THE PERILS OF
PUSH BUTTON WAR

ALSO:

THE REPUBLIC OF SPORTS
AN UNCONVENTIONAL MARRIAGE COUNSELOR
An Unconventional Marriage Counselor

BY JAY NACHMAN

Lynn Toler’s L’84 got attitude. The happily married judge presides over the television series Divorce Court with a mixture of tough love, homespun advice, and wry humor. What’s not to love?

The Perils of Push Button War

BY RICK SCHMITT

We are met on a battlefield of high-tech armaments with deadly consequences for both civil society and the conventions of war. Into the breach comes the new Penn Law Center for Ethics and the Rule of Law, an interdisciplinary institute dedicated to conducting a cost-benefit analysis that is novel and important.

The Republic of Sports

BY JAY NACHMAN, JOHN ROSENGREN, ROBERT STRAUSS, LARRY TEITELBAUM AND L. JON WERTHEIM

Five Penn Law alumni tell how they got involved in the sometimes contentious, but always entertaining, rollercoaster ride of sports, whose storylines are filled with winners and losers, villains and heroes. Sounds a lot like life.

A Disabled Advocate Makes Her Stand

BY LARRY TEITELBAUM

Born with cerebral palsy, Britney Wilson 2L has no time for bleeding hearts. She’s too busy writing piercing poems about selfhood and preparing for a life in the law protecting the rights of people just like her.
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Years ago, when I was a student at Harvard, I rode the trains regularly. Anyone who knows Boston’s mass transit system recognizes its vulnerabilities. But no one could have anticipated an attack at the Boston Marathon.

It is impossible to prevent all terrorist strikes and difficult as well to sort out the aftermath with clarity. There are just too many variables and unknowns.

The Boston bombings rocked us back to reality. The attacks reminded us that there are no easy answers to terrorism, just as there are no simple solutions to the complex web of issues that arise from these acts.

Over the last several weeks we have seen a renewed policy and political debate about due process and the treatment of enemy combatants. These issues and many more are the province of a new interdisciplinary institute at Penn Law School called the Center for Ethics and the Rule of Law, or CERL, which is led by Claire Finkelstein, the Algernon Biddle Professor of Law and Professor of Philosophy and co-editor of a well-received and timely book titled *Targeted Killings: Law and Morality in an Asymmetrical World*.

Under her leadership, the Center – which is the subject of our cover story – assembles academics, philosophers, political scientists, military lawyers, defense contractors and public policy analysts for vigorous discussions of post-9/11 challenges such as cyber war and the use of drones, and poses questions about the expansion of executive power in an era marked by constant security threats.

The Center is following the lead of our Institute of Law and Economics and our Center for Technology, Innovation & Competition, both of which put practitioners and theorists together to parse current thinking and develop new scholarship that brings to bear novel perspectives in an effort to provide leadership and solve problems. CERL specializes in the kind of nuanced, informed analysis lacking in the media’s saturation coverage where we (sometimes) know what happened but do not know why or what to do about it.

I often say that the challenges we face in medicine, international business, intellectual property and a plethora of other fields do not come in neat packages. And that is certainly the case with national security, where new technologies have changed the face of warfare; where the right balance between civil liberties and the fight against terrorism sometimes proves elusive; and where the executive and congressional branches of government are in constant tension over the president’s wartime powers.

CERL’s mission is to shine a light on the policy choices we make in the rapidly evolving War on Terror, and to call for transparency and accountability on the part of our government officials.

It is inevitable that more information will emerge to change our understanding of the deadly attacks in Boston. What won’t change is the level of threat. The debate will continue on how best to protect the homeland without sacrificing our ideals and principles. For the foreseeable future, the Center for Ethics and the Rule of Law will be leading that debate.
$15 Million Gift Will Fund New Center for the Fair Administration of Justice at the University of Pennsylvania Law School

The University of Pennsylvania Law School has received a $15 million gift to establish the Quattrone Center for the Fair Administration of Justice, a national research and policy hub created to catalyze long-term structural improvements to the U.S. criminal justice system.

