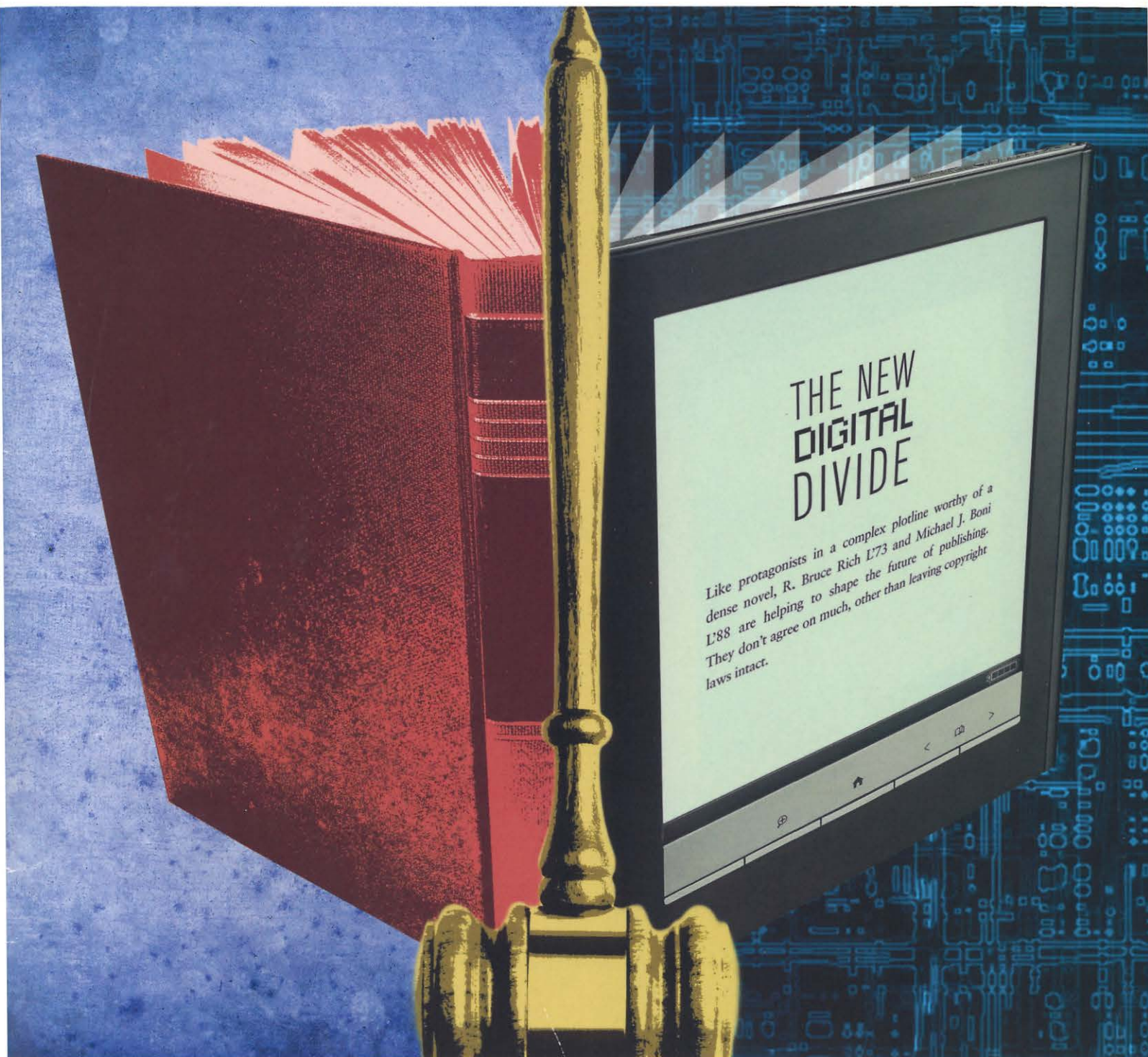


PENN LAW JOURNAL

UNIVERSITY OF PENNSYLVANIA

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Breaking New Ground [page 39](#)

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PENN LAW JOURNAL

FEATURES

The New Digital Divide 14

BY MARK EYERLY

Goodbye Gutenberg, Hello e-books. There's a lot to sort out with the advent of electronic publishing. Should authors and publishers maintain exclusive rights across platforms? Or should information be unencumbered and set free? R. Bruce Rich L'73 and Michael Boni L'88 are doing much of the sorting, and coming to very different conclusions.

The Music Bar 22

BY PAUL JABLOW, NICOLE PENSIERO, LARRY TEITELBAUM,
AND JIM WARKULWIZ

There's vocation, avocation and syncopation. Excuse Elizabeth Coleman, Stephen Goodman, Jon Houlon and El McMeen for blurring the lines between work and play. Each is an accomplished musician and, well, lawyers in their spare time. Call each full-fledged members of the Music Bar.

Un-Common Lawyers 30

BY AISHA MOHAMMED AND NANCY RASMUSSEN

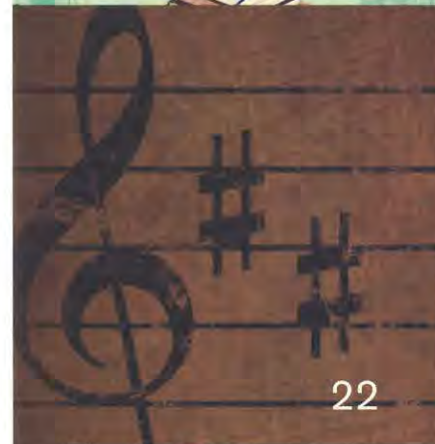
This summer, as they do every year, almost 100 students descended on campus to get a jump on the school year. But this is no refresher course. The students were learning the fundamentals of American law and getting familiar with a new culture. All in preparation for an intense one-year course of study, ending in an LLM degree. Meet two of them: Humira Noorestani and Yanqing (May) Liang.

Breaking New Ground 39

On a sun-splashed day in July several benefactors donned hard hats and stuck shovels into the ground to mark the beginning of construction on Golkin Hall, the new building to replace Pepper Hall. Come January 2012 the Law School will have completed the final stage in a decade-long makeover.

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A MESSAGE FROM THE DEAN



MICHAEL A. FITTS
Dean and Bernard G. Segal
Professor of Law

LAST FEBRUARY former U.S. Solicitor General Seth Waxman visited the law school to speak about the breakneck pace of technology — nearly 500,000 patent applications were filed in the United States in 2008 — and what it means for intellectual property law. In a fascinating and learned lecture, he spoke about the tensions between innovation and infringement, antitrust restrictions and intellectual property law, predicting that these and other thorny IP issues will fall to the Supreme Court if Congress fails to act, creating an entirely new field of law.

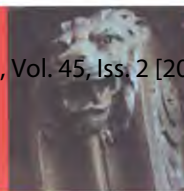
His address got me thinking about how much has changed in this field since I attended law school. When I went to law school thirty years ago, our vision of property was quite traditional. I thoroughly enjoyed learning the rules of perpetuities, vesting leases and so forth. However, I recognize that it all seems antiquated now. And this in the space of one generation! No longer do we think of property in solely physical terms. Today, the realm of property covers ideas and technology that could not have been imagined then. In this new digital age, lawyers, academics and even law school deans must consider a host of new questions about what constitutes property, and how to protect it.

With that in mind, we are devoting many pages in this issue to a broad discussion of e-books and what they portend for IP law. I often note that our alumni are leaders. And that holds true in this emerging field. The main subjects of our story — R. Bruce Rich L'73 and Michael Boni L'88 — have been involved in and on opposite sides of some of the most important digital-related copyright cases in recent years. They do not agree on much, but both believe that there is no need to rewrite IP laws. Both think it is better for content providers to adapt to new conditions.

In this, the publishing industry has a footprint to follow, or rather, a business model to avoid. Record companies paid a literal price for the prevalence of piracy, which led to the closing of retail music stores, a proliferation of lawsuits, and a campaign to stop illegal downloading. In this issue, however, we focus more on the pleasures of music rather than the mistakes of the music industry, featuring four alumni who are serious musicians as well as serious lawyers, demonstrating, again, that our graduates possess many talents.

In parting, we note the passing of Noyes Leech C'43, L'48 and Liz Kelly HOM '85. Noyes and Liz made an indelible impact on the Law School. A man of rich intellectual gifts, Noyes was a pioneer in international law. He trained hundreds of Penn Law students and in many ways embedded himself into the culture here. With indefatigable energy, Liz spearheaded the effort to build Biddle Law Library. It does not bear her name, but it bears her imprint. Farewell.

Mike



THE BRIEF

LAW SCHOOL

NEWS & EVENTS

Rapid Technological Change Thrusts IP Law to the Forefront

INTELLECTUAL PROPERTY LAW is nothing new in the United States — Congress passed its first patent statute in 1790 — but it is “more consequential today than ever before,” declared Seth Waxman during his Segal Lecture last February.

Waxman, former U.S. solicitor general, outlined some of the central questions surrounding IP law: Who should decide difficult questions of law and policy? How should innovation be encouraged, and infringement be remedied? How should IP law relate to regulatory law, such as antitrust restrictions?

“With the pace of technology in our country galloping along, and our economy in the throes of radical change, I don’t believe there is any more important area of law,” said Waxman, currently chair of the Appellate and Supreme Court Litigation Practice Group at Wilmer Hale in Washington, D.C. In 2008 alone, nearly 500,000 patent applications were filed in the United States, of which about 200,000 were granted.

Although the constitution gives Congress power over copyright and patent law,

most patent and copyright issues are left to the courts, according to Waxman. With the courts, judges decide some issues and juries decide others, but there is a “steady undercurrent of mistrust” about the ability of juries to decide complex infringement suits, he said.

On the production side, Waxman said, nobody knows how much incentive to provide IP innovators. Too much incentive leads to an overcrowded market, but too little can make innovation not worthwhile. One factor affecting this balance is whether rights can be enforced in practice. Copyright owners “increasingly find themselves playing whack-a-mole,” he said. As a result, companies often resort to private measures to avoid infringement, such as using encryption technology to protect their property.

Anti-monopoly law also affects the balance between innovation and free competition. From an antitrust point of view, Waxman asked, “Where does the legitimate exercise of copyright law end, and the infringement on competition begin?”

Waxman described two recent IP law cases to illustrate these areas of ambiguity. A group of publishers and authors sued Google for scanning and publishing online excerpts from books to which it did not have the rights. The parties worked out a “genuinely creative settlement,” according to



Seth Waxman

Waxman, where Google got non-exclusive rights to the material in exchange for sharing their revenues with rightsholders.

A case before the Supreme Court of the United States raises the question of whether a business method can be patented by linking it to particular software. Opponents say that intangible information is not patentable, and granting such patents would “open up backdoor patenting of business methods,” according to Waxman.

“In a rational world, this would be dealt with broadly and proscriptively by Congress,” Waxman said. “But if Congress doesn’t act, this will fall squarely to the Supreme Court to decide.” The Supreme Court is taking on more and more patent law cases, several of them filed by Waxman himself, and its decisions are truly defining the realm of U.S. IP trial litigation.

“The Supreme Court is basically opening up an entirely new field for us,” Waxman said.

Clerk and Friend Draws Loving Portrait of Judge Friendly

A PORTRAIT OF A JUDGE as wise as he was worldly emerged from the Owen J. Roberts Lecture in Constitutional Law last April. In the lecture, Judge Michael Boudin commemorated the judicial approach of a prior Roberts Lecture speaker: Judge Henry Friendly.

Friendly, who sat on the U.S. Court of Appeals for the Second Circuit for fifteen years, was considered one of finest judges of his era. Judge Boudin clerked for Friendly and remained friends with him for the rest of his life.

Judge Boudin said his mentor’s opinions are still among “the gold standards of American appellate judging.”

Accounting for his extraordinarily well-reasoned opinions, Judge Boudin said Friendly drew on years of lawyering at private firms and service as general counsel and vice president to Pan American World Airways, both of which made him keenly aware of “how the world worked.” But, he added, Friendly was also endowed with extraordinary legal acumen and analytical skills, evident from his “breathtaking” academic record at Harvard.

“It was the marriage of these very powerful intellectual gifts with his lived experience that accounts for the character and quality of his decisions,” Judge Boudin said.

“A sense of the practical – not just the abstract doctrine, but what it was going to produce, what the consequences were going to be – infused the judge’s persona.”

“A sense of the practical — not just the abstract doctrine, but what it was going to produce, what the consequences were going to be — infused the judge’s persona.”

That attitude was apparent, Judge Boudin recalled, in a case where the Interstate Commerce Commission accused a company of operating a motor carrier service without a certificate. Rather than employing drivers, this company found private individuals needing a ride somewhere to drive clients’ cars. Though he upheld the ICC’s claim, Friendly also admired the innovative spirit and usefulness of the company in his ruling, and noted that the ICC would have no reason to turn down the company’s application for a certificate.

Friendly’s ability to “reconcile the law with justice, or a more fair and reasonable result,” was, according to Judge Boudin, what made his opinions so widely compelling.

“The fact that he wrote with wit and scholarship was part of what gave his opinions carrying force, but the truth is that the ultimate power in them lies in their willingness to grapple with whatever the underlying issue was,” Judge Boudin said.

Key to Friendly’s judicial praxis was his meticulous consideration of any relevant precedents. “Like an archeologist, he could excavate down to prior versions of a statute and relate them to the present version, in aid of interpreting it,” Judge Boudin recalled. “He enjoyed identifying the real-world problem that had led to the statute, and trying to understand the compromises that had been made to reach it.”

Where did Friendly acquire his interest in the background circumstances of his cases, his interpretive skills and consideration of real-world consequences? Judge Boudin offered one clue: Friendly studied history as an undergraduate, he said, and seemed “always half in love with that calling.”

Panelists Render Their Own Split Decision on Citizens United

DO CORPORATIONS have the same right to spend money on political advocacy as individual voters? This was the underlying question taken up last May as Penn Law professors and distinguished alumni debated whether the Supreme Court's decision to overturn years of campaign finance law in the *Citizens United* case fundamentally corrupts or improves the political process.

During a panel discussion over Reunion weekend, professors Kermit Roosevelt and Seth Kreimer questioned the wisdom of the Supreme Court's 5-4 decision to allow unlimited corporate expenditures for political communications.

The case was brought to the Supreme Court in March by *Citizens United*, a nonprofit corporation that produced a documentary denouncing Hillary Clinton and wanted to make it freely available to video-on-demand viewers. A three-judge court had previously denied the corporation the right to do so.

But in his decision for the Supreme Court, Justice Kennedy wrote that corporations' First Amendment right to free speech would be violated if the government limited the amount they could spend on political communications, overruling previous Supreme Court opinions that legalized those limits, such as *Austin v. Michigan Chamber of Commerce* and *McConnell v. FEC*.

Kreimer noted that the case was decided on grounds not litigated in the trial court and criticized Kennedy's factual assumption: that Austin had been used to deprive U.S. citizens of ideas and expressions crucial to democracy.

"Any individual owner of a corporation burdened by the expense of having to set up a political action committee can simply make contributions in his or her own name," said Kreimer. "As a matter of real world observation of the airwaves around the recent health care debate, it is far from clear that there was much 'muffling' going on ... And it's also far from clear that our society suffers from a dearth of corporate political advocacy."

Roosevelt went further, suggesting that *Citizens United* may distort the political process by encouraging speech that deceives or falsely persuades an initially impartial audience. Corporate owners, he noted, have a legal obligation to maximize their shareholders' wealth, not to enhance democracy.

"Corporate speech is not likely to match up with the interests of flesh-and-blood people, or to be crucial for strong democratic deliberation," Roosevelt said.



Professor Seth Kreimer questions the wisdom of the Supreme Court's *Citizens United* decision.

But Andrew Morton L'00 dismissed such fears. "The Chicken Little hysteria about billions of dollars flooding into campaigns is just not happening," said Morton, an associate in the Government & Public Policy Department at Foley & Lardner in Washington, D.C. In fact, he argued, wealthy individuals and unincorporated entities wield more financial influence over elections than corporations.

Citizens United will "change the opportunity for small organizations under the corporate code to enter the political process in a way that's certainly not going to distort that process, but will, on the contrary, open up contrary perspectives," Morton said.

Judge Stewart Dalzell W'65, L'69 of the U.S. District Court for the Eastern District of Pennsylvania said the case might have ended differently if the FEC had a better lawyer at the start. During questioning by the justices, Deputy Solicitor General Malcolm L. Stewart claimed that the government could ban a book if it advocated a political candidate, citing the *McConnell*

case as support. Though Stewart was replaced when the case was reargued, Judge Dalzell said, his chain of reasoning may have convinced some justices that cases like *Austin* were fundamentally flawed.

“What started out as a narrow statutory issue, through the blunder of an advocate, turned into something much bigger indeed,” said Judge Dalzell.

Despite Reform, No Easy Cure for Bringing Down Health Care Costs

THE HEALTH CARE REFORM BILL passed in March increased Americans’ access to health insurance, but many challenges remain in bringing down costs, Penn Law professors agreed during a panel discussion over Reunion weekend.

“We’ve managed to get (nearly) everyone under the health care umbrella, but that was the easy problem, said Tom Baker, the William Maul Measey Professor of Law and Health Sciences. “The difficult problem is the health care costs.”

