writing program, where she has designed an Advocacy in Writing Workshop specifically for trial lawyers. She previously served for 25 years as an Assistant U.S. Attorney in the Southern District of Florida, handling cases before the 11th Circuit Court of Appeals.

1978



Vincent F. Pitta, managing partner of Pitta & Baione, received the 2017 Humanitarian

Award from the New York Board of Rabbis in cooperation with the Mariano Rivera Foundation. Pitta concentrates his practice in labor and management relations in the private and public sectors.

1979

Joseph Diamante, previously a partner at Stroock & Stroock & Lavan, joined King & Spalding as a partner in the firm's intellectual property, patent, trademark, and copyright litigation practice. He is based in the firm's New York office.

1983

David Edelberg, partner of Cullen and Dykman, was named president of the Bergen County Bar Association. Edelberg focuses his practice on bankruptcy, creditor's rights, and commercial litigation.

Bernie Nash '66

A.G. and Antitrust Pioneer

■ WHEN **BERNIE NASH '66** MOVED TO WASHINGTON, D.C., from New York after law school to work for the Securities and Exchange Commission, he planned to work for a few years and then move back home to continue his career. He never imagined spending 50 years practicing in D.C., and certainly couldn't predict that after empowering state attorneys general to file major lawsuits he would later defend clients in battles against those very A.G.s.



Nash is cochair of Cozen O'Connor's State A.G. Practice in Washington, D.C. He has litigated or settled billion-dollar cases in all 50 states, argued before the U.S. Supreme Court, and worked on multibillion-dollar mergers. His illustrious legal career began, perhaps surprisingly, with a degree in accounting.

Nash admitted that he wasn't the most dedicated student in college, but all that changed when he came to Brooklyn Law School, where he served as associate editor of the *Brooklyn Law Review*, earned several scholarships, and graduated second in his class. With

a J.D. in hand, he headed for the nation's capital. "I wanted a job that was more focused on policy, where the law was vague and I had to apply it to complex facts," he said.

At the SEC, Nash worked on applying antitrust laws and principles to the securities, electric, and gas utility industries, including Pennzoil's acquisition of United Gas in 1968. As Congress considered deregulating traditionally regulated industries such as securities, trucking, railroads,

airlines, and electric and gas utilities, representatives began calling to pick his brain. "Here was this kid from Delancey Street being called by the House and Senate," he said. "It was one of the biggest thrills for me." He was soon offered the position of assistant counsel to the Senate Antitrust Subcommittee in 1971 and remained in that position until 1977. He also assisted his boss, Sen. Philip Hart of Michigan, with his work on the committee investigating the Watergate scandal.

Nash is best known for drafting the Hart-Scott-Rodino Antitrust Act of 1976. The statute gave state attorneys the authority to file federal antitrust lawsuits, and gave the Department of Justice Antitrust Division authority to subpoena in civil antitrust investigations.

Nash left government work and founded his own firm, Nash, Railsback & Plesser, in 1977. The firm focused primarily on lobbying, until the early 1980s when David Boies, then at Cravath, involved Nash in his work for HBO, which wanted to fight five major movie companies' plan to freeze it out of showing blockbuster movies. Nash and Boies worked with a number of state A.G.s to secure a preliminary injunction, and the settlement that followed launched Nash back into the world of A.G. law.

In his more than 30 years working with state A.G.s, Nash says the biggest change has been to their image and influence. "In the 1980s, A.G.s were not well known to be significant enforcers of federal law," he said. "Now they are in the headlines every day."

Nash said he hasn't lost any enthusiasm for his work, savoring the opportunity to craft creative strategies for a wide variety of high-profile clients, including Pfizer, AT&T, Intuit, Prudential, MasterCard, and Barclays Bank, as well as influence policy. ■

— Kaitlin Ugolik Phillips

Brooklyn Law School Family Reunion: Military Style

JAG Officers Dong Joo Lee '13 and Gabe Park '13 Surprised When They Found Themselves at the Same Naval Station

In a world full of busy schedules and high-pressure careers, keeping in touch can be a difficult thing to do. Such was the case for Class of 2013 members Navy Lieutenant Dong Joo Lee and Air Force Captain Gabe Park. "We are really good friends dating back to our BLS days," said Park, "but we hadn't seen each other since our graduation in 2013." The two reconnected in June, finding to their surprise that they were both attending trainings at the Naval Station in Newport, RI. Both Park and Lee joined the Judge Advocate General (JAG) Corps right out of law school.