The Center will take an interdisciplinary, data-driven, scientific approach to identifying and analyzing the most crucial problems in the justice system, and proposing solutions that improve its fairness for the long-term benefit of society. It will conduct independent, unbiased research and programs, engaging all parties—academia, judiciary, law enforcement, defense attorneys, prosecutors, legislators, forensic and social scientists, media, and other participants—required to effect substantial change for the better.

The Center’s initial funding comes from The Frank and Denise Quattrone Foundation, whose trustees Frank Quattrone W’77 and his wife Denise Foderaro SAMP’78 are Penn graduates and Philadelphia natives.

The fundamental accuracy and fairness of the American criminal justice system was once taken for granted. In recent years, however, scientific advances such as those in DNA testing have challenged our idealism by revealing errors in findings of guilt and innocence, with significant consequences to individuals, families, and the system as a whole. Further examination by scholars and attorneys nationwide has led to the recognition that a wider variety and higher occurrence of errors exist, eroding the public’s faith that justice is universally achieved.

The Quattrone Center will be the first in the nation focused explicitly on interdisciplinary, data-driven research and policy recommendations designed to prevent such unjust outcomes.

“The Quattrone Center is being established with one fundamental purpose: to advance the fairness of our justice system by deepening our understanding of the most crucial issues affecting its performance and proposing improvements that will ensure a just process for all,” said Law School Dean Michael A. Fitts. “It will extend to justice the same revolution in evidence-based approaches and outcomes that are already taking place in medicine and education, by evaluating the justice system broadly to determine why systemic problems occur and how best to address them for the long term.”

Housed at the Law School, the Center will draw on Penn’s unrivaled interdisciplinary strengths, involving in its work scholars from related disciplines across the Penn campus, including Business, Communications, Criminology, Engineering, Medicine and Public Health, and Social Sciences.

“The Center is uniquely structured,” said University President Amy Gutmann. “By integrating world-class scholarship from across the University with the perspectives of nationally prominent practitioners, the Center will formulate analysis and recommendations that will shape public deliberations and improve the fairness of our legal system.”

The Center will host conferences, symposia, workshops, roundtables and other scholarly activities to generate knowledge, debate and policy proposals about major issues confronting the justice system. Student involvement in the Center’s research and programming will help to cultivate a future generation of poli-
“The Quattrone Center is being established with one fundamental purpose: to advance the fairness of our justice system by deepening our understanding of the most crucial issues affecting its performance and proposing improvements that will ensure a just process for all,”

SAID LAW SCHOOL DEAN MICHAEL A. FITTS.

cymakers and professionals. Seminar participants will include not only academic scholars and think-tank researchers, but also real-world practitioners including lawyers, law enforcement officials, judges, legislators, scientists, and the media.

Potential areas of investigation include: the frequency and causes of, as well as policy proposals to reduce or eliminate wrongful convictions; redress for victims of institutional misconduct; critically evaluating the science underlying current forensic practices and developing new breakthroughs; incentives and accountability for prosecutors (for example, absolute vs. qualified immunity); and the roles of politics, economics, and the media on justice system fairness.

The Quattrone Center builds on Penn Law’s unsurpassed reputation for generating interdisciplinary legal scholarship. Its nine centers and institutes expand and integrate knowledge across disciplines, attracting scholars and experts from around Penn and across the globe. A nationwide search for its academic director is underway, and the Center will assemble a national advisory board of prominent individuals drawn from diverse professional backgrounds. It is expected to conduct its first symposium in the 2013-14 academic year.

“Our system of justice may very well be the best in the world, but with each passing day the frequency and sometimes tragic consequences of its mistakes, as well as the risk of random unfair outcomes for all Americans, are becoming better understood,” said Mr. Quattrone. “It is our profound wish that this new Center will serve as a world-class policy hub for researching and debating the system’s most crucial problems, as well as in developing concrete, credible, evidence-based solutions to catalyze long-term structural improvements.”