Not only does the United States far outspend other developed countries on health care, but health care costs here are rising more steeply than in the rest of the world. In 2005, the United States spent nearly twice as much on health care as other western countries, including Germany, France, Canada, and the United Kingdom, according to data from the Commonwealth Fund.

An increasing portion of Americans’ incomes will have to be spent on health care in the future, Baker predicted, since “at a time when wages are just barely keeping up with inflation, health insurance premiums are going up.”

“At some point, we will say we can no longer handle spending so much money on health care,” added professor Kristen Madison, an economist who conducts research in the areas of health law, health policy and the delivery of health care services. “But until that day comes, we’ll just keep putting off talking about it.”

According to Madison, no part of health care reform was “specifically directed” at cost reduction. That’s regrettable, she said, because health industry experts already know that a lot of the care provided today doesn’t really improve Americans’ health.

To combat that problem, Madison said insurance programs like Medicare have already devised payment mechanisms that incentivize health care providers to lower costs, such as reducing

payments to hospitals that have high readmission rates because of hospital-contracted illnesses.

Medicare will probably continue to be the leader in reducing provider costs with creative payment mechanisms, she said. And the federal government’s overall role in regulating health care benefits will increase, thanks to the reforms, Baker and Madison agreed.

The government will have to stay especially vigilant against insurers who try “rating” individuals based on their levels of risk, according to Baker. Now that pre-existing conditions are no longer grounds for exclusion from plans, he said, insurance providers may resort to sneaky tactics to attract healthier customers.

“They’ll start trying to invent plans that appeal disproportionately to low-risk individuals,” Baker predicted. “There will be a kind of cat-and-mouse game between insurance providers and regulators.”



Professor Tom Baker explains that there is no easy answer to rising health care costs.

THE BRIEF
LAW SCHOOL
NEWS & EVENTS



AP Photo/Jose Luis Magana

Former UN Ambassador John Bolton accuses President Obama of accepting American decline.

Bolton Criticizes Obama for Foreign Policy that Embraces American Decline

FORMER U.N. AMBASSADOR John Bolton opened his address at Penn Law in April with provocative words: “It is a curious fact about (President Obama) that he cares less about foreign policy and national security than any other American president since (Franklin D.) Roosevelt.”

In a speech sponsored by the Penn Law Federalist Society, Bolton explained why he finds Obama’s foreign policy so troubling. Obama’s approach to international affairs is shaped by the fact that he “sees American decline as both manageable and natural,” said Bolton, a diplomat in the Bush administration who now serves as an adviser to several conservative think tanks. In large part, Bolton said, that’s because Obama doesn’t believe in American exceptionalism. In Obama’s eyes, Bolton

lamented, the United States is “just another country on the UN roll call.”

Bolton charged the president with contributing to the decline of America as the world’s greatest power. Offering examples, he said the mission to keep Afghanistan stable and free from Taliban control will fail if U.S. troops are withdrawn in 2011, as President Obama promised. He also criticized the president’s spring summit on nuclear proliferation as little more than “two weeks of theater, as “meanwhile the centrifuges in Pyongyang and Tehran kept spinning.”

Obama’s strategy of containing and deterring nuclear stockpiling in those countries, in part by meeting with their leaders, is “the sheerest type of fantasy,” said Bolton, adding that he would attack and destroy the nuclear weapon programs if he were setting foreign policy. “It wouldn’t solve the problem, but it would buy us several years.”

Instead, Bolton said he expects international terrorism and nuclear proliferation to increase over the next few years as a result of President Obama’s ceding “American sovereignty into a broader international community.”

Continuing his critique, Bolton said international authorities, such as the UN Human Rights Council or the International Criminal Court, only acquire power at the expense of national sovereignty. But advocates of world government, he said, try to obfuscate that fact by raising alarm over worldwide “problems.”

“They’re dissatisfied with the political outcomes they’ve gotten through domestic debate, so they’ve expanded the issues into the international arena to arrive at positions they like more,” he said, citing climate change.

If Obama does not adopt a much more aggressive foreign policy and stop ceding U.S. sovereignty to international authorities, Bolton warned, the enemies of the United States will only grow bolder.

“It’s not American strength that’s provocative, it’s American weakness that’s provocative,” he said.

Consultant Advises Women Lawyers to Promote Themselves to Get Ahead

AT A LAW SCHOOL graduation ceremony, Deborah Epstein Henry once watched the female valedictorian of a class accidentally cede her spot at the front of the line to a male student. He crossed the stage before the other students, and received the ovation intended for the valedictorian.

Speaking at the Penn Law Women’s Association Annual Dinner, Henry said she “wanted to throttle that girl!” for giving up her place in line. It was at that long-ago graduation ceremony that Henry first realized something had to change about the way female lawyers are treated and treat themselves.

Law students are “zealously trained to advocate for our clients, but we sometimes forget to advocate for ourselves,” said Henry, founder and CEO of Flex-Time Lawyers, a consulting group that promotes the advancement of female lawyers and advises lawyers and employers on work-life balance. “There are intangibles to success, and something’s going on here where women are not succeeding.”

Statistics back up her claim. Nearly half of all law school graduates in this country are female, Henry said, but only one out of every six law firm equity partners is a woman. When it comes to associate partnership at firms, however, women are overrepresented.

According to one study Henry cited, having a child increases the chance that a female lawyer will leave her firm — but has the opposite effect on male lawyers. Henry encouraged female lawyers to make more use of the flexible work arrangements offered by most firms, which let lawyers work from home more easily and, she said, are “making work-life issues gender-neutral and mother-neutral.”

While salaries are more equal across the genders now, Henry said, bonuses are not. “Men have been negotiating for those bonuses behind the scenes while women just accept theirs.”

Women need to promote themselves more aggressively to keep up with their male colleagues in the legal profession, Henry said. She suggested that women keep a “brag memo” of their achievements to share with their supervisors, solicit mentoring from women in senior positions, and join the influential committees at their company.

Recruiting committees “are not where the power is at a firm,” Henry said. Instead, women can boost their standing at a firm by joining committees on executive management, compensation, or promotion.

“You have to chart your own way. Be involved in promotion, find out what they’re looking for,” she advised. “Networking is so integral to our success.”



TheSpot.com/Jon Krause

Sparer Speakers Call on Young Lawyers to Represent the Poor

IN HIS KEYNOTE ADDRESS at the 29th Annual Edward V. Sparer Symposium, Peter Edelman, a professor at the Georgetown University Law Center, issued a stirring summons to law school graduates to choose careers in legal aid.

“Whether you do indigent defense on the criminal side or work with poor defendants on the civil side, whether you do it full-time or part-time at a firm, we need you,” he said.

Edelman’s speech addressed an oft-overlooked population: individuals who can’t access the legal system because they are too poor or disenfranchised to hire a lawyer. Beyond expanding legal services, Edelman also urged lawyers to promote more progressive economic policies through impact litigation, noting that the U.S. poverty rate today is approximately the same as it was in the 1960s.

One of the most prominent public symposia in the country, the University of Pennsylvania Law School hosts the Sparer Symposium each year to commemorate the life and work of the late Edward V. Sparer, who was a Professor of Law and Social Policy at the Law School.

At this year’s event, which was organized by the Toll Public Interest Scholars, lawyers and law professors discussed the current landscape of legal aid organizations and the biggest obstacles that still prevent so many people from accessing justice.

In the second panel of the day, which was chaired by Penn Law lecturer Yolanda Vazquez, one speaker described the “iceberg” of cases in the United States that never even get heard because the parties involved cannot hire legal representation.

“We’re looking at the few who get into the system, and stopping there,” said Jeanne Charn, a professor at Harvard Law School.

Charn also criticized law schools’ “much-commented-on disposition of amorality,” observing that students are encouraged not to “be taken in by the sympathetic story,” but instead stay coldly focused on winning the case at hand.

Law students learn how to reason well by their second year, she pointed out, and should have more opportunities to gain practical lawyering experience and learn to “care about substantive justice, not just the process.” At Harvard in the 1970s, for instance, Charn helped set up a poverty law clinic to which 3Ls could devote their entire year.

“We can’t merely ensure that litigants leave courts feeling satisfied,” says Laura Abel. “We need to know that these programs are actually make the proceedings fairer.”

Laura Abel, deputy director of the Justice Program at the Brennan Center for Justice at New York University Law School, called for controlled, randomized tests to evaluate the effectiveness of existing legal services programs, such as “lawyer for a day” initiatives where lawyers spend one day representing clients pro bono.

“We can’t merely ensure that litigants leave courts feeling satisfied,” she said. “We need to know that these programs are actually make the proceedings fairer.”

Thomas Perez, assistant attorney general for the Civil Rights Division of the Department of Justice, was the symposium’s special guest. In a rousing speech at the end of the day, Perez informed the audience that many of the cases he sees at his current job feature pro bono counsel from large private firms. “That’s the only way some of these cases would have been brought,” he noted.

Perez urged law students to search their souls before deciding against a career in legal services. “Keep in mind, life is a team sport and this isn’t a dress rehearsal,” he said. “Too many lawyers don’t follow their heart and gut.”

Aron Urges Students to Enter Public Interest Law

WHEN NAN ARON ASKS lawyers about their lives, she notices a pattern.

Aron said the majority, who work for private firms, are usually focused on their retirement. But her few colleagues in public interest law are always excited about and eager to discuss their cases. Aron is no exception.

“There’s always a fight, there’s always a challenge, and it never goes away. Public interest law is not for the faint of heart,” she declared at the Public Interest Week Honorary Fellow-in-



Nan Aron, president of the Alliance for Justice, extols the virtues of a life in public life law.

Residence lecture in March, which was sponsored by the Toll Public Interest Center. Aron is founder and president of the Alliance for Justice, a national consortium of public interest and civil rights organizations.

In the lecture, she shared reflections on her own 37-year-long career in public interest law as well as some of the hottest public interest issues she sees today, and urged students to join the field after graduation.

Aron reminded the audience that law school graduates “don’t always get our first choice” of employment. She wanted a job in legal services after graduating, but instead started out as a trial attorney for the Equal Employment Opportunity Commission, which ended up being a “terrific experience,” she said.

In 1979, Aron founded the Alliance for Justice on a “tiny” grant. Recently, its focus was on the nomination of former Office of Legal Counsel Assistant Attorney General Jay Bybee to

be a judge on the Ninth Circuit. Bybee had refused to discuss the infamous memos he signed authorizing the CIA to use “enhanced interrogation techniques” on prisoners, but the Alliance for Justice asked the Senate not to approve his judgeship until he did.

“It is incumbent upon us, as lawyers, students, and teachers, to keep pressing the Justice Department to make sure that what happened at the Office of Legal Counsel never happens again,” declared Aron. “Hundreds of detainees lost their lives because of torture. It’s a stain on our country, and a stain on the legal profession.”

Opportunities to make a difference await lawyers who enter public interest law nowadays, Aron told the audience. “This is really the time to make change, to get in there.”

Affirmative Action: Does it Reduce or Perpetuate Inequality?

AFFIRMATIVE ACTION has been controversial since its inception in the 1960s, praised as a solution to racial inequality but also criticized as a perpetuator of it.

Both viewpoints were defended at the Law School last March, when the Penn Law Federalist Society organized a debate on the topic between Wade Henderson, president and CEO of the Leadership Conference on Civil Rights, and Linda Chavez, president of the Center for Equal Opportunity.

“Now is the time to end any preference based on race or ethnicity,” declared Chavez in her opening remarks. “Clearly, the color of one’s skin is not an absolute bar, as it was in 1965, to great achievements and success,” she added, referring to President Obama and former Secretaries of State Colin Powell and Condoleezza Rice.

“It’s not about equal achievement, it’s about equal opportunity,” rejoined Henderson. “It’s not appropriate to use the achievements of a select group of achievers” to assess the opportunities available to racial minorities in general, he said.

To Chavez, however, equal opportunity isn’t the real or intended objective of affirmative action nowadays. Though it was created to redress the harms of slavery and legalized discrimination, she said, it now exists to “promote the idea of diversity, which presumes that race and ethnicity mean something real.”

Admission programs that favor racial minorities thus amplify racist tendencies rather than correcting them, according to Chavez, and result in a “mismatch” between students and schools. Affirmative action “sweeps under the rug the reasons why a student got lousy SAT scores and accepts the student anyway. So it’s actually exacerbated the problem, it hasn’t addressed it,” she said.

“If we lived in a society where race was a minimal factor in making decisions, that statement might be right,” responded Henderson. “I wish that was the case. I would celebrate if it were.” But institutional racism still restricts the opportunities available to many people of color, he said, and “demography is destiny.”

As long as some individuals are still undeniably benefiting from affirmative action programs, Henderson concluded, schools should retain them.

Henderson named two such individuals: Supreme Court Justices Sonia Sotomayor and Clarence Thomas. Affirmative action didn’t give either justice an unfair advantage during their career, he said — it simply let them “compete in the same realm” as their white peers.

“I don’t think Sotomayor needed affirmative action to get where she got,” Chavez replied.

Debate moderator and Penn political science professor Rogers Smith summed up the outcome of the debate by placing it in historical context. Despite the overwhelming number of Americans from across the political spectrum who have, over the past few decades, “come to embrace the legacies of the civil rights era, those legacies are interpreted very differently by different people,” he said.





Joe Gatto L'84, WG'84 provides inside perspective on fall of Lehman Brothers.

Gatto Offers Insider's View of Fall of Lehman Brothers

IN 2005, AFTER 21 YEARS in the consumer products and mergers & acquisitions practices of Goldman, Sachs & Co., Joseph Gatto L'84, WG'84 received a call from a headhunter at a rapidly growing financial services firm on Wall Street. Top management targeted him to help lead their investment banking division. It was an exciting opportunity, and Gatto took it.

Gatto's new employer was Lehman Brothers: the firm that would, three years later, file the largest bankruptcy in U.S. history. Soon after, Barclays PLC acquired Lehman's North American business.

His time at Lehman Brothers allowed him to "witness, from center stage, the worst financial crisis in 75 years," said Gatto, who now works at Barclays as chairman of Investment Banking for the Americas.

At the Law and Entrepreneurship Lecture sponsored by the Institute for Law and Economics last spring, Gatto described how the crisis unfolded from his perspective, and offered sobering insights into the factors that brought it about.

When he arrived at Lehman Brothers, Gatto said, the company as a whole was expanding its global network and rapidly growing in revenue, even as its workers became increasingly aware that the market and Lehman's own holdings were overheated with lower-rated asset-backed securities, such as bundles of mortgages unlikely to be paid.

In Lehman's highest ranks, Gatto recalled, executives and investment bankers "clashed over the acceptable level of risk to take," with the president of the company pushing for riskier acquisitions and the associates wary of them. The process of

marking asset values had become more subjective than Lehman's board and top management realized, said Gatto.

"When the business environment feels too good to be true, you better start contingency-planning," said Gatto. "There was no contingency plan whatsoever for Lehman's bankruptcy."

Even as late as 2007, "there was no real sense of crisis at Lehman," according to Gatto. But with the demise of Bear Stearns in early 2008 which highlighted both a shoddy asset base and liquidity risks, investors began losing confidence in major financial firms. Lehman reported what Gatto called a "devastating" loss of \$5 per share in the second quarter of 2008.

"By now, the world knew that Lehman had serious balance sheet problems," he said. Gatto and other managers held frequent meetings to reassure employees and investors about the firm's future and focused on closing transactions, while Lehman's executives sought a buyer for the company.

From the past few years, Gatto said, he's gleaned some difficult wisdom about navigating the "present financial era of rapid-fire turbulence and imbalance."

Teamwork and strong market intelligence are crucial, according to Gatto. Ideological bents, such as the belief that the market "basically regulates itself," are destructive. And, he warned, "there's a fine line between boldness and recklessness."



Like protagonists in a complex plotline worthy of a dense novel,
R. Bruce Rich L'73 and Michael J. Boni L'88 are

THE NEW DIGITAL DIVIDE

helping to shape the future of publishing.

They don't agree on much, other than leaving copyright laws intact.

Two Leading IP Lawyers Take Opposing Sides in the Battle Over e-Book Rights

BY MARK EYERLY

Amazon sells more e-books for Kindle than it does hardbacks, Barnes & Noble is for sale, and someone suggested on Twitter that newspapers rename their local obituary pages “subscriber countdown.” And a federal judge is, as of this writing, reviewing a proposed settlement allowing Google to make more than 10 million books available online, including works for which it holds no license.

All of which leads former U.S. Solicitor General Seth Waxman to say of intellectual property law: “I don’t think there is any body of law that is more consequential to our national fortunes. It seems to me that precious little is competitively produced in the United States other than intellectual property,” he told a Penn Law audience in February during his Segal Lecture. “It’s moments like this when advocates who think strategically have an opportunity to shape the law at its core.”

Two of those advocates — R. Bruce Rich L’73 and Michael J. Boni L’88 — today find themselves at the very center of legal activity moving the reading world from print to digital, including Boni’s representation of the plaintiffs in *Authors Guild v. Google*, Rich’s representation of the plaintiffs in *Barclays Capital v. Theflyonthewall*, and their roles as opposing counsel in *Random House (Rich) v. Rosetta Books (Boni)*.