Until recently, Lee was stationed as a prosecutor in Washington, D.C. He has represented sailors in hearings as a

defense attorney, prepared them before deployment as a legal assistance attorney, and has advised commanders on ethics and administrative law as a staff judge advocate. Lee will be stationed in South Korea this fall. Park is currently stationed at Osan Air Base in South Korea and is assigned to the 51st Fighter Wing as an advisor on disciplinary and criminal matters, as well as a prosecutor for cases in military courts-martial. Previously, Park was stationed at Royal Air Force Lakenheath in the U.K. with the 48th Fighter Wing where he focused on legal assistance, claims, and prosecuting cases for the base.

Both were very active during their time at the Law School. Park served on the executive



board for the Asian-Pacific American Law Students Association (APALSA), was a member of the Moot Court Trial Division, and served as an executive editor for the *Brooklyn Journal of International Law*. Lee served as vice president of the Student Bar Association, president of APALSA, and a member of the Moot Court Trial Division. ■

1985

Meryl R. Cosentino, senior director of gift planning for Stony Brook University, was elected to serve a three-year term as a member of the board of directors for the National Association of Charitable Gift Planners. Cosentino recently completed a two-year term as president of the Philanthropic Planning Group of Greater New York.

1988

Debra Tama, formerly a partner at Akerman, rejoined Wilson Elser's New York City office as a partner, representing European insurers, reinsurers, manufacturers, financial services providers, and other entities in litigation in the United States. She began her career at Wilson Elser in 1988.

1989

Terri Herubin joined investment firm Angelo, Gordon & Co. as a managing director. Based in New York, she oversees client service for the firm's real estate portfolios and serves as the real estate product specialist for the firm. She was formerly managing director and portfolio manager at Barings Real Estate.

1991

Matthew Cohen was appointed general counsel of Ominto, Inc., a global e-commerce platform for online cash back shopping. Based in the company's corporate headquarters in Boca Raton, FL, Cohen is responsible for legal affairs globally, including corporate governance. He was formerly executive vice president and general counsel of Stratex Oil & Gas Holdings, Inc.

Richard A. McGuirk returned to Nixon Peabody's Rochester office as a partner in the firm's commercial and IP litigation practice. He was previously an attorney in Nixon Peabody's litigation practice from 1999 through 2010, and was elevated to partner in 2002, before joining LeClairRyan as a shareholder. McGuirk represents companies and individuals in complex commercial litigation, securities and derivative cases, IP litigation, and litigation arising from M&A transactions.

1992

Marci Waterman was named chief operating officer of SterlingRisk Insurance. She joined the company in 2013 and most recently served as chief administrative officer. She is also the managing director of Sterling Analytics, a legal auditing company owned by SterlingRisk. Prior to joining SterlingRisk, Waterman served as a senior assistant district attorney in the Brooklyn District Attorney's Office.

Michael Baston '97

Education for All



post-secondary education. He joined Berkeley College in 1999 as assistant dean of student affairs. Ten years later, he joined LaGuardia Community College, and rose through the ranks to become vice president for student affairs and enrollment, associate provost, and an assistant professor. LaGuardia held a special place in his heart, because of its location in Long Island City, where his parents grew up.

Baston was a seminal leader at LaGuardia known for integrating academics and student affairs and directing efforts to provide high-quality academic support services. He also served as the principal investigator for grant-funded programs totaling \$1.8 million, leading to improved retention for black males, Latinos, and students with disabilities.

“My goal was to redefine the

student experience and help them focus on developing a path that could lead to family-supporting wages,” he said.

Dean Nick Allard, who grew up in Rockland County, applauded the choice of Baston as president. “I learned firsthand about the critical education mission of community colleges, particularly RCC. We can expect great things from Michael Baston as the leader of a very important institution.”

At Rockland Community College, which enrolls 10,000 students, Baston is now overseeing the final stages of approval for a \$26.7 million privately funded residence hall project that will give students, for the first time ever, the option to live on campus while pursuing their studies. “This will take the college to a different place in terms of competitiveness, and may help expose people to Rockland who wind up feeling connected to the community and decide they ultimately want to live and work here,” he said.

Baston’s dedication extends beyond his community as well. As one of 12 coaches for the American Association of Community Colleges Pathways, he travels the country supporting college leadership teams that are implementing student success initiatives to advance college completion.

“We can’t build bridges to nowhere,” he said. “We have to get students on the path and have them stay on it so that they have the opportunity to move into the middle class.” ■

— Andrea Strong '94

■ WHEN **MICHAEL BASTON '97** WAS JUST EIGHT YEARS OLD, he told his mother that he wanted to be president one day. She encouraged him, saying that first he needed to go to college and law school.