Ms. Foderaro commented, “Penn is the ideal host for the Center due to its outstanding overall academic credentials as well as its particular strengths in law, criminology, engineering, life sciences, medicine, public policy, social sciences and statistical analysis—all of which will come into play in advancing the justice system to the next level.”

The Frank and Denise Quattrone Foundation was established in 2002 by Frank Quattrone and Denise Foderaro to improve the human condition through technological, social and artistic innovation. The Foundation provides grants for educational scholarships, medical research, science and technology, social justice, a healthy environment and the arts. The Foundation has long supported Penn and its educational mission, most recently contributing a major gift to the new Singh Center for Nanotechnology Center in Penn’s Engineering School.

Mr. Quattrone is co-founder and CEO of Qatalyst Group, a global independent investment bank that advises technology companies on mergers & acquisitions. He is chair emeritus and a member of the board of The Tech Museum of Innovation in San Jose, and chair emeritus of the advisory board of the Northern California Innocence Project.

Ms. Foderaro, an occupational therapist, is an advocate for many social justice organizations including the Innocence Project, and is a research assistant for the National Registry of Exonerations. She was co-chair of the Major Gift Committee of Penn’s recent Making History Campaign.

First ACE Rule of Law & Human Rights Fellow
Will Work with Refugees

KATHLEEN NORLAND L’13 has been awarded the inaugural 2013-14 ACE Rule of Law & Human Rights Fellowship. This post-graduate fellowship, given annually to a Penn Law student or recent graduate pursuing an international public-interest career, supports a year of work with Human Rights First, a preeminent legal advocacy organization.

Norland will spend a year with Human Rights First, working primarily with the Refugee Protection Program, which advances the rights of refugees, including the right to seek asylum.
Norland, who founded the Penn Law chapter of the Iraqi Refugee Assistance Project, is a candidate for a joint-degree in Penn’s Department of Near Eastern Languages & Civilizations.

“Kate’s strong background in refugee representation and advocacy, as well as her fluency in Arabic and deep knowledge of the Middle East, are a perfect match for this fellowship,” said Human Rights First President & CEO Elisa Massimino. “We feel privileged that Human Rights First will be where she launches what we feel confident will be a remarkably impactful career.”

The ACE Rule of Law Fellowship is funded by the ACE Charitable Foundation and ACE Limited General Counsel Robert Cusumano L’80. It was established in 2012 to create new pathways for students to build careers in international rule of law and human rights. The fellowship reflects ACE’s leadership in supporting rule of law projects in the United States and around the world.

Human Rights First is an independent advocacy and action organization that builds bipartisan coalitions and teams up with frontline activists and lawyers to tackle human rights issues that demand American leadership. Its projects range from protecting refugees and combating torture to defending persecuted minorities and stopping atrocities.

Norland will work with Human Rights First’s Refugee Protection Program, which advocates for access to asylum and for U.S. compliance with international refugee and human rights laws. Each year, the program helps hundreds of individual refugees in the United States to win asylum through its pro bono Asylum Legal Representation Program.

“\textit{We want our lawyers to be lovers, not street fighters},” Susman said. “\textit{Time and money is not wasted on fights that are not outcome determinative}.”

He Found Nirvana
Running his Own Law Firm

\textbf{FOLLOWING A CLERKSHIP} with U.S. Supreme Court Justice Hugo Black, Stephen D. Susman made partner in record time with what was then one of the largest firms in the country.

However, “I found I was not having fun practicing law,” he said.

He didn’t like representing defendants on an hourly basis. He didn’t like the “mind-numbing, useless discovery.” The partnership agreement did not allow him to vote on anything or give him any sense of how partner compensation was established. He said, “I was getting too much grunt work, very little courtroom exposure and no extra compensation for extraordinary hours.”