Both learned the intricacies of copyright in a course taught by Penn Law Professor Bob Gorman. Rich, who “developed the bug” for IP in Gorman’s course, is litigation partner at Weil Gotshal in New York and has become one of America’s leading IP lawyers. The other, Boni, co-founder of the firm Boni & Zack in Bala Cynwyd, Pa., spent more than a decade as an anti-trust lawyer until a Penn Law classmate (Robin Davis Miller L’88) made an introduction to the Authors Guild, which led to his very first copyright case, where he represented freelance authors. While neither could speak in too much detail about active cases, both were willing to discuss their assessments of the impact of electronic publishing.

Rich, who helped create the nation’s pre-eminent music licensing practice and whose clients have included Walt Disney

Co., McGraw-Hill Companies and the Association of American Publishers, is a veteran of the digital-era copyright wars. Music fans will remember the industry’s repeated lawsuits against Web sites (think Napster) that shared digital music files for free. The music industry flourished online primarily after broadening its focus beyond preventing downloads to saying, in effect, “we welcome the easy access of the digital world, provided customers pay the fee” (think 99-cent downloads for single songs).

Music’s experience holds two lessons for authors, book publishers and newspapers, Rich says. First, using IP law to steer the digital economy is inadvisable and can even be misguided. It is one thing to enforce existing rights; it is another to use copyright in an attempt to perpetuate outdated business models or thwart innovative new ones. Second, existing copyright law is generally flexible enough to adapt to most applications brought about by new media. The impulse to run to Congress to “fix” unresolved issues invites patchwork solutions that often are the product of backroom bargaining among the interested parties as opposed to considered policy-making.

“Rights owners should experiment with new markets,” Rich says. “Concerns over initially underselling the value of digital rights — which results in the withholding of licenses or demanding exorbitant license fees — can thwart innovation and contract the very markets that content owners should want to see develop. There’s time enough to come back and revisit fair market value.”

One common law rule that Rich has advocated in a current lawsuit has clear application in the online world — the generally unpopular “hot news” misappropriation doctrine that originated in the 1918 Supreme Court ruling in *International News Service v. Associated Press*. [See accompanying story.] In that case, the court found a quasi-property right in time-sensitive news coverage, holding that AP’s competitor, INS, could not systematically distribute AP’s breaking news for the

period of time in which reporting the information had significant commercial value.

In early August, Rich argued before the U.S. Court of Appeals for the Second Circuit in *Barclays Capital v. Theflyonthewall* that a similar standard should apply to aggregator Web sites that systematically collect and instantaneously post the most actionable buy-sell recommendations extracted from brokerage firms' proprietary research.

"There's always a powerful impulse to saying information yearns to be free, that in a world of instantaneous communications it's socially undesirable to put a lock on information," Rich acknowledges. "If you say that fast enough, it sounds good. But in the real world there can be a countervailing social interest. If somebody can simply come along at little or no cost to himself

and republish information generated at great cost by a competitor, so that it reaches the same intended audience nearly at the same time, then where is the economic incentive to generate the information in the first place?"

The most ballyhooed case in the burgeoning digital world — *Authors Guild v. Google* — is "one of the greatest, most beneficial class actions of which I am aware" according to Boni, who represents the Authors Guild in the case.

"I never dreamed of cozying up to the literary world," and "would not trade my practice for anyone's," says Boni. The Google case originated as a narrowly defined fair use dispute regarding Google's plan to electronically scan millions of books, index them online, and provide snippets of the books as part of search results — all without permission of copyright hold-

R. Bruce Rich L'73 (left) and Michael J. Boni L'88: excellent adversaries in the fight over electronic books and copyright.



THE NEW DIGITAL DIVIDE

ers. The case's evolution into a class action settlement on behalf of all copyright holders that would lead to widescale selling of digitized books has led to "a staggeringly beautiful settlement for the class and for society," Boni argues. "Technology and markets are pushing the outer boundaries of IP law, and this kind of settlement is necessary to protect rightsholders' interests in the digital age."

In overly simplistic terms, the settlement would give Google a non-exclusive right to digitize and sell out-of-print books under copyright, as long as the copyright holder does not object, and a non-exclusive right to sell in-print books if both the author and publisher expressly permit Google to do so; rights holders would receive 63 percent of Google's revenue from the sale. Critics of the settlement object to forcing copyright holders of out-of-print books to actively assert their rights instead of requiring Google to first seek permission before displaying those books. But for Boni, "Copyright exists to encourage creative works not solely

to the \$9 million spent to give notice of the settlement and the more than 600,000 out-of-print books for which ownership already has been claimed since the settlement was announced, which is twice the number of books available on a Kindle. The settlement also calls for establishment of a Book Rights Registry that would collect revenue from Google and locate the rights holders entitled to that money. From Boni's perspective, the Google settlement *creates* a new market for out-of-print works. "Authors write books for one or both of two reasons: for others to read their works, and to get paid," Boni says. "This settlement has breathed new commercial life in and a new audience for out-of-print books."

It was nearly a decade ago — well before e-readers had created a sustainable market for themselves — when Boni and Rich found themselves on opposite sides of the case that would become a precursor for the major copyright disputes originating from the development of digital books. A new internet company,

"Rights owners should experiment with new markets," says R. Bruce Rich. "Concerns over initially underselling the value of digital rights — which results in the withholding of licenses or demanding exorbitant license fees — can thwart innovation and contract the very markets that content owners should want to see develop."

for the benefit of the creator, but also for the public good." The proposed settlement will make the aggregated holdings of top libraries, especially their out-of-print titles, available to the poor or those living in rural areas, people who otherwise would not have access to those works, he says. If approved, the Google settlement will make "the largest library of books ever assembled available for free to every person in the U.S.," he adds.

The criticism that rights holders of "orphan works" — out-of-print books still under copyright for which the authors cannot be found — are being cheated by the settlement is a myth, Boni says. Unlike photographs in books that do not identify the photographer, there is substantial identifying information about the author and publisher of out-of-print books. Authors' licensing and collecting societies have enjoyed success rates of 85 percent to 95 percent finding authors of out-of-print books to pay them photocopy royalties. Boni also points

Rosetta Books (represented by Boni), went directly to authors such as Kurt Vonnegut Jr. and William Styron to acquire from them the e-book rights to their books that had been published under the Random House imprint. Random House (represented by Rich) claimed that it owned the rights to the books regardless of whether they were published in print or digital form.

(Boni calls Rich "an excellent adversary. I have the highest respect for his legal acumen." Rich returns the compliment: "Mike is a tenacious, clever and resourceful lawyer who was, at the same time, a gracious adversary.")

The courts twice rejected Random House's argument at the preliminary injunction stage (the Second Circuit explicitly refrained from expressing a view as to the ultimate merits of the dispute) and the two companies settled in a manner that left unresolved whether e-book publishers are *required* to seek a license from print publishers before securing e-rights

Balganesh: NO ONE 'OWNS' THE NEWS

As a boy growing up in India, Shyam Balganesh spent 30 minutes each morning reading the newspaper. Today, as an assistant professor at Penn Law, he still spends part of each day reading the news. At his computer. And he is not alone.

Newspapers are going bust not because of inadequate demand for news; they are going bust because readers and advertisers are abandoning print for the Internet, including so-called aggregator Web sites that pull together stories from newspapers and other sources, and do so at little cost to them.

"I do not have an answer on how to save newspapers," Balganesh says. But he does believe he knows what will *not* work: reinvigorating the doctrine of hot news misappropriation. "The newspaper industry should be looking elsewhere for its Nirvana," he says. "The solution has to be much broader than tinkering with intellectual property regimes."

In a forthcoming paper titled "'Hot News': The Enduring Myth of Property in News," Balganesh recounts that in 1884 the newspaper industry failed to convince Congress to expand copyright to cover an eight-hour window of exclusivity for published news. A 1918 Supreme Court decision, *International News Service v. Associated Press*, did find what it called a "quasi-property" right in news, holding that news stories could not be copied or rewritten by a competitor in the same market for a short period of time in which the information had significant commercial value. That "hot news" doctrine was reaffirmed by New York's Second Circuit in 1997, when it ruled that competitors could not free-ride on another's news gathering when the original reporting involved significant expenditure and the information was time-sensitive.

Today, some in the newspaper industry are running

toward the "hot news doctrine" as the panacea that will allow them to license their online content, charging any Web site or blogger who uses or links to its news. The Associated Press, for example, is building a database that would let it charge a fee each time one of its headlines is used.

But "using property to protect the news has been rejected for the past century," Balganesh says. Anyone relying on the "hot news doctrine" is misreading the history. "There's this folklore that 'hot news' created a property right in news," he explains. "In reality, it clearly was directed *against* the idea of property in news; it focused on unfair competition and unjust enrichment without propertizing the news. Few recognize the importance of this distinction."

No one "owns" the news, Balganesh says. Instead of trying to use intellectual property to increase revenue by charging others, the newspaper industry should focus instead on reducing and sharing the costs of newsgathering. Suggestions made to a Federal Trade Commission committee on the future of newspapers included relaxing antitrust exemptions, taxing e-readers with revenue allocated to the news and book publishing industries, creating an AmeriCorps type of fund

to pay young people to go into journalism, turning newspapers into nonprofits, and more. Any of which, Balganesh argues, would be more appropriate than "hot news."

So why the confusion? Balganesh says it goes back to the use of the word "quasi-property" in that 1918 Supreme Court decision. Too many people focus on the word "property" and too few focus on the word "quasi," he explains. "In the process, they completely ignore the nuanced wisdom of the common law that the Court's 1918 solution recognized."



Music Industry WISER After Surviving DIGITAL WAVE



Shira Perlmutter L'83 was planning on a singing career after she graduated from college, but later decided life needed more structure. Where better to get structure than law school?

Today she is the executive vice president and director of global legal policy for IFPI, a London-based trade association that represents the recording industry worldwide, with some 1,400 members in 66 countries and affiliated industry associations in 45 countries.

"I never thought I would end up doing this; I never knew there were jobs like this when I was in law school," Perlmutter says.

Before joining IFPI five years ago to lead its global mission of promoting recorded music, safeguarding the rights of record producers and expanding the commercial uses of recorded music, Perlmutter held several leading roles in the intellectual property arena, including head of IP for Time Warner, consulting with the World Intellectual Property Organization, and leading the Office of Policy and International Affairs in the U.S. Copyright Office.

"The music industry was the first to be hit by the digital tsunami," she recalls. "It took a little time to see what's happening, adjust to it and put together new business models. Today, our industry is licensing like mad to get as many distribution options out there as we can, to see which will take off and be successful."

Her advice to the book publishing industry: "There's no one simple answer. You must provide new offerings for consumers to enjoy content online and at same time make sure that laws are enforced so there are reasons for people to pay for content. Finally, it helps to educate the public about what copyright is and why we have it.

"Put those three pieces together, and we can have a healthy copyright environment," she says.

from authors. At least in one instance that question has been resolved — or short-circuited, if you will. Over the summer literary agent Andrew Wylie announced that he had reached an exclusive agreement with Amazon to publish Kindle versions of older, in-print books by authors he represents, including Philip Roth, Ralph Ellison and Norman Mailer, without seeking a license from their print publishers. In late August, Random House said it now owned the rights to the e-books under a financial agreement with Wylie.

Still, the critical question — exactly what is a book? — remains unresolved and is about to become even more complicated. For example, the bestselling print book *Nixonland* has been re-issued as an “*enhanced* e-book,” incorporating video segments from CBS News to take full advantage of features of-

democratic process, given that Congress has several times failed to act on legislation regarding digital access to printed books still under copyright.

Boni says that he does not “subscribe to the view that our copyright laws have been or will soon be antiquated by advances in digital technology,” a point about which he generally agrees with fellow Penn Law graduate Rich. “The markets are responding quite well to such advances. TV networks are licensing content to Hulu and YouTube, the movie industry is licensing movies for ‘on demand’ viewing, and although it took longer than it ever should, the music industry is slowly gaining ground by selling songs through iTunes, Pandora and Rhapsody.

“I’m not sure the question is ‘What does copyright look like five years from now in the digital age?’ so much as it is this:

“Technology and markets are pushing the outer boundaries of IP law, and this kind of settlement is necessary to protect rightsholders’ interests in the digital age,” argues Boni.

ferred by a range of digital devices, including the iPad.

So far, little has been resolved about how intellectual property law can and should address and accommodate the ease of access, duplication and distribution that the digital world makes possible. As long ago as 2003, a *Columbia Law Review* essay by Penn Law Professor R. Polk Wagner titled “Information Wants to be Free: Intellectual Property and the Mythologies of Control” argued for more stringent copyright protection for the emerging digital era. “Even perfectly controlled works nonetheless transfer significant information into the public domain,” Wagner wrote. “Additional control is likely to stimulate additional works — and thus grow the public domain, even assuming no access to the protected work itself.” But in a paper titled “From Beyond Fair Use” to be published next year by *Cornell Law Review*, Penn Law Professor Gideon Parchomovsky argues that the digital age requires a new approach to intellectual property that would require copyright owners to increase reader access and provide broader opportunities for others to re-use their works. And Christopher S. Yoo, Penn Law professor and director of the Center for Technology, Innovation, and Competition, notes that some are concerned that developments such as the Google settlement could represent an end-run around the

“How, under the strictures of the present copyright laws, will content providers’ businesses adapt in light of the ever increasing consumption of content via digital media?” Boni says, adding: “The explosion of digital consumption of content has implications not only for the copyright laws but also the antitrust laws.” In fact, Connecticut is investigating possible anti-competitive practices in the online pricing of e-books.

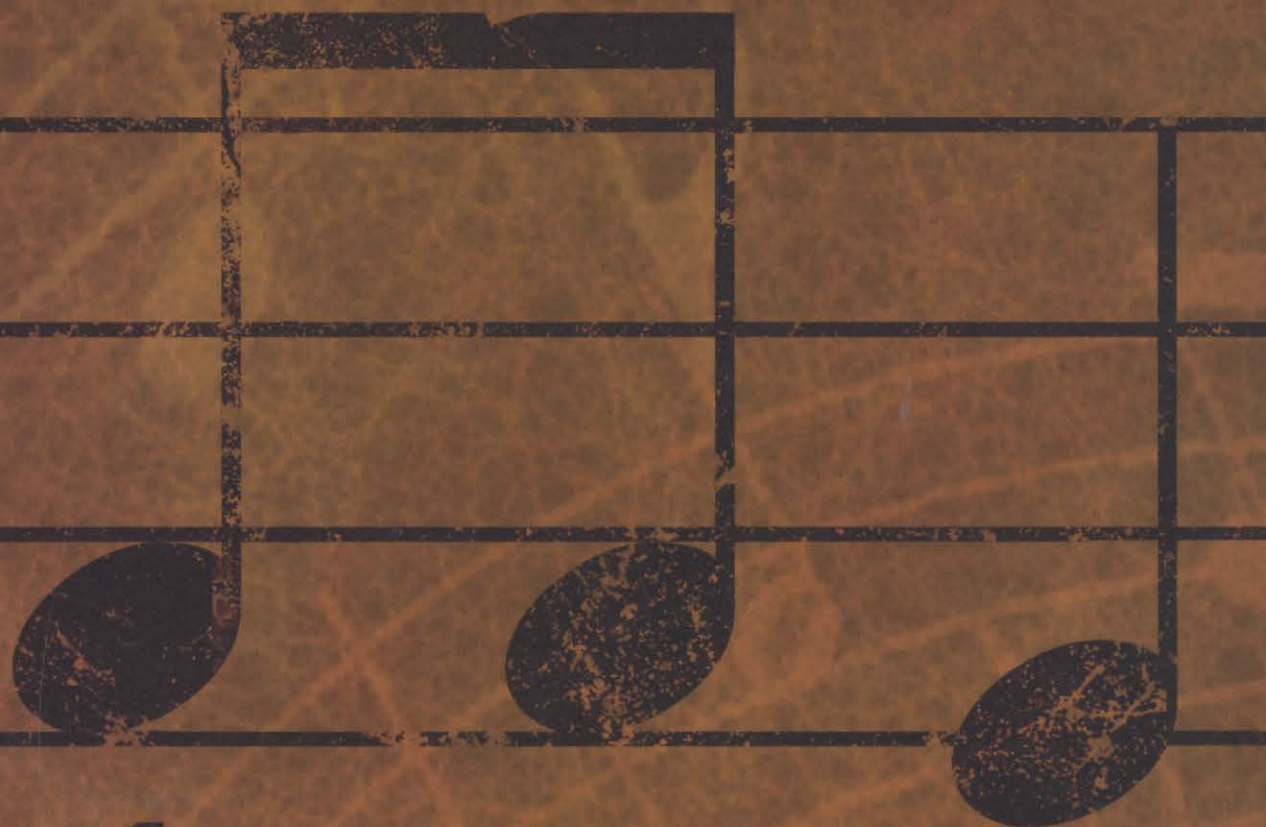
Rich, who is “acclimating to a Kindle for some reading,” says that “the legal grays are likely to remain for some period of time as technology, business platforms and the law evolve. Having practiced copyright law for more than 30 years, I don’t think we should hold our breath for the day when a crystalline portrait of the law in this area emerges.”

This means, Rich concludes, “The most fun — at least from an IP lawyer’s perspective — still lies ahead. Every day seems to bring a new issue, and challenge, to be resolved. Having the opportunity to shape the law in this area is hugely exciting. It’s what keeps me and my colleagues energized.” ^{PLJ}

MARK EYERLY, A FORMER ADMINISTRATOR AT PENN LAW, IS EXECUTIVE DIRECTOR OF COMMUNICATIONS AT DREXEL UNIVERSITY’S LEBOW COLLEGE OF BUSINESS.