“Looking back on it now,” Baston reflected, “she told me what I could do. She didn’t say, you can’t be president because you are black. And it was at that moment that I decided I would become a lawyer, because it would put me on the right path.” In July, he fulfilled his boyhood presidential dreams in another way, when he was appointed the 7th president of Rockland Community College.

Baston has a history of being a leader—he was a two-term president of the Student Bar Association at Brooklyn Law School and the regional representative to the National Black Law Students Association. He credits the Law School’s extensive clinical programs for developing his strong passion for social justice and public interest law. He pursued this interest through a judicial internship for Magistrate Judge Ronald L. Ellis and internships at the American Arbitration Association, the NAACP Legal Defense Fund, and Brooklyn Legal Services.

After graduating, he joined the firm of Dougherty & Associates, where he represented nonprofits and educational institutions. His first client was his alma mater, Iona College, and the experience of working with the school brought him into the world of

1993

Daniel W. Dienst was appointed to the board of directors of Knoll, Inc., a design firm and manufacturer of office systems, furniture, textiles, and accessories. Most recently, Dienst served as a director and chief executive officer of Martha Stewart Living Omnimedia, Inc., until its sale to Sequential Brands, Inc. in 2015. He previously served as group chief executive of Sims Metal Management, Ltd.

Ellen A. Marcus joined Statewide Abstract, a title insurance agency with offices in White Plains and Manhattan. She handles various aspects of title processing for the commercial and residential real estate industries.

1994



Frank Carone was elevated to name partner of Abrams Fensterman, which has changed

its official name to Abrams, Fensterman, Fensterman, Eisman, Formato, Ferrara, Wolf & Carone. His practice includes complex civil and criminal matters for individuals, corporations, governmental agencies, nonprofit organizations, and professional practices.

Deborah Epstein Henry, a recognized expert, consultant, and public speaker on women, careers, and the legal profession, received the Anne X. Alpern Award from the Pennsylvania Bar Association Commission on Women in the Profession. The award is presented annually to a female lawyer or judge who demonstrates excellence in the legal profession and who makes a significant professional impact on women in the law. Henry is the founder of Flex-Time Lawyers LLC and Bliss Lawyers.



Carolyn Pokorny was appointed chief special counsel for ethics, risk, and compliance by

New York Gov. Andrew M. Cuomo. Previously she served as deputy chief of staff and counselor to U.S. Attorney General Loretta E. Lynch and spent nearly 15 years with the U.S. Attorney's Office in the Eastern District of New York.

1995

Deirdre Feerick, senior director of the legal department at the Transport Workers Union of American Local 100, received the Mayo Woman of the Year award from the Mayo Society in New York at its 138th annual St. Patrick's Ball.

Stacey Rosenfeld joined Mestel & Company, a national attorney placement firm, as executive director. She specializes in the placement of partners, development of attorney groups, and facilitation of law firm mergers for the New York region.

1996



Andrew J. Smiley, partner of Smiley & Smiley, was elected president of the New York State

Academy of Trial Lawyers. He was sworn in by Hon. Rowan D. Wilson, associate judge of the New York State Court of Appeals, in May and will serve a one-year term.

Lowell J. Walters joined Carlton Fields as of counsel in the firm's Tampa office. He practices in the firm's business transactions practice group, focusing on employee benefit matters involving ERISA and the Internal Revenue Code, addressing issues affecting retirement and welfare plans for for-profit, non-profit, and governmental employers.

1998

Kristen N. Gizzi, general counsel for New York-based construction company ECCO III Enterprises, was inducted by the National Association of Professional Women into its 2017-2018 Woman of the Year Circle. Gizzi also serves as director of real estate for ECCO Development, and executive director of Litchfield Crossing, the largest retail shopping center in New Milford, CT.

Linda LoCascio, court attorney with the New York City Civil Court of Richmond County, NY was named president of the Columbian Lawyers Association of Brooklyn.

Scot Phelps was named director of the Office of Emergency Medical Services for the State of New Jersey. He is a full-time professor of ambulance and disaster science at the Emergency Management Academy of New York City and has served as a paramedic for 30 years.

Andrew L. Weitz, partner at WeitzPascale, had two settlements and one verdict featured in the *New York Law Journal's* annual review of top verdicts and settlements of 2016. He also delivered lectures in New York City and on Long Island to the New York State Academy of Trial Lawyers on the subject of punitive damages awards in automobile accident cases.

1999

David Ehrlich was named partner of Stagg, Terenzi, Confusione & Wabnik in Garden City, NY. He joined the firm in 2012 and represents businesses and employees in all aspects of labor and employment litigation.