So, when he founded his firm, he resolved to make the practice of law more fun and less stressful by having a set of rules.
He shared his “recipe” for doing so in the Irving R. Segal Lecture In Trial Advocacy last November titled “The Joy of Lawyering: Partnership Agreements, Fee Agreements with Clients and Pretrial Agreements with Opposing Counsel.”

In 1980, he founded Susman Godfrey LLP, the first firm in the Southwest to limit its specialty to commercial litigation. (The firm has offices in Houston and Dallas, as well as Seattle, Los Angeles and New York.) Among his many accolades, Susman was twice named Leading Commercial Litigator in the World by “Who's Who Legal: The International Who's Who of Business Lawyers,” and “The National Law Journal” featured him as one of the nation’s top ten litigators.

“I wanted to create a firm that was a complete meritocracy when it came to partner compensation. I believe that partners should be paid based on a percentage of what they produced. And compensation should not be based on seniority. And no one should be paid extra for management, or for recruiting, or for training or any firm function that lawyers at big firms love to spend their time performing.”

He also made sure his firm was democratic in its governance and transparent in its finances.

Susman also stressed having the right types of agreements with clients. “We are credited with pioneering fee agreements that reward lawyers for results, not efforts. On the plaintiff’s side it’s usually a contingent fee that is heavily negotiated,” he said. On the defense side, the firm negotiates a fixed fee that covers part of the value of the firm’s time, plus a variety of bonuses dependent on various results, such as obtaining dismissals, summary judgments, or settling a case for less than a certain sum of money.

The firm also promotes trial by agreements. “We want our lawyers to be lovers, not street fighters,” Susman said. “Time and money is not wasted on fights that are not outcome determinative. You can better keep your eyes on what matters if you are not getting mad from bickering with opposing counsel.”

Susman has created a lectureship, “The Joy of Lawyering,” at his alma mater, the University of Texas Law School.

“The notion was to provide a platform for practitioners, academics and judges to talk about why they loved their work rather than why it presented so many challenges,” Susman said. “I was tired of hearing lawyers, and particularly young lawyers, complain about how it was so horrible to be a lawyer in a big firm. They didn’t like what they were doing and I thought it was time that we present the people in law schools with some lawyers who were really happy.”

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**New Legal Writing Program for Digital Age**

**THE LEGAL WRITING PROGRAM** is undergoing practical revisions to reflect changes in modern legal practice. There will be more emphasis on electronic and oral communications, according to Eleanor Barrett L’05, associate dean for Legal Writing and Communications.

“We want to train our graduates to solve increasingly complex problems in more complex situations,” says Barrett.

The new name of the program is Legal Practice Skills, which will replace Legal Writing in the first-year curriculum.

The changes stem in part from a survey of alumni from the last 10 graduating classes. They were asked to indicate the importance of various writing and communications tasks for junior lawyers in their practice areas. Surprisingly, the respondents rated informal communications, e-mail and informal oral presentations, such as day-to-day meetings and phone calls, as
the most important to learn, above more formal types of communications, such as memo writing and oral arguments.

Based on this feedback, informal communications skills will be intensively taught in the new course being developed for next fall.

“We want to train our graduates to solve increasingly complex problems in more complex situations,” Barrett said.

Added Jo-Ann Verrier L’83, vice dean for administrative services: “We want to make sure students are equipped with a skill set that makes them practice-ready. The legal profession is changing and students have to own their professional development.”

Barrett said the Legal Practice Skills curriculum will be mandatory for first-year students. The skills training will include extensive, individualized feedback and will offer practice simulations and in-depth critiques of written work.

Substantively, she said, the course will continue to focus on legal research, analysis, and writing, introduce basic fact-development, negotiation and contract-drafting skills, and incorporate informal communication skills training.

The course will be holistic. “We want to teach students to understand the goals of the assignments and how they are connected, rather than viewing each assignment as a discrete task,” Barrett said.

The program will also emphasize that the development of legal and professional skills is a career-long responsibility.