THE



MUSIC BAR

There is no music bar but if there were one Stephen Goodman W'62, L'65; Elizabeth Coleman L'74, Jon Houlon L'95, and El McMeen L'72 would be charter members. That's because these lawyer-musicians are as practiced playing a bar of music as they are reading a legal document.

THE MUSIC BAR

Goodman Practices Law with Same Ear He Brings to Jazz

BY PAUL JABLOW

Since his days at the Law School more than 40 years ago, Stephen M. Goodman W'62, L'65 has been known as "the jazz lawyer."

But if you're looking for the place where the lawyer stops and the musician starts, he suggests that you stop: They're one and the same.

"I've always felt the same way sitting at a piano improvising as I did having a legal problem that was challenging," said Goodman, 70, a senior partner at Morgan, Lewis and Bockius specializing in startups in the technology and life sciences areas. "If I walk into a meeting with an entrepreneur to listen to their business model, it's the same as listening to a tune (on which) I'll be improvising."

The law has always been Goodman's living, starting with the editorship at the *University of Pennsylvania Law Review* and

Stephen Goodman W'62, L'65 practices the art of improvisation in law and in music.

clerkships in Washington with Appeals Court Judge David L. Bazelon and U.S. Supreme Court Justice William J. Brennan Jr. But the music goes back earlier, back to a piano teacher whom he almost drove crazy as a seven-year-old in Philadelphia. And it has never stopped as he played in clubs following 100-hour weeks at his desk.

Goodman's parents started him with piano lessons but his teacher quickly termed him, in Goodman's words, "a disaster.... He'll never learn to read music. But he has a great ear. Find him a bandleader who can teach him technique."

The bandleader, Harold Rubin, sent him to the library "and I must have learned 300 tunes." By his teen years, he was playing bar mitzvahs, youth dances and sweet sixteens, developing a heavily chorded, percussive style reminiscent of one of his musical heroes, Erroll Garner, who also never learned to read music.

"I have no eye-hand coordination whatever," Goodman says. "I have complete ear-hand coordination. If I can hear it I can play it."

After threatening his worried parents about becoming a professional musician, Goodman decided instead to "hedge my bets" and entered Wharton as an accounting major. There, one of his professors steered him toward law school. "The things he told me about having good analytical skills were all the things I associated with being a good jazz musician: improvisation,

synthesis, creativity, synchronicity, knowing when to lead and when to follow, when to be a soloist as opposed to an accompanist.

"I saw I wasn't a musician or a lawyer. I was a person who had a certain skill set that had a cross-over between my music and my potential profession."

His clerkships done, Goodman started a boutique law firm with colleagues from the Law Review in 1969 and moved to Wolf, Block in 1983.

He was also appearing after hours at venues including the Borgia Cafe, the Frog, the Commissary piano bar, the Hershey Hotel and the Cassatt Lounge at the Rittenhouse Hotel.

"I got a reputation as a musician and a lawyer as being one of



the best closers in town,” joked Goodman, who has a reputation for closing deals and it appears for playing restaurants and bars that became extinct. Other than the Cassatt Lounge all of the aforementioned bars and restaurants have closed.

In 1994, needing a firm with an international presence and strengths in life science, technology and patents, he moved to Morgan Lewis, where Goodman notes that he has had the privilege of being an ensemble player in what he deems “the world’s greatest orchestra.”

About two years later came his several months of jazz fame. He was discovered by a producer named Doug King, who asked Goodman and the other members of his trio, bassist Bruce Kaminsky and drummer Bruce Klauber, to make a CD for his new DBK label based on the musical “Jekyll and Hyde.”

“We had one rehearsal of a half hour and then we did it all in one take,” Goodman recalls. “Doug King was thrilled.”

Two other CDs based on musicals followed — “Phantom of the Opera” and “Chicago.” All got some national air play.

“I used to walk into Tower Records and just in back of the Benny Goodman section was the Steve Goodman section,” he says. “It was a trip.”

But the label soon folded and Goodman settled into a regular Tuesday night gig at the 23d Street Cafe, only blocks from his 17th floor corner office at Morgan, Lewis.

And a high point of those Tuesday nights “is when my clients come to hear me play.

“In my mind, I’m still to this day the jazz musician who practices law.”

PAUL JABLOW IS A FORMER REPORTER AND EDITOR FOR *THE PHILADELPHIA INQUIRER* WHO NOW FREELANCES FROM BRYN MAWR. HE ONCE WROTE A LETTER TO *DOWNBEAT* MAGAZINE THAT SO IMPRESSED CHARLES MINGUS THAT MINGUS INVITED HIM TO BIRDLAND JAZZ CLUB IN NEW YORK AND BOUGHT HIM A BEER.



Coleman’s Long Apprenticeship on Classical Guitar Leads to Carnegie Hall

BY JIM WARKULWIZ

Old habits must die hard for Elizabeth J. Coleman L’74. After giving birth to her second child and looking for a new way to express herself, Coleman, ever the multifaceted artist and professional, decided to try her hand at guitar. However, no sooner had she wanted to rebel against years of classical training, she began to wander down the familiar road of reading music and playing the works of bygone composers — a path that most guitarists never travel.

Coleman candidly believes she would not have it any other way, calling classical guitar one of the most beautiful media to create music.

“I thought this would be kind of like my ‘bad-girl’ instrument,” Coleman said, “but I fell into classical guitar.”

Coleman used her previous training in piano and cello as a child to become proficient in guitar. Unlike the interpretation of guitar in modern music, which values skill in memorization and improvisation, classical guitar challenged Coleman to study how chords and melody could be played simultaneously. As one of the most difficult forms of guitar, it took Coleman nearly 20 years before she felt confident to perform publicly.

She began giving regular weekly performances for cancer patients and their families at Sloan-Kettering Cancer Center in New York City after 2003. She soon expanded to playing in houses of worship, nursing homes and other hospitals. All this led up to one of the highlights of her career: playing in Carnegie Hall as part of a classical guitar ensemble.

In March 2008, Coleman was one of 16 musicians playing Steve Reich’s “Electric Counterpoint” at Carnegie Hall’s Weill Recital Hall. “Playing at Carnegie Hall was a complete peak experience,” she said. After leaving the arts in favor of a career in law, she said the New York Bar gave her a venue for one of the most artistic experiences she has ever had.

After her success at Carnegie Hall, Coleman became a featured performer at the New York Bar Association’s “Friday Evening Chamber Music at the Association” event in April 2008.

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Classical guitar is only one of the talents of Elizabeth Coleman '74, who is also a poet and watercolorist.

“I represented people in some very important cases, and you have to be brave with a very difficult case,” says Coleman. “Law taught me that I love to perform – I probably would have never known that.”

She said this was one of the first times the spotlight would be completely on her and her musical interpretations.

Coleman, despite entering the world of law, always has had her hand in multiple styles of the arts besides music. As an undergraduate at Swarthmore College in the late 1960s, she majored in French literature. As an adult, she is a published poet, translator and watercolorist. With such artistic talent, it seemed odd Coleman would become interested in the worlds of law and business.


It was the turbulence of the 1960s that compelled Coleman to take up a career in law. After teaching for two years and graduating from Swarthmore, she saw the need to work for civil rights.

“I wanted to work for social change within the system, so I wanted to help people within the confines of the law,” Coleman said. “I wanted to change the world.”

As an attorney, Coleman concentrated her expertise in civil and poverty law. She practiced in New York, Georgia and Washington, D.C. She later moved on to founding and managing her two organizations: the social and environmental justice organization the Beatrice R. and Joseph A. Coleman Foundation and the consulting firm Professional Stress Management Solutions. She has been awarded the New York Women’s Agenda Star and the NOW New York’s Woman of Power and Influence for her work in the legal profession.

Although an artist at heart, Coleman contends the skills she learned from these outside the artistic realm influenced her ability to perform. Her background in law taught her how to face fear and overcome it.

“I represented people in some very important cases, and you have to be brave with a very difficult case,” she said. “Law taught me that I love to perform — I probably would have never known that.”



Beyond Austin City Limits, Houlon Finds a Following for His Music in Philly

BY LARRY TEITELBAUM

A few years ago, singer-songwriter Jon Houlon L'95 performed a song called "The Things We Handed Down" at City Hall in Philadelphia. Houlon, a lawyer in the city's Department of Human Services, represents social workers responsible for the welfare of children. On this particular day, Houlon played the song at an event kicking off a public service ad campaign aimed at encouraging families to adopt children from troubled families.

In retrospect, the song might as well have been an ode to Houlon's own father, who kept stacks of records on a floor in their Rockville, Md., home, where he introduced his son to the sounds of Bob Dylan and Randy Newman at the ripe age of 10, culturing in him an early fascination with songwriting and storytelling. (He also bought him his first guitar).

Once ripened, this early musical education yielded 10 records: five for a country-folk outfit called John Train and five for a hard-driving garage band named The Donuts — both spawn of Houlon's dual interests in roots music and rock 'n roll.

Houlon's last recording, *Mesopotamia Blues*, an indictment of the Iraq War, received solid reviews when released in 2007 by John Train. *Philadelphia Inquirer* music critic Dan DeLuca wrote: "Houlon calls himself an 'amateur musician.' There's nothing amateurish about *Mesopotamia Blues*, however. The production ... brings a skilled and versatile roots ensemble to life, and Houlon succeeds at writing story songs, not screeds."

Gene Shay, the Delaware Valley's folk maestro, has also

championed Houlon's music, hosting him on his radio show, according to Houlon, after the release of every John Train record.

Indeed, the group has developed a devoted following in Philadelphia, performing for several years at two local establishments. The caravan has moved on to another bar.

All in all, it's been quite a blast for Houlon, who never expected even this level of success after experiencing a self-described series of flops. The first came during college at Columbia, where he tried out for the jazz band, thinking that his jazz guitar lessons would put him in good stead. Instead, says Houlon, almost wincing at the memory, "I got smoked so badly by these New York kids. It was incredibly discouraging. I took that electric guitar and just sold it and my jazz records and got myself an acoustic guitar."

Acoustic guitar in hand, Houlon boned up on honky tonk and folk music, as a prelude to a dalliance in Austin, Tex., a live music mecca that is spiritual home to Willie Nelson, Waylon Jennings and Butch Hancock, a musician and world-weary lyricist who is a hero and model for Houlon. (Houlon took his summer vacation in Austin to see Hancock perform.)

In the early 1990s, right before law school, Houlon decamped to Austin with dreams of showcasing his songs and making an impression in the vibrant music scene. Houlon played open mic nights and small gigs, subsisting on \$5,000 a year — the

Jon Houlon L'95 gears up for his weekly performance at a pub in Philadelphia.



THE MUSIC BAR

Houlon toured small clubs in Italy and Holland and performed at the famous Greenwich Village club the Bottom Line – which had once featured the likes of Van Morrison, Miles Davis, and Bruce Springsteen.

income from his bakery job. Finally, two years into the experiment, Houlon gave up. He realized that he didn't have the "cast iron heart" required to persevere. So, in a fit of frustration, he gathered all of his songs and threw them in the trash.

When Houlon moved to Philadelphia to attend law school and find a stable career (he's been in Philadelphia city government since graduation) he stashed his guitar under his bed, unbeknownst to the musicians with whom he shared a house. The guitar stayed put until one night, after a few drinks, Houlon took it out and started playing his repertoire of Hank Williams songs.

One roommate, in particular, took a shine to Houlon's performance. And a few years later, just about when Houlon finished law school, they formed a duo (since expanded) called John Train.

In addition to being a critical success, John Train has been the vehicle for some memorable experiences. Houlon toured small clubs in Italy and Holland and performed at the famous Greenwich Village club the Bottom Line — which had once featured the likes of Van Morrison, Miles Davis, and Bruce Springsteen.

"It was, indeed, a very special night," Houlon says. "I was and am a huge Springsteen fan. To play on the stage where Bruce did his legendary shows ... was a big deal for me. And, yeah, I made a lot of friends from New York City when I went to Columbia. So it was cool to have them come see me."

Houlon has penned 300 songs, 150 of which have been recorded. He will soon add to his songbook. Houlon is working on a batch of songs that he'd like to record live — which will save him studio costs and produce a rough-hewn sound short of perfection but rich in feeling.

"I don't wait around for inspiration," says Houlon, describing the writing process. "It's more like a craft. Just go down into the basement and write a song."

Or 300 of them.



The Spirit Moves in the Strumming of McMeen, a Master of Acoustic Guitar

BY NICOLE PENSIERO

Elmer Ellsworth "El" McMeen III, L'72 — considered one of the world's top acoustic fingerstyle guitarists — likes to say that he hit his prime when he was "over the hill." Since taking early retirement in 2000 from the prestigious law firm where he worked for more than two decades, McMeen indeed has found himself busier than ever, both as an in-demand musician and — more recently — as a lay minister.

Earlier this year, the 63-year-old musician — whose catalog includes Celtic music, hymns, gospel, contemporary Christian, and pop — won First Prize in the Instrumental Category of the 2010 International Acoustic Music Awards competition for his original composition, "Le Mans," an honor McMeen calls "humbling and gratifying." But perhaps even more gratifying is his work as Elder, and co-leader of a youth group, at Living Waters Fellowship (www.theLWF.org), the independent, charismatic Christian church in Newton, NJ, that he helped establish in 2009.

"Jesus said He is the way, the truth and the life," McMeen says, "and I believe Him."

A childhood clarinet player, McMeen — named in honor of soldier-attorney Elmer Ellsworth, the first Union casualty of the Civil War — began playing guitar in earnest as a freshman at Harvard University in 1965. Self-taught, he didn't consider it anything more than a hobby for many years, instead focusing on his law career (he is a retired partner of LeBoeuf, Lamb, Greene & MacRae in Manhattan) and raising a family. He and wife Sheila Taenzler McMeen, L'71, met in 1970 on the Penn Law Review. The couple, who reside in Sparta, N.J., are the parents of four grown children, three of whom are also attorneys.

"In the '70s, I learned how to be a lawyer, but played enough guitar at home to maintain my skills," McMeen recalls. "Still, it was always a passion — just not one I could devote much time to." But by the early '80s, McMeen was performing at open mic sessions, taking things a step further by signing up for a series of



El McMeen L'72, one of the world's great fingerstyle guitarists, finds inspiration in his Christianity.

“In the ‘70s, I learned how to be a lawyer, but played enough guitar at home to maintain my skills.”

audio guitar lessons by acclaimed instructor Stefan Grossman. In a fortuitous twist of fate, Grossman — who apparently couldn’t decipher which tapes McMeen wanted to order — personally called him at his law office. That led to a friendship which, over time, resulted in McMeen recording several audio cassette and DVD lessons for Grossman’s workshops. More importantly, Grossman taught him a vibrato technique that McMeen says helped define his craft and style.

“Basically, I started playing guitar like a harp, and that took me in all kinds of directions,” McMeen says. Playing and arranging guitar music almost exclusively in the alternate (and lush-sounding) CGDGAD turning — which can create a harp-like effect of cascading notes — McMeen became an acoustic guitar master, attracting students from around the world. Eager

to bring his music to a wider audience, the Lewistown, Pa. native — who has specialized in corporate finance law — took early retirement, and hit the road “at the tender age of 51,” as he puts it. As if making up for lost time, McMeen performed in 26 U.S. states in less than three years.

“At that point, people wanted to see if I really existed,” he jokes. “There were records and books and tapes — but very few live appearances. I was considered a bit of a mystery man.”

Since 2002, McMeen has stayed closer to home, devoting most of his musical energy to recording (he has 12 CDs), teaching, and writing (five years ago, he published a book of Irish and Scottish instrumental music arranged

for classical string trio). In 2008, he was the subject of a 90-minute documentary, *Guitar Artistry of El McMeen*.