Heather Mars '01

Digital Law Pioneer

■ GROWING UP IN A SMALL TOWN IN SOUTH CAROLINA, **Heather Mars '01** dreamed of moving to New York and becoming a criminal lawyer. She achieved the first dream when she came to Brooklyn Law School in 1998, but after a few volunteer shifts at family court in Downtown Brooklyn, she decided to explore other career options.

Today, after stints at CBS Digital and SONY, Mars is general counsel at TheStreet Inc., a financial media company, where she advises on editorial and advertising issues, copyright and trademark law, licensing and rights of privacy, and anything else that comes up in day-to-day business that requires legal expertise.

"I'm learning things every day that I never would have had exposure to at CBS and SONY," she said. "As general counsel, every single day there's a new issue that I have to tackle."

Classes at the Law School in First Amendment law and mass media, as well as an intellectual property internship with an attorney who represented photographers, brought Mars to her real calling: digital law.

She discovered a dynamic field that was quickly evolving—even the definition of "digital lawyer" has changed significantly since she started practicing. In her first job, at the software company Fame Information Services, Mars was the only lawyer in a company where everyone was figuring things out as they went along. "I was totally thrown to the lions, but I learned from really smart outside counsel who I called all the time," she said.

Mars then spent six years as associate general counsel at CBS MarketWatch, working primarily on transactional matters such as commercial contracts and licensing agreements. In 2007, she leveraged her transactional experience and digital acumen to become senior director of business and legal affairs at SONY Music Entertainment in their Global Digital Business division. While at SONY, Mars worked on selling the music company's catalogue to industry newcomers YouTube and Napster, as well as to Microsoft and several

cell phone companies. But she also worked directly with developers, helping them to figure out the best way to monetize their products.

Mars says it was an exciting time to learn by taking risks, experimenting with new products and partners. She carried that sense of adventure with her back to CBS Interactive in 2010, when she became senior director of business and legal affairs for the music and entertainment division. She was responsible for all legal matters connected to digital music initiatives, such as Grammy promotions and



live-streamed concerts by David Letterman's musical guests that were played for private audiences after tapings of his shows.

At TheStreet, where she has been general counsel since 2016, Mars once again finds herself picking up the phone to call outside peers for help.

"You can be crushing it in one little niche, but if you want to get out of your comfort zone and try new things, that means there will be times when you'll be a fish out of water," Mars said. "You have to be comfortable saying, 'I'll have to get back to you on that.'" ■

— Kaitlin Ugolik Phillips

2000

Vinoo Varghese, founder of Varghese & Associates, a Manhattan-based criminal defense and white-collar criminal defense firm, recently authored an op-ed, “Why O.J. Simpson Should Still be Killing Time in Prison” for the *New York Post* (July 20, 2017) on the subject of O.J. Simpson’s parole.

2001

Glenn D. Bell received his LL.M. in taxation from Boston University School of Law in May 2017. A solo practitioner in New York City, Bell’s areas of practice include trusts and estates, elder law, and real estate.

2003

Ory Apelboim joined Blank Rome’s matrimonial and family law group as an associate in the firm’s New York office. He concentrates his practice in all aspects of matrimonial and family law matters, including divorce, property distribution, child custody, and spousal and child support. He was previously an associate at Stein Riso Mantel McDonough.

Naomi D. Johnson joined Bullard Law, based in Portland, OR, as an associate. She focuses her practice on employment law, employment litigation, and employee and supervisory training. She was previously an associate at Ball Janik.



Winston Paes, former chief of the business and securities fraud section at the U.S. Attorney’s Office for the Eastern District

of New York, joined Debevoise & Plimpton’s New York office as counsel in the white-collar and regulatory defense group. As a federal prosecutor, he worked on notable cases relating to securities and accounting fraud, foreign bribery matters, insider trading, and Ponzi and kickback schemes.

Paul J. Proulx joined Carter Ledyard & Milburn as a partner in the firm’s real estate department. He focuses his practice on land use, zoning, and development matters, as well as general real estate transactions. He was previously senior counsel at Holland & Knight.

2004

Peter W. Hennessey was elected to the partnership of Ballard Spahr. Based in the firm’s Philadelphia office, Hennessey is a corporate and securities attorney who represents public and private companies, investment banks, and venture capital firms.

Kate D. Spinelli, partner at Weinberg Wheeler Hudgins Gunn and Dial in Miami, was selected to the 2017 Florida Rising Stars list. She joined the firm in 2011 and specializes in complex civil defense litigation.

2005

Reza Ebrahimi, previously an associate, was elevated to partner at Twomey, Latham, Shea, Kelley, Dubin & Quatararo in Riverhead, NY. He is a general practitioner with a concentration in commercial transactions, real estate, and business law.