“Whether or not we notice them, default rules are omnipresent,”
SAYS SUNSTEIN.

There are two types of default rules guiding, or some might say, nudging consumer behavior: impersonal default rules, such as the organ donor example, and personalized default rules, in which countries or companies customize options to meet the needs of individuals or groups. An alternative to default rules is something Sunstein called active choosing, in which people are required to make their own decisions.

And like it or not, these rules are here to stay.

“Whether or not we notice them, default rules are omnipresent,” Sunstein said. “They establish settings for many activities and goods, including cell phones, rental car agreements, computers, savings plans, health insurance, and energy use. In part, because of the power of inertia, default rules tend to stick.”

Because default rules and active choosing all have advantages and disadvantages, Sunstein’s descriptions of each had an on-the-one-hand-on-the-other-hand flavor.

For example, impersonal default rules establish settings for cell phones and savings plans, and websites, among many other goods and activities.

Sunstein Provides Method to the Madness of Decision-Making

IN GERMANY, about 12 percent of the population consent to organ donation. In Austria, the rate is 99.9 percent. The dramatic difference doesn’t stem from cultural differences or extraordinarily effective education campaigns in Austria.

Instead, it’s the law in Austria, based on a concept known as the default rule.

“In Austria, consent is presumed, subject to opt out. In Germany, consent is not presumed, and people have to opt in,” said Cass R. Sunstein, the Felix Frankfurter Professor of Law at Harvard Law School.

Sunstein visited Penn Law School in January to speak about defaults and behavioral economics as part of the Risk Regulation Seminar Series, organized by the Penn Program on Regulation.
And while these defaults make life easier and more convenient, there are obvious drawbacks, said Sunstein. The defaults might be poorly chosen, as in automatic enrollment policies that put an unreasonably large percentage of employees’ salary into savings.

“The existence of heterogeneity argues against impersonal default rules,” Sunstein said. However, active choosing has its own drawbacks. If active choosing were required in all contexts, said Sunstein, people would quickly become overwhelmed. “Suppose people lack information or experience. The experience of buying a cell phone or laptop might be horrific if active choosing were required for many product characteristics.”

On the other hand, Sunstein believes that personalized default rules hold a lot of promise. Take Amazon.com. After a purchase, the online bookseller recommends books or CDs that the customer might also like.

Sunstein said he considers personalized default rules, such as the Amazon model, the wave of the future as long as they contain sufficient privacy protections. “The great promise of personalized default rules is that they might eliminate the problems associated with impersonal ones without imposing the costs of active choosing.”

One Battle Over, New War to Wage for Post-DADT Benefits

CHARLIE MORGAN was a chief warrant officer in the New Hampshire National Guard. She was diagnosed with breast cancer a few years ago and successfully fought it. Morgan then petitioned her command for a clean bill of health so that she could redeploy. She served in Iraq, leaving behind her wife and then two-year-old daughter.

After she came back, she had a recurrence of cancer.

“She is very, very sick. And her wife is taking care of her full-time. Her command is very supportive of both Charlie and her wife, Karen. They couldn’t be better. The fact remains, that if Charlie passes away, all of the survivor benefits that Charlie’s wife would normally be entitled to, including very large payments and support benefits just won’t happen,” said David McKean, the legal director for Outserve-SLDN, which advocates for equal opportunity, equal protection and equal benefits, without threat of harassment or discrimination, for LGBT service members and veterans.

“You cannot be expected to do your job effectively as a member of the Armed Forces if you’re spending some of your mental horsepower thinking about your financial stability, thinking about whether or not while you’re on deployment your loved ones back home are being taken care of,” McKean said.