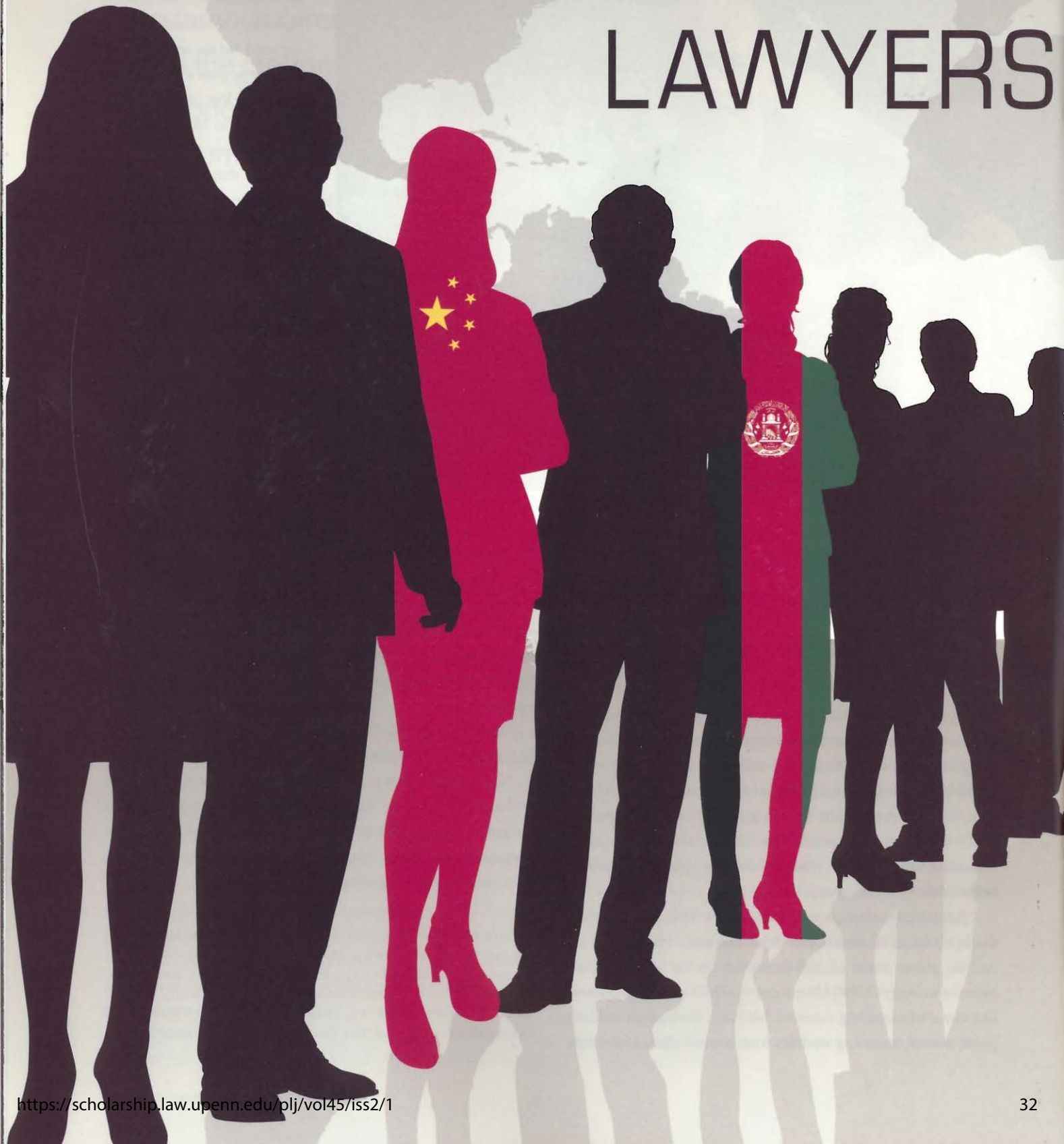
While McMeen occasionally plays guitar at Living Waters services, he’s more focused on leading a weekly Bible-based fellowship group at a subsidized housing complex and co-heading the church’s youth group, work he calls “challenging and hugely rewarding.”

In recent years, McMeen says, his strong Christian faith has become increasingly intertwined with his musical aspirations.

“If the Holy Spirit is not moving through me in my music, nothing is happening,” he says. “If nothing is happening, I put the guitar down. It simply doesn’t matter. Because it’s not about contending, it’s about being a vessel through whom a loving God can move to bless others.” **PLJ**

NICOLE PENSIERO IS A LONGTIME FREELANCE ENTERTAINMENT WRITER WHOSE WORK HAS APPEARED IN THE *PHILADELPHIA INQUIRER*, *COURIER-POST* (NJ), *NEW JERSEY MONTHLY*, AND THE *CHICAGO TRIBUNE*. A NATIVE OF SOUTHERN NEW JERSEY, HER MANY INTERVIEWS HAVE INCLUDED JOAN BAEZ, YOKO ONO, SARAH McLACHLAN AND BOY GEORGE, AMONG OTHERS.

UN-COMMON LAWYERS



In 1995, Penn Law School pioneered a summer program for international students. Dubbed “comparative law in reverse” by one professor, the course served as an academic and social icebreaker for the incoming LL.M.s. And so last July, a covey of students came to Penn Law School to put an American patina on their legal credentials. They represented 45 countries, from Argentina to Uzbekistan. Almost 1200 applied, but only 96 made the cut — including Humira Noorestani and Yanqing (May) Liang.

May Liang Embarks on New Journey at Penn Law School

BY NANCY RASMUSSEN

Over the last few years, while traveling throughout Asia, May (Yanqing) Liang had a career awakening. In 2007 and 2010, sometimes alone and sometimes with two or three companions, she backpacked in Nepal, Inner Mongolia, Sichuan and Yunnan Provinces, Tibet, Sri Lanka, Malaysia and Indonesia. She had only one rule: not to treat herself as a tourist. And she didn't. She stayed in local peoples' homes or shared lodging and food with her fellow travelers. At the world's largest Tibetan-Buddhist Institute in Sichuan Province, 3,700 meters (12,139 feet) above sea level, she talked with the nuns and watched them chant their sacred texts. Another time, on a horse trek on an ice mountain for four days, she came down with a 39C temperature (102 degrees) alone and with no medicines. Taking a traditional herb offered by a local, she recovered.

During her travels, she had met and been inspired by people from all over the world including two young men who had just left Google to start their own business, a Spanish lawyer and a trader in a Taiwan stock exchange. These experiences and meetings “widely spiced up my thoughts.” She says, “This journey is not a trip, not a vacation; it's a journey that brings us face to face with ourselves. It shows not only the world, but how we fit in it.”

She realized it was time to “switch the channel and think like a leader.” She left her job in Shanghai as an investment associate at CSV Capital Partners (although she continues as a senior consultant), her stint as co-founder and editor of the legal website CNBlawg.com and her association with the NGO Young Venture Capitalist Club (YVCC), coming to Penn Law (and her first visit to the U.S.). She was motivated to follow her fascination with the interworking of law, business and capital markets. She says, “My inner desire is to seek the business rationale behind the legal language. I need to know the rules and regulations, and thus the legal system, especially in a country like the U.S.

UN-COMMON LAWYERS



You can't separate economics and law." She's also pursuing a Wharton Business and the Law certificate.

A 2005 graduate of East China University of Politics and Law, Liang practiced as an associate at Jun He Law Offices, serving clients of Fortune 500 companies, and as an analyst at Pu Xin Capital, a RMB hedge fund investing in China's secondary securities market, before joining CSV, a China-focused venture capital firm, in 2008. There Liang was responsible for the identification, analysis, and management of investments and worked with their portfolio companies to evaluate and overcome legal problems. In addition to doing high-intensity, highly complex transaction work, she also evaluated the possible legal implications of their investments given the potential of policy changes in China, each time predicting what could (and did) happen and thus steering clear of potential problems.

As the only female and lawyer of the organizing committee of YVCC, Liang initiated and organized cross-functional law-related lectures and events for 300 young professionals in Shanghai and Beijing. The group provides a platform for information sharing, networking and professional training. It's "run like a company" and sponsored by organizations such as Ernst & Young, Morrison Forester, Russell Reynolds and Booz & Company.

Liang says the venture capital industry has been booming in China in the last five years. Due to the U.S. financial crisis, she adds, the "game is becoming white hot as people are pressed to make fast money."

Still involved with CNBlawg.com, Liang says its long-term objective is to develop into a profitable online global consulting service providing information on Chinese legal matters to foreigners.

A cyclist, amateur photographer (who will be a student photographer for Penn) and trekker, Liang is also a big fan of Woody Allen movies, *Scientific American*, biology, psychology, economics and Japanese composer Joe Hisaishi's music. So far, she says, "Life here is easy (though Penn is not). People here are a little bit laid-back, compared with my hometown, which has a much quicker city beat."

Overall, May says, "I want to figure out what the future Chinese legal framework will likely be and how I can actively influence the way it will develop. Part of the answer, I believe, is to pursue an LLM education."

She sees her time at Penn Law as "a period to think and reflect, to dig out more potential, try various angles and more possibilities."

In other words, scale new heights, like she did on her backpacking trips.

NANCY RASMUSSEN IS ASSOCIATE DIRECTOR OF ALUMNI RELATIONS.

From a Distant Shore, Daughter of an Afghan Freedom Fighter Works to Lift Up the Afghan People

BY AISHA MOHAMMED

Outspoken and motivated, incoming LLM student Humira Noorestani hails from a community of young Afghan-Americans who long to rehabilitate a homeland they have never lived in. A homeland alive in the memories of the Afghani diaspora who fled as their beloved cities became theatres of the cold war.

For Noorestani, Charlie Wilson's war was a family affair. Her father, a determined opponent of the communist regime, served two years in Afghanistan's harshest prison for staging a coup in the late 1970s. He moved to the United States after his release and worked closely with President Reagan to evict the Russians from Afghanistan. Noorestani, born in the U.S., grew up as part of a large Afghan community in Virginia.

Politicized from a young age, she became an ardent advocate for Afghan causes. In high school, she volunteered to help with educational programs, which included doing voiceovers for the first Afghan Sesame Street. When Afghanistan became the centerpiece of U.S. foreign policy after 9/11, she started the first Afghan club at American University and held events such as “Who the Taliban Are.”

But Afghanistan, itself, remained off-limits. “My father who had returned to work with the Afghan government kept telling us it wasn’t safe,” she says. In spite of his objections, Noorestani and her mother took a three-week trip to the country in 2004. The degree of destruction she encountered was shocking.

The Kabul crafted by her parents’ stories — a cosmopolitan city where her father, sporting a Beatles haircut had courted her mother, dressed like Jacqueline Kennedy — lay in ruins. Poverty greeted her everywhere, even the cemetery housing her grandfather’s grave. “It was heartbreaking to see children begging, fighting to sell us water in 105 degree weather,” she says.

When she returned stateside, Noorestani launched Ariana Outreach, an organization dedicated to improving the lives of rural Afghans but mostly serving as the first Afghan-run advocacy organization on Capitol Hill. Noorestani felt that she needed access to capital and policy-makers to accomplish her humanitarian goals. A law education offered a route to both. “The law profession is revered among Afghans,” she says, and while her parents supported her decision, they were not keen about her attending American University in Kyrgyzstan.



Noorestani had hit upon the idea while visiting her father in neighboring Kazakhstan, where he was working as a diplomat. Attending AU would not only allow her to earn a law degree, but also gain valuable international experience and learn the Russian language. Eventually, she convinced her parents, but her friends remained skeptical. “They said I would come back in two month and couldn’t handle living in a third world country, but I stuck it out,” she says.

Near the end of her final year, Noorestani sensed that the country was heading towards major upheaval. Utility bills tripled, then quadrupled over the course of months, and even with her American dollars, she “felt a big pinch.” Anger over increased living expenses was palpable and whispers about civil unrest got louder.

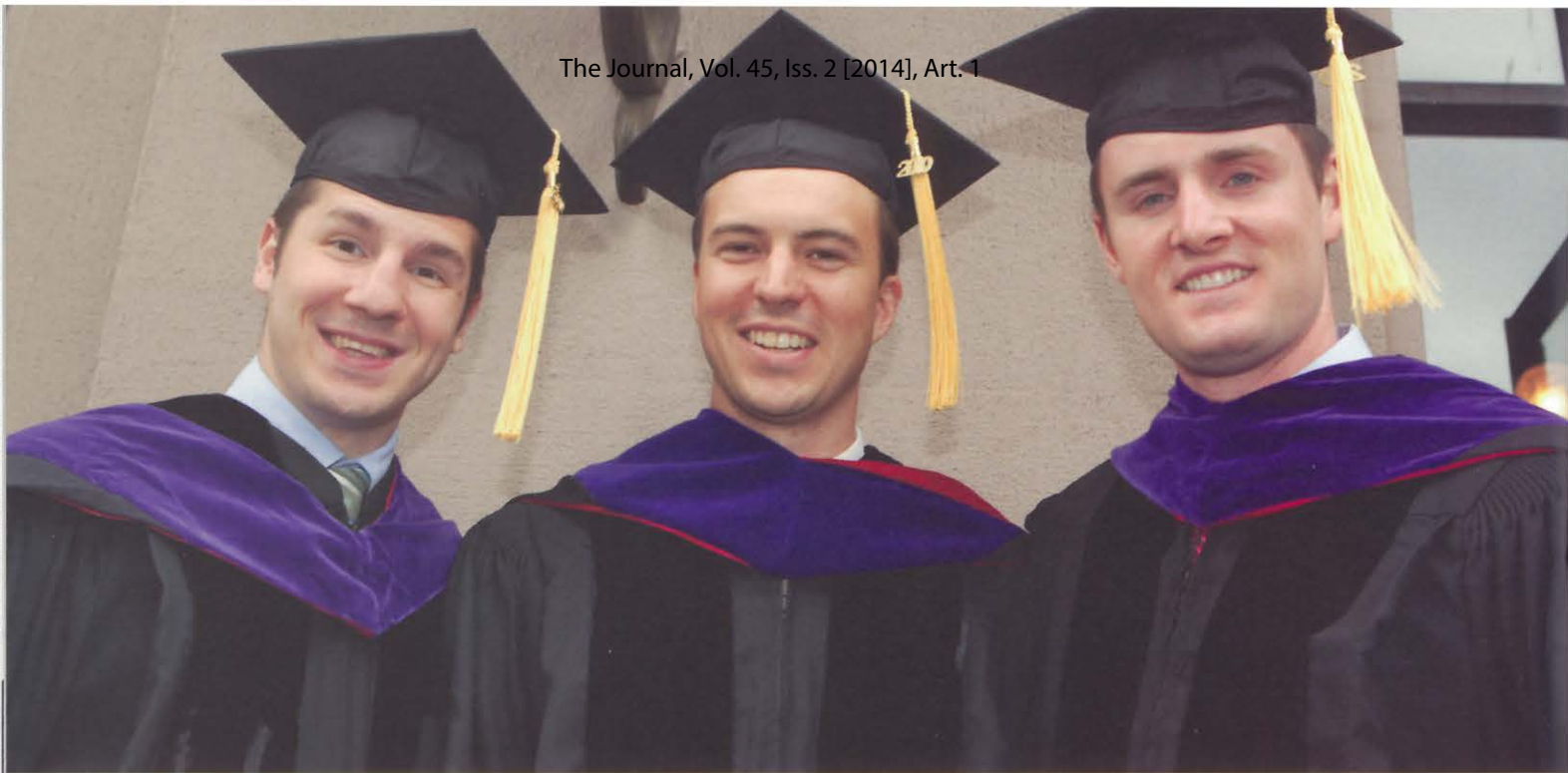
One April morning, she awoke to find Bishkek under siege. The president had imposed a state of emergency and police were arresting opposition leaders. In response, protestors stormed one of the military training centers, which stood next to her apartment building. Noorestani recalled seeing thousands of people gathered outside, shots being fired and strangers wandering the building’s hallways, drunk. There came a point when she accepted that she might die.

Many foreign diplomats and aid workers left as protests continued, but she stayed put and pushed through her thesis because she did not want to delay graduation. Despite repeated school closures, she managed to finish in June.

As a Human Rights Fellow at Penn, Noorestani will pursue a master’s in law. Having spent two years studying international human rights law, she plans to now focus on business law, with a specialization in oil and gas law. Not only will this create lucrative work opportunities, but it may also give her leverage to pursue humanitarian work, especially in Nuristan, her family’s ancestral home.