Andrea Gildea joined digital money transfer company TransferWise as head of legal for the Americas. She was previously counsel at CLS Bank.

2006

Rachel Beardsley was named partner of Fragomen, where she practices business immigration law and advises clients on corporate immigration matters, including nonimmigrant visas, consular processing, permanent residence, and citizenship. She joined Fragomen as an associate in 2008.

Susan Cameron, previously an assistant attorney general in the labor bureau of the New York State Attorney General’s office, has been promoted to deputy bureau chief for the office’s health bureau. She is a former partner at Levy Ratner.

Gabrielle Glemann joined Stoel Rives as of counsel in the firm’s corporate group. Based in Seattle, she focuses her practice on national and international corporate bankruptcy and bankruptcy litigation matters. She was previously counsel at Hughes Hubbard & Reed in New York City.

Simon Lee was elected shareholder at Segal McCambridge Singer & Mahoney. He is a trial and appellate litigator in the firm’s New York office, and has represented various corporations and governmental entities in construction litigation, products liability, premises liability, toxic torts, and negligence.

David K. Ries was appointed deputy city attorney for the Office of the City Attorney of San Francisco. He serves on the health and human services team, providing legal advice to a number of city departments, including the Department of Public Health and the Department of Homelessness and Supportive Housing.

2007



Karen Kim, associate at Menaker & Herrmann, received the Power Woman in Business

award from the Star Network in May 2017. She was recently elected president of the Korean American Lawyers Association of Greater New York and began her two-year term in July 2017. She practices in corporate, real estate, and trademark law, and provides general counsel to architects and architecture firms.

Maryann Tharappel '11

Legal Services to Immigrants at Risk

- When **Maryann Tharappel '11**, Catholic Charities' first-ever Director of Special Projects for Immigrants and Refugees, started law school she thought she'd made a big mistake. Then she walked into the Civil Procedure class taught by Professor Maryellen Fullerton and everything changed.

"I can say without any hesitation she is the reason that I am an attorney," said Tharappel. With Fullerton's help and mentorship, Tharappel graduated and has excelled in her career, innovating the delivery of legal services to immigrant communities and changing many lives.

Tharappel joined the New York Legal Assistance Group (NYLAG) in 2012 as a deportation defense attorney. She was frustrated by the volume of cases and lack of attorneys to take them. "We were turning people away," she said. "There was a gap and people were falling into it."

Legal service nonprofits typically are strapped for resources, but instead of accepting the status quo, Tharappel changed the system. Through her work with NYLAG, she worked closely with local elected officials, community organizations, and parishes to bring legal services to communities at risk.

"The clinic model breaks down barriers for immigrants who are isolated," explained Tharappel. "When we bring a clinic to a school, a mosque, or a parish, they feel safe."

The community legal clinics allow three or four volunteers to do intake for one attorney. These pro bono volunteers, who are trained by Tharappel and her staff do not need to be lawyers or paralegals. They work with immigrants to fill out a screening tool Tharappel developed to determine a client's immigration options, serving up to 100 immigrants per location.

In the wake of the Trump Administration's immigration ban, Tharappel partnered with Professors Fullerton and Stacy Caplow to train a group of students, alumni, and faculty to create a Know Your Rights (KYR) project. The Law School hosted its first free community-wide KYR Workshop in April, and Caplow and Fullerton have hosted KYRs at other local public schools and for restaurant employees.

This model has defined Tharappel's remarkable career and has led to her speedy advancement through the ranks of NYLAG, where she was promoted to Clinic Program Coordinator by 2014 and Assistant Director of the Immigrant Protection Unit a year later.

At Catholic Charities, where Tharappel became the first

special project attorney at the end of 2015, she has expanded community based legal service delivery to severely under-served communities throughout the Lower Hudson Valley. She also developed and runs Catholic Charities ActionNYC programs, initiated by the Mayor's Office for Immigrant Affairs, an initiative in which Catholic Charities is the exclusive provider of legal services in New York City public schools.



Tharappel is currently developing, implementing, and managing all the agency's legal special projects programs, including the New York State Liberty Defense Pro Bono Representation Project, a new statewide immigration legal defense and pro bono legal services delivery project introduced by Governor Andrew Cuomo. "The goal is that the pro bono volunteer will eventually be trained well enough to take cases without any hand holding," said Tharappel. "When that happens, we have changed a community's capacity to provide immigrant legal services." ■ — *Andrea Strong '94*

2008

Shujah A. Awan joined BizCredit, an online small business financing platform, as corporate counsel, representing the company in general corporate and regulatory matters. He was previously in-house counsel at Nexlend Capital Partners LLC.