McKean served as a panelist at last February’s inaugural Penn Law Lambda Symposium, “Beyond Formal Equality: The Fight for LGBT Rights.” Joining McKean on the panel, “Don’t Ask, Don’t Tell Repeal: What More Is Needed?” were Air Force veteran Professor Elizabeth Hillman, president of the National Institute for Military Justice, and co-legal director of the Palm
Center, a public policy research institute that played a key role in ending the DADT policy; and Patrick J. Murphy, a former Pennsylvania congressman who authored the bill repealing the policy. A decorated Iraq War veteran, Murphy is now a partner in the Philadelphia office of Fox Rothschild LLP. Penn Law professor Tobias Wolff moderated the panel.

Morgan’s case illustrates that even though Don’t Ask, Don’t Tell has been repealed, pressing issues remain for LGBT services members and their families, McKean said.

He noted that military leaders since Dwight Eisenhower have said that family readiness is mission readiness.

“You cannot be expected to do your job effectively as a member of the Armed Forces if you’re spending some of your mental horsepower thinking about your financial stability, thinking about whether or not while you’re on deployment your loved ones back home are being taken care of.”

Yet gay families don’t receive military benefits and support programs, including health care, housing assistance and the ability to live with spouses stationed in other countries, McKean said.

Hillman addressed the enormous costs in human dignity and money to uphold what she called the “uncommonly silly” policy because of fear it would undermine military efficiency.

She said studies funded by the Palm Center found that allowing gays to serve made the military more efficient, while the government spent “huge amounts” of money defending the status quo.

Murphy said he proposed the repeal because “I saw so many great people getting thrown out just because they were gay. It just bothered me to my core. You either believe in equality or you don’t.”

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**Celebrating Slaves and Other Black Heroes in Fight for Emancipation and Civil Rights**

**SUPREME COURT CHIEF JUSTICE EARL WARREN** merits the accolades he receives for his opinion in Brown v. the Board of Education, according to Randall Kennedy, a Harvard Law professor and former Raymond Price and Sadie Tanner Mossell Alexander ED’18, GR’21, L’27 Visiting Professor of Civil Rights at Penn Law School.

“I doff my hat to Earl Warren,” Kennedy said. “He warrants gratitude, warrants honor, warrants a salute.”

But, he said, let’s not forget about Harry Briggs.

Who?

Briggs was the South Carolina man who was the lead plaintiff in one of the five cases challenging the separate but equal doctrine that collectively become known as Brown v. Board of Education.

“In talking about Brown versus the Board of Education, Earl Warren and his colleagues were only able to do what they did because Harry Briggs and the other plaintiffs did what they did,” Kennedy said.

Kennedy delivered the keynote address at the 2013 Mid-Atlantic People of Color Legal Scholarship Conference hosted in January at the Law School. Participants discussed the legacy and history of the Emancipation Proclamation on the occasion of its 150th anniversary.

Kennedy’s addressed some of the misperceptions surrounding Brown v. Board of Education and the Emancipation Procla-
mation as well as the often-ignored role of black contributors in advancing freedom in the United States.

“Harry Briggs warrants his due, too,” Kennedy said. He was a “very modest man, worked in a gas station. His wife was a maid in motels. When it became public that he was the plaintiff in the case, his boss came to him and said, ‘Harry, we’ve gotten along fine, but I’m not going to be able to keep you on if you don’t get off this case.’ And he didn’t get off the case. And he was fired. As was his wife. They went through all sorts of hell. He and many of the other people associated with the plaintiffs in that case were literally run out of South Carolina.”

Similarly, Kennedy noted in regard to the Emancipation Proclamation, “Lincoln was important. There were a wide variety of actors that were important. But don’t forget the slaves. The slaves who at the first opportunity they had lit out for the Union lines and surprised everyone in doing that. They had a role in shaping history, too, and that should be remembered.”

Kennedy asserted that both documents “are read all too infrequently. They are actually, both of them, strikingly boring. They are devoid of poetry. They are full of legalese. There are no drums beating, there is no trumpet sounding in either one of them. And so when people suggest otherwise, either they never read them, or if they have read them, they’ve read them under the power of suggestion.”