An isolated region in Afghanistan with virtually no schools or healthcare facilities, Nuristan was initially Ariana Outreach’s top priority. Recent skirmishes with the Taliban led UN forces to withdraw and Noorestani realized that working there required massive amounts of support and security. Although she has shifted focus to expanding outreach efforts in the U.S., she is optimistic about working in Nuristan someday because the locals trust and respect her family. “I have always thought that if any Afghan could make a difference in Nuristan, it could be me.” ^{P.L.J.}

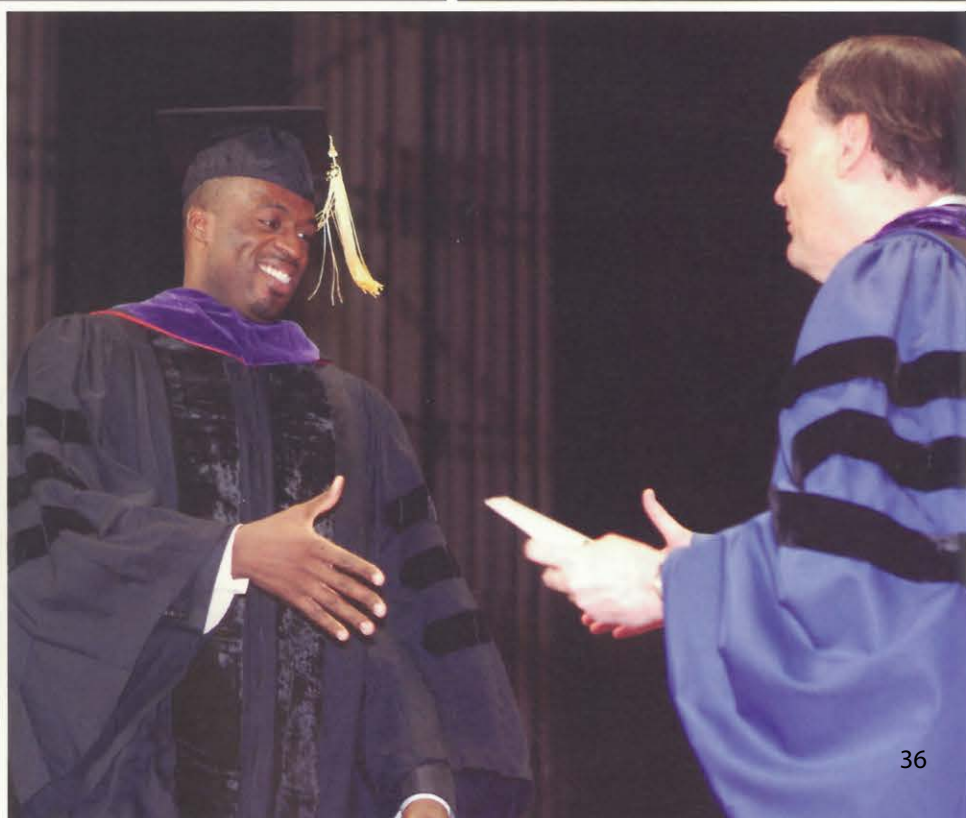
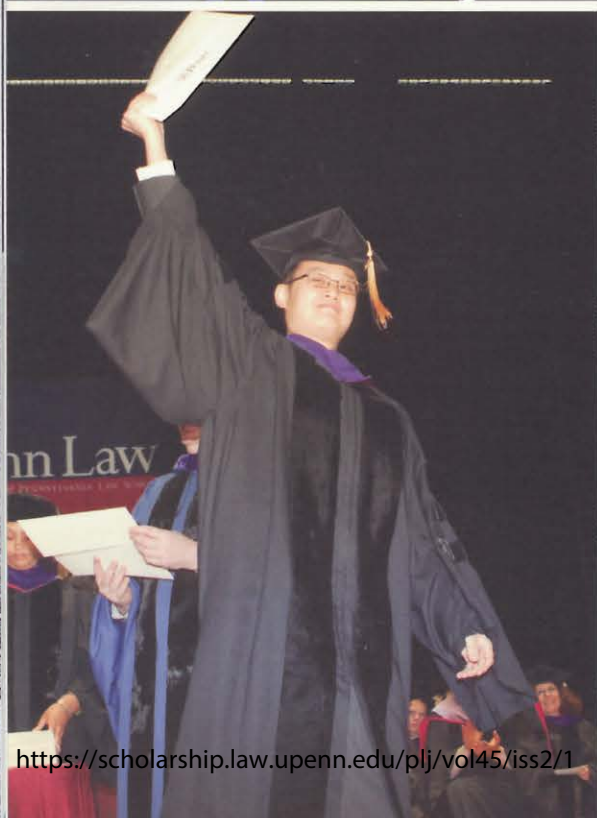
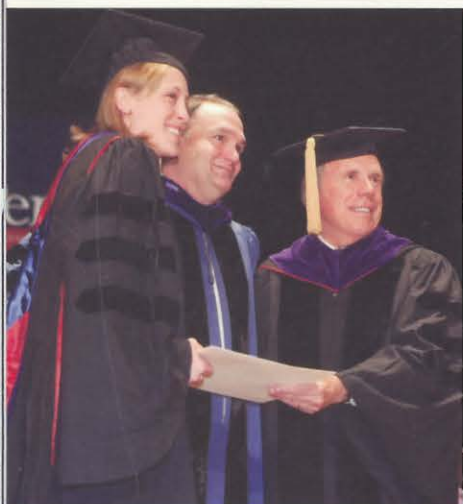
AISHA MOHAMMED IS CURRENTLY WORKING AS A FREELANCE WRITER IN ISRAEL AND PALESTINE.



GRADUATION

HONORS:

- Summa Cum Laude: 5
- Magna Cum Laude: 36
- Cum Laude: 41
- Order of the Coif: 28





Reunion Weekend had it all this year: side trips to the Barnes Foundation and the National Constitution Center, a special luncheon for senior alumni, meaty panel discussions on the new health care law and the Citizens United court decision, a festive courtyard picnic, and a cocktail party. We even took Reunion on the road. With a huge statute of Ben Franklin looming at the center of the proceedings, attendees enjoyed sparkling conversation and good food in the beautiful environs of the Franklin Institute. The only question: Can we top it next year in the Art Museum?

REUNION



GRADUATION

Toobin Encourages Graduates to Keep Open Minds About Their Careers

DESPITE RECORD-BREAKING unemployment rates and a fraught economy, Jeffrey Toobin, author and CNN senior legal analyst, encouraged Penn Law's class of 2010 to view troubled times as an opportunity during his commencement address last May.

"You are graduating into uncertain times, but times of uncertainty, times of change, that is something to embrace rather than fear," Toobin said.

"I suspect that many of you know me as a television legal analyst. When I graduated from law school in 1986, I did not aspire to be a television legal analyst because the job did not exist. Many of you will spend your careers in jobs and fields that do not even exist today. You will litigate cases, and handle deals on subjects and products that have not even been invented yet. That thought is a little bit scary and a lot exciting."

At the time of commencement, the U.S. Senate was on the verge of a confirmation hearing to fill the vacancy created by the impending retirement of Supreme Court Justice John Paul Stevens. Consequently, Toobin reflected fondly on his own time in law school, where he encountered Elena Kagan. "When I arrived at Harvard Law in 1984, I joined a first year study group with a few of my friends," he recalled. "The poor people in my study group were me, Tony Herman, Gail Horowitz, and Elena Kagan. Life takes strange turns. Who would've thought all those years ago — as we struggled to understand torts and

property contracts — that one of us would go on to cover the Michael Jackson case."

Kagan, Toobin's former study partner, was nominated by President Obama to fill the Supreme Court vacancy just days prior to commencement. The U.S. Senate confirmed Kagan, who was sworn in by Chief Justice John Roberts in August.

Toobin also turned conventional wisdom on its head, attributing judicial activism to conservatives as well as liberals. He cited the Court's ruling to overturn campaign finance laws and allow corporations to contribute unlimited funds to political candidates. Toobin asked graduates to think of law objectively and not to confuse political ideals with judicial action.

"I don't want to tell you what to think about judicial activism, federalism, or free speech, but I do think you need to think about them," he declared. "The oldest cliché about law school happens to be true — you learn to think like a lawyer. I happen to think that's a good thing to think analytically, critically, skeptically about ideas in the world. When you think like a lawyer, you think like informed and engaged citizens. And that's what I hope you'll be."



CNN legal analyst and author Jeffrey Toobin offers a recession-proof message to students: Don't get locked into one career path.



FACULTY NEWS AND PUBLICATIONS

Two New Faculty Members

William Wilson Bratton, a visiting professor from Georgetown last fall, and Tess Wilkinson-Ryan L'05, a Sharswood Fellow in law and psychology for the last two years, have joined the Penn Law faculty, bringing it to 50 members, a 45 percent increase in size since 2000.



BRATTON, who will serve as a co-director of the Institute for Law and Economics, is recognized internationally as a leading writer on business law. He brings an interdisciplinary perspective to a wide range of subjects that encompass corporate governance, corporate finance, accounting, corporate legal history, and comparative corporate law. His work has appeared

in the *Cornell*, *Michigan*, *Northwestern*, *Pennsylvania*, *Stanford*, and *Virginia* law reviews, and the *Duke* and *Georgetown* law journals, along with the *American Journal of Comparative Law* and the *Common Market Review*. His book, *Corporate Finance: Cases and Materials* (Foundation Press, 6th ed. 2008), is the leading law school text on the subject. He currently is editing a collection of essays on shareholder activism to be published by Oxford Press. Bratton is a research associate of the European Corporate Governance Institute. In 2009, he was installed as the Anton Phillips Professor at the Faculty of Law of Tilburg University in The Netherlands, the fifth American academic to hold the chair.



WILKINSON-RYAN, who was associate editor of the *University of Pennsylvania Law*, earned a Ph.D. in psychology from the *University of Pennsylvania* in 2008. She studies the role of moral judgment in legal decision-making. She uses experimental methods from psychology and behavioral economics to ask how people draw on their moral intuitions to motivate

or inform legal choices. Her research focuses in particular on private contracts and negotiations. She has argued that most people think that breaking a promise is immoral, and that a breach of contract is a kind of broken promise. People are uncomfortable with the prospect of breaking a promise, and resistant to profiting from what they perceive to be a moral violation. This kind of finding has implications for a variety of promissory transactions, from mortgage contracts to commercial agreements to prenups. The broad goal of her scholarship is to use behavioral research to shed light on how people interpret the law, how they conceive of their rights and obligations, and how social and moral norms interact with the applicable legal rules.

Bulletin Board

An Update on
Faculty Activities

MATTHEW ADLER will publish a book in 2011 titled *Well-Being and Equity: A Framework for Policy Analysis* (Oxford University Press). Building on both welfare economics and philosophical scholarship, the book develops a systematic methodology for incorporating considerations of fair distribution into policy analysis.

ANITA ALLEN has a book, *Unpopular Privacy* (Oxford University Press), in the cue for next year, along with a second edition of *Privacy Law and Society* (West) and an anthology, *Privacy Law Today* (University Readers). She recently published a collection of her op-eds and short essays, *Everyday Ethics: Opinion about the Things That Matter Most*.

REGINA AUSTIN published "Documentation, Documentary, and the Law: What Should Be Made of Video Victim Impact Videos?" in the *Cardozo Law Review*. The article tackles the issue of the use of home movies and photographs as evidence in the sentencing phase of capital cases.

TOM BAKER is publishing a book *Ensuring Corporate Misconduct: How Liability Insurance Undermines Shareholder Litigation* (University of Chicago Press) with Sean Griffith in early 2011. The book demonstrates for the first time how corporations use insurance to avoid responsibility for corporate misconduct, undermining the impact of securities laws.

SHYAM BALGANESH wrote an article titled "The Pragmatic Incrementalism of Common Law Intellectual Property" that will be published later this year in the *Vanderbilt Law Review*. The article argues for a greater reliance on common law method of law-making, characterized by its use of incremental (rule development one case at a time) and pragmatic (anti-foundational/pluralist reasoning) techniques, in the realm of intellectual property and innovation policy.

JILL FISCH has published an article titled "Rethinking the Regulation of Securities Intermediaries" in the *University of Pennsylvania Law Review*. The article argues that mutual funds should be regulated as products rather than operating companies and proposes a "conform or explain" system to facilitate consumer choice through the provision of standardized financial products.

SARAH BARRINGER ("SALLY") GORDON's new book *The Spirit of the Law: Religious Voices and the Constitution in Modern America* (Harvard University Press) explores the creation and evolution of the hard-fought world of church and state. The new constitutional world that emerged in the 1940s has drawn countless litigants to turn to courts to vindicate their deepest beliefs and practices. The book tells the stories of these passionate believers who tested the boundaries of religion and government, transforming the law of religion.

JONATHAN KLICK will publish (with Brian Galle) an article titled "Recessions and the Social Safety Net: The Alternative Minimum Tax as a Counter-Cyclical Fiscal Stabilizer" in the *Stanford Law Review*. Galle and Klick argue that the federal alternative minimum tax (AMT) counteracts the tendency of state and local governments to overspend on social insurance programs in good times and underspend in tough economic times. They provide econometric evidence supporting this argument.

HOWARD LESNICK completed 50 years as a law professor (all but six of them at Penn Law School) this past spring. In October, he will give a public lecture at University College Cork, Ireland, on the topic: "Can Liberal Religion Ground Moral Imperatives?"

GIDEON PARCHOMOVSKY published two articles this year. "The Disortionary Effect of Evidence on Primary Behavior" (with Alex Stein) was published in the *Harvard Law Review*. "The Hidden Function of Takings Compensation" (with Abraham Bell) appeared in the *Virginia Law Review*.

PAUL H. ROBINSON will have two articles published later this year. "Realism, Punishment & Reform" (with Robert Kurzban and Owen Jones) will be published in the *University of Chicago Law Review*. "Competing Theories of Blackmail: An Empirical Research Critique of Criminal Law Theory" (with Michael Cahill and Dan Bartels) will be published in the *Texas Law Review*.

DAVID SKEEL led Penn Law School's first Global Research Seminar last spring, in which his class met scholars and regulators in Milan, Rome and Washington, D.C. to discuss the foundations and structures of contemporary corporate governance with particular emphasis on the proposals that became the new Dodd-Frank Act.



BOLD AMBITIONS

The Campaign for Penn Law

Gifts in Support of Golkin Hall

JOHN BERYLSON made a major gift for the naming of the main lobby in Golkin Hall. Berylson is chairman of American Capital Access Holdings Limited and chairman and chief executive officer of Chestnut Hill Ventures LLC, as well as president of GCC Investments, Inc. He owns a professional soccer team in England.

PAMELA F. CRAVEN CW'7, L'77 and **HUSBAND WILLIAM** made a substantial gift in support of the new Golkin Hall. Ms. Craven is senior vice president, general counsel and secretary of Araya, a worldwide provider of business communications applications, systems and services. Her daughter, Stephanie, graduated from the University of Pennsylvania in 2006.

JOSEPH D. GATTO L'84, WG84 and **SUSAN GATTO** have made a substantial gift to name the new Career Planning and Placement Office in Golkin Hall. He is chairman of Investment Banking for the Americas at Barclays. Mr. Gatto is a member of the Board of Overseers at Penn Law School and sits on the advisory boards for the Institute of Law and Economics and the University of Pennsylvania Journal for International Economic Law.

ANTONIO "NINO" MAGLIOCCO, JR. L'77 and **WIFE CARLA SOLOMON** donated a significant gift in support of both Golkin Hall and Annual Giving. Magliocco, a member of the Penn Law Board of Overseers, is president of Bulldog Ventures Ltd., a private equity firm specializing in the food and beverage industry.

RICHARD C. PEPPERMAN II L'90 and **WIFE ELIZABETH ANN FEARON** made a sizable gift to name the terrace outside the refurbished Goat area. Pepperman is a partner at Sullivan & Cromwell LLP, where he is deputy managing partner of the firm's litigation group.

Breaking New Ground



In the baking sun last July, several overseers, the dean and staff gathered to celebrate the groundbreaking heralding the start of construction on Golkin Hall. Said lead donor Perry Golkin (top): "I can't think of a law campus that will be a better place than this one. It will build our community." The \$33.5 million building, which replaces Pepper Hall, will contain a state-of-the-art moot courtroom, a 350-seat auditorium, seminar rooms, faculty and administrative offices, a dramatic entry hall, and a rooftop garden. With its open spaces and natural light, the building will encourage easy interaction between students and faculty. The new building will complete a decade-long physical transformation of the Law School. Construction is scheduled for completion in January 2012.

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Most importantly, your gift will provide vital support today and financial strength for Penn Law School's future.



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Annual Payment	\$520	\$550	\$580	\$640	\$720	\$810
Charitable Deduction*	\$2,149	\$2,801	\$3,605	\$4,252	\$4,898	\$5,609

*Deduction will vary slightly with changes in the IRS Discount Rate. Assumed rate 3.0%. The examples provided are for illustration purposes only and are not intended as legal or tax advice. We encourage you to consult your own tax advisor.



Bold Ambitions

THE CAMPAIGN FOR PENN LAW

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ALUMNI BRIEFS

1950s

GORDON CAVANAUGH L'53 received The Cushing Niles Dolbeare Lifetime Service Award on April 13 for his work in the field of low-income housing litigation. The award was presented in a ceremony hosted by the Low Income Housing Commission. Gordon is a retired partner at Reno & Cavanaugh PLLC.



NORMAN ZARWIN C'52, L'55 celebrated the 50th anniversary of his law firm, Zarwin Baum DeVito Kaplan Schaeer & Toddy P.C., in May.

MICHAEL L. TEMIN L'57 received a Leaders in Law ranking from Chambers USA for his work at Fox Rothschild LLP.

Michael received the award for his concentration in bankruptcy and restructuring law.

1960s

JIM STRAZZELLA L'64 was chosen as the Outstanding Professor of the Year at Temple Law School. Jim has received several awards for his teaching at Temple.



SHELDON N. SANDLER L'65 was named to this year's "100 Most Powerful Employment Attorneys" list compiled by *Human Resource Executive* magazine. He is a partner at Young Conway Stargatt & Taylor LLP in Delaware.

MARV GOLDKLANG W'63, L'66 was among the 2010 inductees in this year's

class for the Florida State League Hall of Fame. He is the principal owner of the Fort Myers Miracle, a minor league baseball team in the Minnesota Twins' system. The team is part of the Goldklang Group, which owns four minor league franchises. The induction takes place Nov. 8.

MARK G. YUDOF C'65, L'68 has been appointed to the Lumina Foundation for Education, an organization that strives for better graduation rates, especially for students of low income, students of color, first-generation students and adult learners. Mark is president of the University of California, Berkeley.

NOLAN N. ATKINSON, JR. L'69 was the recipient of the 2010 Minority Business Leader Award presented by the *Philadelphia Business Journal* in August. He was recognized for his efforts to promote the growth of minority-owned businesses. He is chief diversity officer and a partner in the trial practice group law at Duane Morris.

RONALD B. GLAZER L'69 received the Best Lawyer Award for 2009 from *The Mid-Atlantic Real Estate Journal*. Ron is considered a national authority on condominium and homeowners associations. He is a principal of Kaplin Stewart Meloff Reiter & Stein P.C. in Blue Bell, Pa.

ROBERT PRATTER L'69 has been named acting commissioner for the Pennsylvania Insurance Department. Pratter had been serving as the executive deputy general counsel for litigation with the state's Office of General Counsel since 2008. During his extensive legal career, Pratter has specialized in regulatory, corporate and judicial proceedings affecting the insurance industry. He has also led complex commercial litigation and has extensive experience in regulatory matters before various commonwealth agencies.