Hayden Goldblatt, counsel at Frankfurt Kurnit Klein & Selz, was named to *Variety's* Up Next List of the 2017 Legal Impact Report. He focuses his practice on motion picture, television, and digital media work.

Allan J. Rotlewicz, previously an associate at Rumberger, Kirk & Caldwell in Miami, joined Anchor Insurance Holdings as corporate counsel. The company is based out of St. Petersburg, FL, and primarily writes homeowner's insurance in catastrophe-prone areas.

Lauren A. (Jones) Watkins and **Marley J.D. Watkins '09** celebrated the birth of their first child, Zöe Watkins, on June 22, 2017.

2009

Jared Goodman is animal law director for People for the Ethical Treatment of Animals (PETA), whose legal team was named Best Legal Department of 2017 by *Corporate Counsel* magazine.

2010

Edward D. Baker joined Farrell Fritz as an associate in the firm's real estate litigation practice area. He was previously an associate at Abrams, Fensterman, Fensterman, Eisman, Formato, Ferrara & Wolf.

2011

Ashley Allison joined the Leadership Conference on Civil and Human Rights as senior advisor. She was previously deputy director and senior policy advisor in the White House Office of Public Engagement, where her primary policy focus was on criminal justice and policing reform.

Jennifer H. Bouriat joined the Pittsburgh office of Pietragallo Gordon Alfano Bosick & Raspanti as an associate in the government enforcement, compliance, and white collar litigation practice group. She was previously an associate at Winston & Strawn in New York.

Noah Doyle was named senior vice president of Battery Park Financial Partners at Janney Montgomery Scott LLC, where he currently manages over \$150 million in client assets. He previously managed Doyle & Associates at Merrill Lynch Wealth Management. Doyle also serves as chair of the board at Bronx Community Charter School and is the founder and president of the North Fork TV Festival.

Bradley M. Wanner, an associate at Harris Beach, received an Amicus Service award in April 2017 from the International Municipal Lawyers Association for drafting and submitting an amicus curiae brief to the New York State Court of Appeals in *Turturro v. City of New York* regarding governmental immunity for municipal roadway planning and design function.

2013

Patrick J. Mulqueen joined Goldberg Segalla as an associate in the firm's global insurance services practice group in Newark. He represents insurers, professionals, and companies in commercial coverage, professional and products liability, and personal injury. He was previously with Tompkins, McGuire, Wachenfeld & Barry.

2014

Nate Hennagin joined SAG-AFTRA as counsel in the Los Angeles office. He was previously a labor and employment law associate at Shaevel & Krems in Boston.

Gideon Martin is assistant general counsel for the New York Hotel Trades Council. He previously worked at the National Labor Relations Board.

Taier Perlman joined Albany Law School's Government Law Center as staff attorney for the Rural Law Initiative, a pilot program aimed at expanding rural economic development in upstate New York. Perlman provides legal consultations and educational seminars to entrepreneurs, small businesses, and farmers on the legal issues facing these diverse businesses.

Hilary Weiss joined XL Catlin as underwriter, M&A, Americas, based in New York. She was previously an M&A insurance specialist at AIG.

2015

Diana Manakhimova joined the New York City office of Rawle & Henderson as an associate, focusing her law practice in the area of medical professional liability. She was previously an attorney for the New York City Law Department, Tort Division, Manhattan Borough Unit.

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In Memoriam

Neil P. Cohen

Neil P. Cohen, who served as a visiting professor at Brooklyn Law School for more than a decade, died suddenly on May 8 at age 72. Professor Cohen taught Criminal Procedure, Criminal Law, and Evidence at the Law School.

Cohen spent much of his 45-year teaching career at the University of Tennessee College of Law, where he was the UTK



Distinguished Service Professor of Law, the W.P. Toms Professor of Law, and the University Ombudsperson. After retiring from UT in 2006, he taught at Brooklyn Law School.

Cohen was well known for his scholarship on evidence and criminal law and procedure. He wrote numerous law review articles and

13 books, and he drafted the gender-neutral version of the Tennessee Rules of Appellate, Civil, Criminal, and Juvenile Procedure. He also revised the Rules of Criminal Procedure and played a part in drafting the Tennessee Rules of Evidence and the Tennessee Penal Code.

Prior to his teaching career, Cohen was a criminal defense lawyer, a special prosecutor with the Knox County (TN) District Attorney General's Office, and a law clerk to Hon. William Miller of the U.S. Court of Appeals for the Sixth Circuit.