The Emancipation Proclamation, he said, is simply an executive order, a war measure, declaring that certain slaves in the United States will be free. It freed three million slaves, but 800,000 slaves in the Union states of Delaware, Kentucky, Maryland and Missouri, and Tennessee were not freed.

The Proclamation “doesn’t talk about slavery at all, or freedom at all,” Kennedy said. In Brown v. Board of Education there is no denunciation of segregation. “It struck down de jure segregation in primary and in public schools, which was a big deal, but not everywhere,” Kennedy said.

“In each case, they were undertaken with extreme caution because of the power of racism,” Kennedy said. “Both were extremely important advances in the struggle for racial desegregation in America. I’m not seeking to disparage them. I just want to look at them realistically.”

EJF Raises Cool $50,000 with Bids on Breakdancing Lessons and Jimmy Fallon Tickets

THE ITEMS WERE GOING, GOING AND THEN GONE for a good cause.

Items ranging from a Maine lobster dinner to four tickets and VIP passes for a Smashing Pumpkins/Blind Melon concert in Veracruz, Mexico, were up for bid at the Equal Justice Foundation Auction (EJF), held in February, which raised more than $50,000 for public interest programs.

The EJF Auction raises money for grants to support students’ summer work at nonprofit organizations, and awards stipends to graduates who intend to do public interest work.

A SAMPLING OF AUCTION ITEMS:

- A catered dinner for six in the Dean’s office with deans Gary Clinton and Michael Fitts

- Two tickets to a New York Giants football game on the fifth row of the 15-yard line

Auction Items continued on page 12
• Two tickets to Late Night with Jimmy Fallon

• $100 Gift Certificate for vet services at the VCA Veterinary Cat Hospital of Philadelphia

• $500 off the rent at 2400 Chestnut Street Apartments, one of the most popular apartment buildings for Penn students

• Civil Rights & Housework with Mary Catherine Roper, a senior staff attorney at the ACLU of Pennsylvania, who will come to a home to put together any piece of furniture that comes in a box while discussing civil rights or career development

• Breakdance Workshop with James Park L’14, who learned to break from teachers in Queens and Brooklyn and can teach someone to perform in any setting
New Name for Faculty Lounge Honors Rags-to-Riches Story of Marvin Comisky

MARVIN COMISKY L’41 WOULD HAVE INSPIRED HORATIO ALGER.

Born poor, the child of immigrants, his mother died in 1918 when he was seven. He was a brilliant student, earning an undergraduate degree from Temple University and graduating number two in his class from the Law School.

His accomplishments made him a legend of the law and include, among many, becoming a founding partner of Blank Rome LLP and its first managing partner. He served as chancellor of the Philadelphia Bar Association and president of the Pennsylvania Bar Association, and was general counsel to the 1968 Pennsylvania Constitutional Convention.

Significantly, after his election as chancellor of the Philadelphia Bar Association, he led the charge to have area law firms halt religious and other discriminatory hiring practices. He also had members begin providing pro bono legal services to the needy. This practice evolved into Community Legal Services.

The generations of lawyers he inspired include his three children. His sons Ian and Matthew are also partners at Blank Rome and his daughter, Hope, is a partner at Pepper Hamilton LLP.

Speaking for all three, Ian said, “He set an example that I wanted to follow.”

His children followed in his academic footsteps, as well. All three are Law School graduates, Ian in 1974, Hope in 1977 and Matthew in 1984.

Following their father’s death in 2010, the three wanted to do something to honor his memory. Their mom, Goldye; Blank Rome; the Solomon & Sylvia Bronstein Foundation and their own gifts will allow the University to name the faculty lounge in Silverman Hall on behalf of the memory of Marvin Comisky, Esquire, Chairman Emeritus of Blank Rome LLP.

“He was an inspiration to the firm and they were pleased to contribute to the gift,” Ian said. “He was a lawyer’s lawyer that other lawyers came to for advice.”