PAUL F. WARE, JR. L'69 was appointed by the Massachusetts Supreme Judicial Court as independent counsel to investigate the state's probation agency. Paul is a senior partner for Goodwin Procter LLP in Boston.

ALUMNI BRIEFS

1970s

RON BORNSTEIN W'67, L'70 has relocated to the London office of Pillsbury Winthrop Shaw Pittman LLP. He had been based in San Francisco. Ron is a senior corporate, securities and finance partner at the firm.



MARC A. CITRON L'72 received the National Judge Learned Hand Award from the American Jewish Committee of Central New Jersey on May 27. He was recognized for demonstrating high principles in the practice of law. Marc is managing partner of the firm's Princeton office.

RICHARD A. WALDEN C'68, L'72 had his organization, Operation USA, named as the No. 1 Exclusively Privately Funded Charity in America last year by the Web site "Charity Navigator." The charity is a relief agency that provides aid to victims of disaster and poverty around the world. He serves as president and CEO of the foundation and is also in the process of writing his memoir: *Things I Did, or Think I Did*.

MERRILL G. DAVIDOFF C'69, L'73 was awarded 2009 Trial Lawyer of the Year by the Public Justice Association for litigation against the Rocky Flats Nuclear Weapons Plant in Colorado. A team of lawyers filed a suit holding the facility operators accountable for persistent radioactive contamination of 13,000 households. He is an attorney with Berger & Montague PC.

SIDNEY A. SAYOVITZ '73, a partner at Schenck Price Smith & King, LLP, will move with the firm from its office in Morristown, N.J. to its new space in Florham Park, N.J. Sayovitz practices in the areas of telecommunications, commercial transactions, corporate governance and state and federal regulatory matters.

JOSE E. CIL L'74 has been elected as a member of the NCAA Orange Bowl Committee for 2010-11. The Orange Bowl is a member of the Bowl Championship Series for college football. Jose is the vice president and region manager of Wal-Mart Stores Florida.

ELLIOT J. HAHN L'74 was reelected last May as the first vice president of the AEA International Lawyers Network, an association of international law firms. He discussed the effects of the global recession on U.S. law firms at the group's annual meeting in Rome.

H. RONALD KLASKO L'74 provided background for U.S. congressmen on the EB-5 Immi-



grant Investor Program in March. The EB-5 visa is a way for foreign nationals who invest in commercial ventures that create jobs in the U.S. to obtain a green card legally. He is a founding partner of the immigration law firm Klasko Rulon Stock & Seltzer LLP and is chair of the EB-5 Committee of the American Immigration Lawyers Association.

MARK A. KADZIELSKI L'76 was selected by the publication Chambers USA as one of the top 10 leading healthcare lawyers in California. He has been awarded the honor for six years in a row. He is also the head of the West Coast healthcare practice at Fulbright & Jaworski LLP in Los Angeles.

GARY J. LESNESKI L'76 has become senior executive vice president and chief legal officer of Cooper Health System in Camden, N.J. He previously was a partner at the law firm of Archer & Greiner, where he specialized in health and hospital law, labor and litigation.

MICHAEL P. MALLORY L'76 has been chosen to serve on the panel of academic contributors for the 10th edition of Black's Law Dictionary. He is a

member of the faculty at the University of the Pacific, McGeorge School of Law.

G. DANEIL O'DONNELL L'76 has been named vice chairman and chief executive officer-elect of international law firm Dechert LLP. He will assume the role in mid-2011.

LAWRENCE V. STEIN L'76 joined law firm Reed Smith LLP in March. Stein previously served as the general counsel for the Wyeth Pharmaceuticals.

WILLIAM J. WADE L'76 has been awarded the Caleb R. Layton III Service Award by the judges of the United States District Court for the District of Delaware. The award recognizes his service to the court and to the Delaware Bar. In addition, William has been recognized for excellence in Health Care Law in the 2011 edition of *The Best Lawyers in America*. William is executive vice president and chair of the Litigation Department at Richards Layton & Finger.

GARY L. SASSO W'74, L'77 was the recipient of The Tampa Connection's Tampa Citizen of the Year award. He was chosen based on his leadership of the firm Carlton Fields, one of the city's most respected law firms, and for his commitment to the Tampa Bay community. He serves as chair for the board of directors of the Tampa Bay Partnership, chair of the Tocqueville Society of the United Way of Tampa Bay and chair of Moving

Hillsborough Forward. The latter supports the transit referendum that will be considered by voters in that community.

TIMOTHY W. BERGIN

L'78 has become a shareholder in the Washington, D.C. office of Winstead P.C. Bergin has experience in commercial litigation, arbitration, federal regulatory proceedings and antitrust matters.

JAMES A. PABARUE L'78

has won the 2010 Minority Business Leader award given by *The Philadelphia Business Journal*. He is one of the founding shareholders of Christie, Pabarue, Mortensen and Young P.C., and specializes in commercial litigation, insurance coverage litigation, employment disputes and criminal matters. He also worked as an assistant district attorney under Philadelphia District Attorney Edward G. Rendell, now governor of Pennsylvania.

LAWRENCE R. COHAN

L'79 gave a presentation entitled "Gardasil: An Evolving Risk/Benefit Debate" in April at a pharmaceutical litigation program in Maui, Hawaii. He also gave another lecture called "Vaccine Litigation for Non-Vaccine Lawyers" at the New Jersey Institute for Continuing Legal Education in July. He is a shareholder at Anapol Schwartz Weiss Cohan Feldman & Smalley P.C. and has experience in litigation on behalf of young women injured by the Gardasil vaccination.



GERALD MCHUGH L'79

was named president of the Pennsylvania Legal Aid Network, which serves to improve the quality of legal practice and services to low-income citizens. He previously served as chairman of Pennsylvania's IOLTA Board and as president of the Philadelphia Bar Association. He is an attorney with Raynes McCarthy.

ROBERT SCHNEIDER

L'79, WG'79 was elected corporate secretary of the University of Pennsylvania Club of Long Island. He is special counsel at Cuddy & Feder LLP.



STEVEN COUSINS L'80

has been appointed by the mayor of St. Louis to the board of directors of the newly formed Gateway Mall Conservancy. The

conservancy manages projects in the vicinity of the Gateway Mall.

JEAN WARSHAW L'80

published a book titled *The Toxic Substances Control Act*. The book explores the legislation that regulates the use of new chemicals. Jean concentrates her practice. Jean is an environmental and business lawyer in New York City.

MAGDELINE D.

COLEMAN L'81 became a judge on the U.S. Bankruptcy Court for the Eastern District of Pennsylvania.

RUDOLPH J. DIMASSA,

JR. L'81 was recognized by Chambers USA as one of the top bankruptcy and restructuring lawyers in the country. This is the fourth year in a row that he has received this honor. He is a partner at Duane Morris LLP.

FRANCINE FRIEDMAN

GRIESING L'81 has started an all-female law firm, Griesing Law LLC. The firm represents public and private companies in business transactions and high stakes litigation. Francine formerly served as chair of litigation for the City Solicitor's Office in Philadelphia.

MARK S. STEWART L'82

has been elected chairman of Ballard Spahr. Mark started working at Ballard in 1981 and has spent his entire career at the firm.



ROBERT MARCHMAN

L'83 joined the Financial Industry Regulatory Authority as executive vice president and head of the Legal Section of the Market Regulation Department. He will be responsible for the Market Regulation Department's enforcement group. In addition, he will serve as executive advisor to FINRA's Diversity Council. Robert received the inaugural "Wall Street Award" last June for his commitment to transforming the financial industry and his efforts in the area of diversity. Previously Robert was executive vice president at the New York Stock Exchange, where he managed the Regulation Enforcement Division.



J. BRADFORD MCILVAIN

L'84 has joined the law firm Archer & Greiner P.C. as a partner in its Philadelphia office. He concentrates his practice on construction, development and environmental matters.

ALUMNI BRIEFS

PETER NORDBERG

L'85 was awarded 2009 Trial Lawyer of the Year by the Public Justice Association for litigation against the Rocky Flats Nuclear Weapons Plant in Colorado. He and a team of lawyers filed a suit holding the facility operators accountable for persistent radioactive contamination of 13,000 households. He is an attorney with Berger & Montague PC.



ROBIN BLUMENFELD SWITZENBAUM L'85

has been recognized as a Local Litigation Star in the area of securities by the Benchmark Litigation guide. She is a shareholder at Berger & Montague P.C.

JONATHAN A. SEGEL

L'85 was named one of the nation's Top 100 Most Powerful Employment Law Attorneys by Human Resource Executive magazine. He is a partner in the Employment, Labor, Benefits, and Immigration practice at Duane Morris LLP.

JOHN STURROCK

LLM'85 has been awarded an honorary degree of doctor of laws by Edinburgh Napier University in recognition of his accomplishments in the mediation field. He was also named Mediator of the Year at the Law Awards of Scotland and has been inducted as a Distinguished Fellow of the International Academy of Mediators.

PAMELA BROWN L'86

received the 2010 Impact Award from the State Bar of Texas Poverty Law Section for her work with Texas RioGrande Legal Aide. As director of its bi-national project on family violence, she helps abducted children reunite with their parents.

WAYNE A. MACK L'86

has been recognized by Chambers USA for his work in anti-trust law. He is the co-head of the Commercial, Securities and Antitrust Division and a partner at Duane Morris LLP.

DIANNE A. MEYER L'86

has been honored by Chambers USA for her work as a leader in banking and finance practices in Pennsylvania. She is chair of the Commercial Finance Practice Group and a partner at Duane Morris LLP.

DEXTER HAMILTON L'87,

a member of the Philadelphia office of Cozen O'Connor, made a presentation to a Risk & Insurance Magazine Webinar in July. Dexter's presentation covered the legal issues associated with employees getting into motor vehicle accidents on company time due to distracted driving caused by talking or texting on a cell phone while driving.

THOMAS G.

SERVODIDIO L'87 has been identified by Chambers USA as one of the county's top employment lawyers. He is a partner and the chair of the Employment, Labor, Benefits and Immigration Group at Duane Morris LLP.

FRANK TOBOLSKY '87

joined the Philadelphia office of Lamm Rubenstone LLC. He has also been named a 2010 "Super Lawyer" for his work in real estate law.

ABBE F. FLETMAN L'88

has been named a "Super Lawyer" by Key Professional Media, Inc. The group grants the designation to five percent of lawyers in the state who show high legal ability and integrity as determined by their peers and

independent research. She also has been elected to the board of trustees of the Albert Einstein Healthcare Network in Philadelphia. In addition, she was reappointed to a second one-year term as co-director of Division VI of the Litigation Section of the American Bar Association. She is a shareholder with Flaster/Greenberg P.C. and is a co-chair of the firm's government relations and regulatory law group with Kevin M. Greenberg L'98.



LISA G. HAN GL'88 joined Squire Sanders & Dempsey LLP in Columbus, Ohio.

CRAIG F. TURET L'88

has joined the law firm of Offit Kurman as a principal in its commercial litigation practice. He also serves as a member of the board of directors for the March of Dimes of South-eastern Pennsylvania.

The "new and improved" Law Alumni Society (LAS) is now in full swing. Dues will no longer be required, and all alumni, JDs and LL.M.s are now, for the first time, full members of the LAS. There will be a focus on service, with new committees on Career Planning and Professionalism, Public Interest and Public Service, Student Life, and Post-Acceptance Admissions. For further information, please contact Nancy Rasmussen (nrasmuss@law.upenn.edu), associate director of Alumni Relations.

ABBE A. MILLER L'89

has joined the law firm of Weir & Partners LLP. She concentrates her practice on creditor's rights, insolvency and restructuring.

BRIDGET E. MONTGOMERY L'89

was awarded the Outstanding Service Award this year by the federal judges of the U.S. District Court for the Middle District Court of Pennsylvania. She handles commercial litigation for Erkert Seamans Cherlin and Mellot LLC in Harrisburg, Pa.



GUSTAVO ARNAVAT L'91

was appointed by President Obama to the post of U.S. Executive Director of the Inter-American Development Bank. This is the largest provider of unilateral funding through loans, grants, technical assistance and research to Latin America and the Caribbean islands.

MATTHEW L. BIBEN L'92

has been appointed senior vice president, chief counsel and chief administration officer of Next Jump, Inc. The company is a leader in next-generation e-commerce and advertising. He formerly was executive vice president and deputy general counsel at The Bank of New York Mellon.

WENDY FERBER L'93

was honored as Woman of the Year by the Millburn-Short Hills Hadassah, a chapter of the international women's Zionist organization. She was selected by her peers for her ongoing support in the areas of health care fundraising and education and for her help in humanitarian efforts.



JENNIFER BRANDT L'94

was a course planner and speaker for the Pennsylvania Bar Institutes' course "Sophisticated Issues for Family Lawyers" last June. The course covered topics including bankruptcy, pensions, alimony and surrogacy. She is a member of the Philadelphia office of Cozen O'Connor.

DEAN W. KELLER L'94

has been named managing director of the Natural Resources Group of Deutsche Bank Securities, Inc. Dean previously worked at Citigroup, where he was a managing director and co-head of the North American power group.

RAQUEL M. FERNANDEZ

L'95 became a member of Cozen O'Conner in May. She is part of the General Litigation Department in the firm's Miami office, focusing her practice on general litigation matters.



GALIT KIERKUT C'91,

L'95 delivered a lecture on legal issues in social media usage to a Web conference in February. She is a partner in the Litigation Department of Greenbaum Rowe Smith & Davis LLP in New Jersey.

FARAH JIMENEZ C'90,

L'96 became head of the People's Emergency Center, a social services agency that helps homeless families in West Philadelphia. She previously served as director for the non-profit Mount Airy USA.

ERIC MCCARTHY L'96

was named general legal counsel of Honeywell Technical Solutions. He previously was an attorney in the Washington, D.C., office of Latham & Watkins.

ROBERT H. MILLER L'96

was elected to serve as member-at-large on Sheehan Phinney law firm's four-person management committee. He concen-



trates his practice on commercial disputes in federal courts and appellate work before the New Hampshire Supreme Court.

SUSAN TIEN L'96

has been named a partner at Virtual Law Partners LLP. The firm serves clients from home on a computer-based platform.

PRISCILLA J. MATTISON

L'97 gave a presentation entitled "Independent Artists in the Digital Age: Who gets Paid?" at Princeton University on April 24. The lecture was part of the University's symposium on "Intellectual Property and the Making and Marketing of Music in a Digital Age." She serves as counsel to Bernard M. Resnick, Esq. P.C.

JOSEPH M. DRAYTON

L'97 was named to the "Nation's Best Advocates: 40 Lawyers Under 40" by the National Bar Association and IMPACT, a nonprofit organization comprised of young African-American professionals. He is a counsel at Kaye Scholer LLP.

ALUMNI BRIEFS

Alumna Helps Trailblazing Black Lawyer Gain Admission to PA Bar – 160 Years Later



WHAT BEGAN AS an intriguing pro bono project for Leslie Carter L'08, ended in a favorable decision from the Pennsylvania Supreme Court that remedied a historical wrong and validated her own career as much as her client's. Carter helped an African American lawyer from the mid-1800s, George B. Vashon, to gain posthumous admission to the Pennsylvania Bar.



Carter, an associate at Duane Morris, received this pro bono opportunity from one of the firm's partners, Nolan N. Atkinson Jr., GL'69, a founding member of the Philadelphia Diversity Law Group. While working the case, Carter discovered that Atkinson was closer to the cause than she initially realized - he was Vashon's great-grandson. "At first, I didn't know that George Vashon was one of (Atkinson's) ancestors," Carter says. "The case was fascinating because of its historical significance, and became even more interesting when I learned about the personal connections to Vashon."

Vashon was a figure who fought to break down the racial barriers of his time. Of his many accomplishments, he was the first black graduate from Oberlin College, the first black lawyer admitted to the New York State Bar, the first black professor at Howard University, and a lawyer who practiced before the U.S. Supreme Court. Yet, in spite of these accomplishments, Vashon was denied the right to practice law in his home state of Pennsylvania twice. On both occasions, in 1847 and 1867, Vashon was rejected because he was of "negro descent."

Carter, along with Pittsburgh lawyer Wendell Freeman, represented Vashon's descendants in their petition to admit Vashon to the Pennsylvania Bar. The Pennsylvania Supreme Court ruled in Vashon's favor and held a swearing-in ceremony on October 20 to honor Vashon in the presence of his descendants.

As a person of color herself, Carter says she was proud to represent a learned, qualified and capable man who faced discrimination solely due to the color of his skin. Carter recognizes that men and women like Vashon helped pave the way for her and other African Americans to gain equal footing in the world of law.

"In a profession that continues to struggle with diversity," she says, "it's encouraging to know that there is a history of excellence connected with African American lawyers in Pennsylvania."

- JIM WARKULWIZ

KEVIN M. GREENBERG

L'98 has been named a "Rising Star" by Key Professional Media, Inc. He is a shareholder with Flaster/Greenberg P.C., where he is a co-chair of the firm's Government Relations and Regulatory Law Group.

CANDICE TOLL AARON

L'99 joined GE Capital in December as senior counsel for Regulatory & Compliance. She also was recently appointed the vice chair of the LIVESTRONG Young Leaders Cancer Council for The Lance Armstrong Foundation.