Cohen was a cherished friend of many of his colleagues at the Law School. ■

Dr. Jerome Zwanger

Dr. Jerome Zwanger, husband of the late **Bernice L. Zwanger '49**, former president of the New York State Radiological Society, and codirector of the Plainview Hospital radiology department, died on April 29. Long-standing supporters of the Law School, Jerome and Bernice's generous contributions will continue to have an impact on the current and future Law School community.

In 2006, the Zwangers dedicated the Roberta Zwanger Reading Room in memory of their daughter. In 2013, the Zwangers established the Bernice Lomazov Zwanger Scholarship, which is awarded to a student who demonstrates both academic excellence and financial need. During her time at the

Law School, Bernice was one of only three women in her class.

Dr. Zwanger worked tirelessly in the field of radiology; he opened his own practice in Massapequa in 1952, not long after graduating from medical school. Throughout his years as a radiologist, Jerome held the title of assistant director of radiology at Long Island College Hospital, and codirector of the Plainview Hospital radiology department from 1960 to 1992. He was involved with several medical societies and served as president of the Naussau County Medical Society, the New York State Radiological Society, and the Long Island Radiological Society. ■



1951
Norman Sarnoff
May 2, 2017

1954
Theodore Kaplan
March 3, 2017

1962
Elaine B. Krouse
March 1, 2017

1965
Steven S. Mukamal
July 19, 2017

1981
Christopher Morley
June 19, 2017

1953
Arthur M. Henle
March 13, 2017

1959
I. Victor Belson
May 14, 2017

1963
Irwin R. Kaplan
July 16, 2017

1967
Angelo C. Baldi
June 4, 2017

2000
Amelia D. Blanquera
March 9, 2017

Arnold M. Malech
April 10, 2017

Charles Snow
August 28, 2017

1964
Arnold Kideckel
April 26, 2017

1980
Jeffrey S. Sherman
July 21, 2017

2003
Suzanne M. Wismer
March 17, 2017

William S. Cohen
April 14, 2017

Rudolph H. Bruer
July 12, 2017

By Professor Susan Herman, *President, ACLU*

The Battle Never Stays Won

The fight for civil rights and free speech in the U.S. is far from over

➤➤ **One thing Donald Trump should have learned during his first** months in office is that nobody is above the Constitution, not even the president. When Trump issued the Executive Order on immigration, known as the “travel ban,” attempting to block travel to the U.S. from several predominantly Muslim Middle East countries, multiple federal courts enjoined two different iterations of this law as unconstitutional. The Supreme Court allowed part of the ban to proceed, except as to immigrants with “bona fide relationships” in the U.S., and when the administration interpreted that exception as not covering grandparents, the courts rejected that limiting definition.

Trump is, of course, not the first to test the boundaries of executive power by laying out dragnets—overbroad policies sweeping in massive numbers of innocent people in the name of national security. After World War I, the so-called Palmer Raids led to the imprisonment and deportation of thousands of European immigrants, including Italians stereotyped as anarchists and Russians suspected of communist sympathies. *The Washington Post* editorialized that there was no time to waste on “constitutional hairsplitting” during the quest for security. In 1942, Franklin Roosevelt signed an Executive Order authorizing evacuation of all Japanese Americans—mostly United States citizens—on the West Coast. The theory was that some might secretly have been loyal to Japan and might assist an invasion of the United States. More than 40 years later, a federal court found that the government had greatly exaggerated its purported evidence about the nature and level of the threat; President Reagan and Congress issued an apology. Then came the xenophobia of the McCarthy era, when people were blacklisted because of their alleged association with communist ideas.

After Sept. 11, 2001, the Bush Administration deployed new dragnets expanding both detention and surveillance of Muslims. In one case handled by the ACLU, former University of Idaho student Abdullah al-Kidd was arrested under a material witness warrant, a ploy for arresting people the government did not have sufficient evidence to link with terrorism. Al-Kidd, a recent convert to Islam, had volunteered to help the FBI

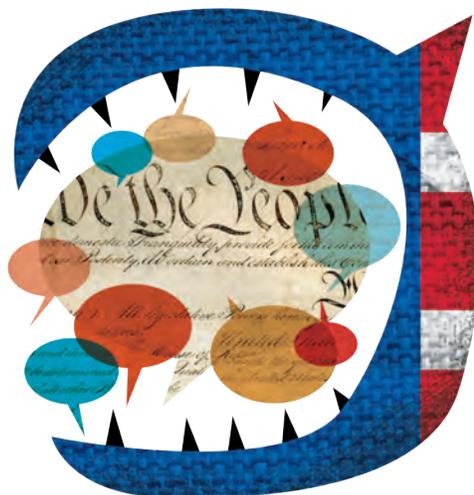
to understand the religion. Instead, he was arrested, ostensibly because his testimony was essential in the trial of another Idaho student, Sami Omar al-Hussayen, who was accused of supporting terrorism. Al-Kidd was never called to testify; al-Hussayen was acquitted by an Idaho jury. Years later, the ACLU won a settlement against the FBI agents who, in their zeal to detain al-Kidd, had filed incorrect and misleading allegations about him in their affidavit.