CHRISTOPHER MORA

L'99, a Lieutenant Commander in the U.S. Navy JAG Corps, received the Outstanding Achievement Award in June from the Society of Indian Government Employees. The award recognized his work in American Indian Law. Also in June, Christopher received the Army Commendation Medal for his work on behalf of legislation that allows military lawyers to represent low-income soldiers in Louisiana courts.



WILLIAM R. HARKER

L'00 has been elected to the national board of trustees of the March of Dimes Foundation. The foundation is a leading nonprofit organization focusing on health of infants by preventing birth defects, premature birth and infant mortality. He is an executive at Sears Holdings Corp.

GERA R. PEOPLES L'00

has been appointed an assistant U.S. Attorney for the Southern District of Florida.

SUSAN VALINIS L'00

has been named one of Pennsylvania's "2010 Rising Stars" in Philadelphia magazine and Pennsylvania Super Lawyers magazine. She is an associate at Obermayer Rebmann Maxwell & Hippel, LLP.

AARON B. BLOOM '01

has been elected president of the board of directors for the Housing Rights Center. The group is one of the largest nonprofit fair housing organizations in the country.

D. ALICIA HICKOK L'01

has been named a partner at Drinker Biddle. She concentrates her practice in appellate, antitrust and other commercial litigation.

JASON LECKERMAN L'01

has been named to the 2010 list of "Lawyers on the Fast Track" by The Legal Intelligencer. Jason is a litigation partner Ballard Spahr, where he works in the areas of antitrust and product liability.

JENNIFER MACNAUGHTON-WONG

L'01 was named 2009 Trial Lawyer of the Year by the Public Justice Association for her work on a lawsuit against the Rocky Flats Nuclear Weapons Plant. She and her team represented property owners in Colorado who claimed that the facility was responsible for frequent radioactive contamination in the area. Jennifer is an attorney with Berger & Montague P.C.

JANNIE K. LAU L'02

was promoted to deputy general counsel of InterDigital Communications, LLC, a wireless technology company located in King of Prussia, Pa. She joined the company in 2008 as the associate general counsel. She has also been elected to the board of directors of the Delaware Valley chapter of the Association of Corporate Counsel.

ERIK R. LIEBERMAN L'02

has joined the Food Marketing Institute as regulatory counsel. He previously was a member of the majority staff of the U.S. House of Representatives Small Business Committee.

ANJU GUPTA G'03, L'03

was selected by the *Philadelphia Business Journal* for its 40 Under 40 list, which recognizes the achievements of young professionals. He is the chief of staff and a deputy commissioner for the City of Philadelphia.

ERIC L. JOHNSON L'03

has formed a new law firm with two partners in Dallas. Helms, Johnson & Diaz will specialize in criminal and civil litigation.

ANTHONY MAZZARELLI GR'03, L'03

was named to the *Philadelphia Business Journal* 40 Under 40 list, which recognizes the achievements of young professionals. Anthony is director of the department of emergency medicine at Cooper University Hospital.

STEPHEN J. SMULOWITZ L'04

has joined Adorno & Yoss LLP as an associate. He practices in the areas of civil litigation, white-collar criminal defense and complex corporate litigation.



SHILOH D. THEBERGE L'04

has been hired as an associate in the Portland, Maine office of Fisher & Phillips LLP.

She previously worked in the Litigation Department of Saul Ewing LLP.



CASSANDRA J. GEORGES C'01, L'05

recently became the Alternative Dispute Resolution Chair of the Philadelphia Bar Association. Cassandra is the principal of Above & Beyond Dispute Resolution and is serving her second term with the American Bar Association's Young Lawyers Division.

MARY HERRINGTON L'06

has launched her own wedding-planning-and-events company called "Forever and Ever Events" in London.

REID K. WEISBORD L'06

has joined the faculty of Rutgers School of Law-Newark. His research and teaching interests include nonprofit law, property, tax policy, trusts and estates.

KEVIN SCHUBERT L'09

became an associate at the McKool Smith law firm's New York office. He previously worked in the cryptography department at the U.S. Patent & Trademark Office.

ALUMNI BRIEFS



JAKE KOBRICK L'98 and his wife, Stacy, announced the birth of their son, Matthew Cameron, on April 3.



VIVIENNE LA BORDE L'99 married Kaddu Luyomya on March 27 at the Tribeca Rooftop in New York. She is an associate at Skadden Arps Slate Meagher & Flom in New York.

SNEHA PATEL DESAI L'99 and Anand Desai are proud to announce the birth of their baby girl and second child, Kaya, on April 18.

BRIAN EDWARD HIRSCH G'97, L'00 and **LAUREN SLAWÉ HIRSCH C'95**

announced the birth of their third child, Henry Elliot, on Nov. 23.

JENNIFER MACNAUGHTON-WONG L'01 and **GORDON WONG GENG'00, GR'03** are excited to announce the birth of a baby girl, Callan Ji Yau, who was born on New Year's Eve.

JULIE PAMELA BOOKBINDER EAS'02, L'05 married Jonathan Lewis Schwartz on May 1. She is an associate in the intellectual property and technology department of Greenberg Traurig in New York. He is an assistant editor for the publishing department of Major League Baseball, which edits *World Series* programs, *Little League Magazine* and *MLB Insiders Club Magazine*.



JESSICA LEANNE KEEFE and **BRIAN CHARLES RYCKMAN** were married on April 17. Both were undergraduates at the University of Michigan, but did not meet until they attended Penn Law. She is volunteering in Namibia with Lawyers Without Borders. He is a law clerk for Judge Morris S. Arnold of the U.S. Court of Appeals for the Eighth Circuit.



DEAN KRISHNA L'07 and **REENA VAIDYA KRISHNA GR'10** announced the birth of their son, Veer Vaidya, on Oct. 27.

CHARLOTTE ANNE LEVY L'09 married **DR. DAVID GUDIS M'08** in a ceremony held in the American Museum of Natural History in New York. She is an assistant district attorney in Philadelphia and he is in his second year of surgical residency at the Hospital of the University of Pennsylvania.

This is your chance to announce personal milestones. We are interested in engagements, weddings, births, retirements or whatever else you believe merits attention. Job-related news will continue to run in the main section of alumni notes. Please send information to lteitelb@law.upenn.edu.



IN MEMORIAM

Noyes Leech, Leading Scholar of Corporate and International Law

BY KRISTIN EKERT L'03

NOYES E. LEECH C'43, L'48, professor emeritus at the University of Pennsylvania Law School and a leading scholar of international and corporate law, died July 1. He was 88.

"The Penn community lost one of its postwar academic luminaries," said Dean Michael A. Fitts. "Noyes was a brilliant scholar and a pioneer in international law who helped launch Penn Law into the then-emergent field. He was also a deeply devoted citizen of the Law School and the University."

Leech was "the embodiment of the view that the law was an instrument that served a larger societal purpose," said Curtis Reitz, Algernon Sydney Biddle professor emeritus.

Leech began his career at Penn Law in 1949 as an instructor in law, later becoming a full professor in 1958, the Ferdinand Wakeman Hubbell Professor of Law in 1978, and the William A. Schnader Professor of Law in 1985. He received his BA from Penn in 1943 and his JD in 1948, graduating first in his class. After earning his law degree, he worked at Dechert, Price & Rhoads in Philadelphia. From 1943 to 1945, he served in the U.S. Army as a Staff Sergeant with the 619TH Army Air Force Band.

Leech spent the early part of his academic career developing a wide expertise in commercial and corporate law. When the opportunity came to work in the nascent field of international legal studies, Leech jumped at the chance, becoming editor of the *Restatement of the Foreign Relations Law of the United States* (1965).

Leech had long "wanted to work in the area that encompassed problems of war-peace, security-survival, international organization, and (then emerging) human rights,"

wrote Covey Oliver, the late Hubbell professor of international law emeritus, who joined Leech in a partnership to move public international law to a new level of sophistication.

Leech collaborated closely with Robert Mundheim, emeritus professor and former dean, on a new program in international corporate

law. He helped form the International Faculty for Corporate and Capital Market Law, a group of seventeen academics from nine countries, and co-founded *The Journal of Comparative Business and Capital Market Law*, the precursor to today's *University of Pennsylvania Journal of International Law*.

Leech's major contributions to scholarship include two casebooks, *The International Legal System and Corporations*; the classic article on the sale of control, *Transactions in Corporate Control*; and the article *International Banking: Effects of Nationalization and Exchange Controls*.

Leech was a leader in the Law School and in University affairs. He served as president of the University Faculty Senate in 1959-60, "a turbulent period when that body was the conscience of the University," according to Reitz. He chaired the Appointments Committee of the Law School in 1959-60, 1961-62, 1963-64, 1976-77, and 1981-82, and also led an effort to reshape the Law School curriculum. When he served under Dean Jefferson Fordham in the 1950s and 60s, Leech was asked to chair so many committees that Fordham simply called him "Mr. Chairman." While a student, Leech helped form the first law club at Penn to admit students without regard to race, color,



IN MEMORIAM

or religion, and became the club's president — a decade before *Brown v. Board of Education*.

Leech was also actively engaged in the life of the Law School, especially through his musical talents. "His love of music and the arts was manifested in festive holiday concerts in the Law School, which featured Noyes singing with John Honnold and Bob Gorman," recalled Reitz. Leech went on to participate in and help found annual spring concerts, and eventually full-scale musicals, a tradition that continues to this day at the Law School. He also played trombone, performing "with brilliant abandon ... in a hilarious never-to-be-forgotten brass quintet in the Great Hall of the Law School," — a performance of warmth and unconventionality that contrasted with Leech's rectitude and serious academic side, wrote Louis Schwartz, the late Benjamin Franklin professor of law emeritus.

Leech retired in 1986 to devote himself to his music, his family, and traveling.

In an issue of *The Penn Law Review* devoted to Leech upon his retirement, Leech's colleagues noted the unusual career decision of a scholar still in his prime. "He could have been dean almost anywhere he wanted to be," wrote Oliver. "And what are we to say of his ultimate decision to take early retirement to devote himself to cello?" asked Schwartz. "We shall say, 'Here is a complete human being, rich in contrasts, true to himself and thus never false to another, reliably and nobly serving his community.'"

Professor Leech is survived by his wife, Louise; children, Katharine and Gwyneth; grandchildren, Megan Louise Wilson and Grace Elizabeth Wilson; and brother, William David Leech.

Liz Kelly, Longtime Director of Biddle Law Library and Force Behind its Transformation

BY LARRY TEITELBAUM

ELIZABETH ("LIZ") SLUSSER KELLY HOM'85, who through her leadership transformed a once-moribund Biddle Law Library into a modern space for research and the centerpiece of Tanenbaum Hall, died on July 14 at the age of 72.

As chair of the Tanenbaum Hall Building Committee, Kelly drove the process to create, in her words, a "serene and lu-

minous" world-class library for study and research. During a span of 17 years as director of the Biddle Law Library, Kelly also expanded the information technology and media services departments; substantially increased the archival collection; and spearheaded an effort to fund the library through the founding of the Friends of Biddle.

"In the short time that I worked with her as dean, I observed Liz' dynamism," said Michael A. Fitts, dean of Penn Law School. "She was a tireless advocate for Biddle. Liz Kelly presided over the rebirth of Biddle Law Library, and for this she will forever hold an important place in Penn Law history."

Added Dean of Students Gary Clinton, "I had the pleasure and honor of working with Liz on the Tanenbaum Hall project from its inception to its opening. Liz' vision of a world-class law library with its many manifestations made the project what it became, and the fact that it still serves so effectively twenty years after planning commenced is a testament to her work.

"I used to joke with Liz that every bolt, every cable, every shelf, room, door, chair and window had her imprint on it, and I still feel that way," Clinton continued. "Our students, staff and faculty have been well-served by Liz Kelly's vision and indomitable energy, and we remain in her debt."

Kelly became director of the Biddle Law Library in 1984, after serving in that position at Southern Illinois School of Law. She made an immediate impact. One year into the job she framed her mission: to make the Penn Law library a truly great research center.

She set out to transform an old, overcrowded and disorganized library, then located on the second floor of what is now Silverman Hall. Among her first initiatives was to establish a classification system modeled after the Library of Congress. She also moved the most requested books to ground level, beginning a turnaround in customer service which became one of the hallmarks of her tenure.

Several years later, in the early 1990s, Kelly's push for more space came to fruition, when the overseers, acting on the advice of the dean and faculty, decided to tear down the student dormitories to make way for Tanenbaum Hall, the school's first new building in 30 years.

The 72,000-square-foot Tanenbaum Hall was



completed in 1993. It contained seminar rooms, Career Planning and Placement and Public Service offices, areas for the student law journals, and a student lounge whose landmark is “The Clock.”

With its vaulted ceilings, wall-length windows, private study areas, striking curved stairway, and high-tech accoutrements, Biddle Law Library formed the centerpiece, one in which 480 students — 160 more than previous capacity — could stretch out in the spacious and functional environment.

One hundred and ten miles of cable were laid throughout the building, making the new Biddle Law Library a haven for research. The wired library afforded students, alumni and faculty unfettered access to a worldwide network of data. All in all, the project represented a watershed in the Law School’s history.

Longing for her summer home on the shores of Lake Huron in Michigan, Kelly retired in 2001, dividing her time between her beloved retreat and a residence in Oro Valley, Arizona. Soon after her retirement, Kelly received the Distinguished Service Award from the Law Alumni Society and became the first female emeritus faculty member in the history of Penn Law School.

Upon Kelly’s retirement, professor Stephen B. Burbank, who chaired the search committee for a new library director in 1983, reflected: “The Biddle Law Library was in a very sorry state indeed when Liz Kelly was appointed. The transformation for which she is largely responsible has been nothing short of remarkable in every dimension. Grossly underfunded, inefficiently staffed, not notably friendly to its patrons, and a technological dinosaur when she arrived, Biddle has regained its historic place among the great law school libraries in the country.”

Survivors include husband Matthew; sons Mark and Michael; daughters Sarah and Margaret C. Horn; sister Margaret Griess; brother Father Michael Stephen Slusser; and nine grandchildren.

Condolences may be sent to her family in care of Matthew Kelly, PO Box 946, Pointe Aux Pins, Michigan 49775.

IN MEMORIAM

JANET ELIZABETH

MACHT L'46

Court observer for Delaware Valley Crime Commission

WILLIAM L. HUGANIR L'47

Lawyer in Norristown, Pa. and playwright

ROBERT P. FRANKEL L'48

Former hospital executive and Philadelphia lawyer

ALVIN E. GRANITE L'51

Former Gloucester County (N.J.) prosecutor and municipal court judge

HARRISON OMINSKY

W'53, L'56

Former partner with Blank Rome and past president of the Philadelphia Bar Institute

FRANKLIN H. SPITZER

C'48, L'51

Former partner at Wolf Block and former solicitor for the Pennsylvania Prison Society

DAVID M. SATZ, JR. L'51

Former U.S. attorney for New Jersey

PHILIP CARROLL L'52

JOSEPH S. ELMALEH

C'49, L'52, GEE '71

Attorney, computer engineer and colonel in the Army Reserve

THEODORE COXE L'53

Attorney and philanthropist

PAUL CARPENTER G.

DEWEY L'56

Former chancellor of the Philadelphia Bar Association

DANIEL T. DEANE, JR.

C'51, L'57

Veteran of World War II and the Korean War

HONORABLE MELVIN D.

GLASS C'53, L'58

Retired judge on New York City Criminal Court

DONALD D. KENNEDY L'60

Former executive with National Liberty Corp.

HENRY F. MILLER L'63

Real estate attorney with Wolf Block and Cozen O'Conner

EDWARD PARRY WARNER L'70

Former partner at Obermayer Rebmann Maxwell & Hippell LLP

BRIAN BROMBERGER GL'71

Dean and distinguished professor of law at Loyola University — New Orleans

RICHARD P. HAMILTON L'72

Retired certified public accountant

TIMOTHY D. NORWOOD L'72

Partner with law firm Underwood & Norwood

DONALD T. MASTERS, JR. L'76

Attorney, entrepreneur and Vietnam War veteran

JOHN TOSCANO L'78

Former assistant district attorney of Philadelphia and attorney for Seltzer Caplan McMahon & Vitek in San Diego

PETER NORDBERG L'85

Shareholder, Berger & Montague P.C.

ROBERT F. MCDONOUGH L'86

Financial services attorney for Polsinelli Shughart

LAURA M. RIVKIN L'90

Deputy attorney general in the New Jersey Department of Law and Public Safety

SALMAN AHMAD L'99

Vice President of the Legal Department, Deltek

CASE CLOSED



The Goat in Exile

The Goat, the closest thing to a school mascot, sits forlorn in a corridor in Gittis Hall, displaced from its natural habitat. But fortune will soon shine on the sculpture as it returns in February to its exalted position at the crossroads of the Law School – albeit in altered form. Which is to say that come the spring semester The Goat will take up new residence and commingle as it were with the courtyard, which will be visible through floor to ceiling windows. The Goat will now sit in an alcove between Silverman Hall and the Goat Lounge where the blessings of natural light via skylight will also afford students, faculty, staff and visitors a glimpse of the beautiful Silverman façade, all the while retiring to posterity the infamous “Pod” lighting.

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