In all these instances, the government argued that it was necessary to take extreme action or change the law to meet national security threats. But the verdict of history—and often of courts—was that the government was overreacting, and overly willing to risk ruining the lives of innocent people because of their religious, ethnic, or political associations or beliefs.

In 1921, the ACLU published a pamphlet called “The Fight for Free Speech.” The organization went on to represent, among many others, John Thomas Scopes, who was prosecuted by Tennessee for teaching the theories of Charles Darwin. Although it never heard the Scopes case, by the mid-20th century the Supreme Court agreed that the First Amendment protects even unpopular or dissenting speech.

Yet today, we continue to face serious threats to free speech. Fifteen state legislatures are currently considering adopting legislation to discourage acts of protest by providing harsh criminal penalties. This is not only unconstitutional, but a threat to democracy.

As ACLU founder Roger Baldwin said, no civil liberties battle—including the battle to establish that dissent is patriotic—ever remains won. ■



Susan Herman, Centennial Professor of Law, is President of the American Civil Liberties Union. At the Law School, she teaches courses in Constitutional Law and Criminal Procedure, and seminars on Law and Literature, and Terrorism and Civil Liberties. She is a nationally recognized expert and prolific author in constitutional law and criminal procedure. She is the author of the award-winning book *TAKING LIBERTIES: THE WAR ON TERROR AND THE EROSION OF AMERICAN DEMOCRACY*.
➤ This essay has been adapted from Herman's Kessel Memorial Lecture at Minnesota State University in March.

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| Oct. 3 | <p>Book Launch and Reception
<i>The Introverted Lawyer: A Seven Step Journey Toward Authentically Empowered Advocacy</i>, by Professor Heidi K. Brown</p> | Nov. 10 | <p>International Business Law Symposium: Nationalism, Regionalism, and Globalism: The Future of Economic Integration
Sponsored by the Dennis J. Block Center for the Study of International Business Law</p> |
| Oct. 12 | <p>CUBE Networking and Panel Discussion: The Evolving Definition of Workspace
Sponsored by the Center for Urban Business Entrepreneurship (CUBE)</p> | Nov. 17 | <p>Fourth Annual Disability and Civil Rights Clinic Breakfast Roundtable</p> |
| Oct. 14 | <p>Washington, D.C. Alumni Event
Library of Congress</p> | Jan. 11-14 | <p>Business Boot Camp
Sponsored by the Center for the Study of Business Law and Regulation</p> |
| Oct. 19 | <p>Health Law Discussion and Alumni Reception: Money Changes Everything: The Congressional Budget Process and Health Reform
Sponsored by the Center for Health, Science & Public Policy</p> | Jan. 16 | <p>Spring Semester Begins</p> |
| Oct. 23 | <p>An Evening with Marty Singer '77
Sponsored by the Brooklyn Law School Entertainment and Sports Law Society</p> | Feb. 2 | <p>Alumni Association Annual Luncheon
Mandarin Oriental Hotel, New York City</p> |
| Oct. 25 | <p>Book Launch and Reception
<i>Social Enterprise Law: Trust, Public Benefit and Capital Markets</i>, by Dana Brakman Reiser and Steven Dean</p> | Feb. 9 | <p>Panel and Roundtable Discussion: What is a Drug Design Defect?
Sponsored by the Center for Health, Science and Public Policy and Arent Fox LLP</p> |
| Oct. 28 | <p>Prof. Robert M. Pitler Annual Program on Criminal Law, Procedure, Evidence & Ethics
Sponsored by the Center for Criminal Justice</p> | March 1 | <p>Barry L. Zaretsky Roundtable Discussion
Sponsored by the Center for Business Law and Regulation and the American Bankruptcy Institute</p> |
| Nov. 3-4 | <p>Young Bankruptcy Scholars Workshop
Sponsored by the Center for the Study of Business Law and Regulation and the American Bankruptcy Institute</p> | March 2 | <p>Symposium: The Market for Corporate Control in the Zone of Insolvency
Sponsored by the Center for Business Law and Regulation and The American Bankruptcy Institute</p> |
| | | March 22-24 | <p>33rd Dean Jerome Prince Memorial Evidence Moot Court Competition</p> |