Two teachers at the Law School may just enjoy taking a break in the lounge more than most. Ian lectures on money laundering and Hope on ethics. When they relax in the lounge, it will provide one more opportunity for them to reflect on their father who also happened to be a legend of the law.
A How-To from a Pioneer of Legal Outsourcing

DAVID PERLA C’91, L’94 recollected one of the first sales calls he and his partner made in 2004 for their fledging company, Pangea3, which outsourced legal services, then a new concept. The budding entrepreneurs were told by the head of the patent department at a big New York law firm, “This is the dumbest idea I’ve ever heard. I would never send a patent to India. I totally get what you are saying. It’s very thoughtful, it’s very reasoned, but I would never, ever hire a company like Pangea3.”

Guess what company now uses Pangea3?

Pangea3 is now the number one and most experienced provider of high-quality legal outsourcing to Fortune 1000 companies and Am Law 200 law firms. The company, acquired by Thomson Reuters in 2010, has approximately 1,000 employees and offices in New York, Mumbai, and a suburb of Dallas.


Perla met for dinner with Sanjay Kamlani L’94, his law school classmate and company co-founder, in 2003 to kick around ideas for a business. As they talked, they came to the conclusion that “the only thing you could do as a lawyer, if you were in our shoes as an in-house lawyer, was you could hire more staff or you could hire a law firm. There was really no in between. There were no other types of providers that could help you.”

Thus a concept was born. They’d hire lawyers in India and lower the costs of legal assistance.

Perla laid out some of the challenges they faced: “How do you build a successful cross-cultural company so that you span the globe, cover myriad time zones, and embrace the enormous differences and vast commonalities among people, in your shareholders, your clients and your team? How do you make it flexible enough to accommodate and thrive on the incredible diversity of cultures, work habits, religions, politics, you name it? But strong enough to bind people together to create a new industry, to build new products and to offer new solutions.”

“Know yourself, know your own culture and learn the culture you are going to play in,” SAYS PERLA.

Perla and Kamlani knew they had to raise money, show investors that they had revenue, hire team members, and attract clients.

To keep costs down, the company acquired free office space on Madison Avenue, cheap sublets in India, and postings on Monster.com, where Perla worked before co-founding Pangea3.

Perla and Kamlani also paid fierce attention to culture, both that of the company they were creating and of the countries where they set up shop, the United States and India.

“Why does culture matter? Because a failure to understand it is fatal to most global businesses,” Perla said. “Know yourself, know your own culture and learn the culture you are going to play in.”

That self-awareness has led to an annual growth rate of 25 to 30 percent for Pangea3, with a few hundred clients who spend between $250,000 to 500,000 a year with the company, with their top 10 clients spending at least $2 million a year for their services.
Too Early to Tell if Dodd-Frank Adequately Addresses Too-Big-to-Fail Institutions

THE DODD-FRANK REFORM LEGISLATION, passed in the wake of the 2008 financial meltdown, is a work-in-progress that creates a legal and institutional framework for greater financial stability. But it does not delineate specific steps to accomplish that goal.

Daniel K. Tarullo, a member of the Board of Governors of the Federal Reserve System, said the bill lacks concrete recommendations because Congress had to craft an immediate response to the financial crisis and did not have the benefit of circulating and discussing the proposal, practices that normally precede major legislation.

Tarullo, who oversees bank regulation for the Federal Reserve, provided the backdrop to the legislation and its current status during his Distinguished Jurist Lecture in October. He said Dodd-Frank aims to contain “systemic risk” by constraining “the moral hazard associated with too-big-to-fail institutions.”

“The emphasis on too-big-to-fail institutions is both understandable and appropriate in light of the experiences of 2008, including the major injections of government capital to stabilize some of the nation’s largest [financial] firms.

“The law, explicitly in many provisions and implicitly in many others, directs the bank regulatory agencies to broaden their focus beyond the soundness of individual banking institutions, and the market regulatory agencies to move beyond their traditional focus on transaction-based investor protection,” he said.

Tarullo noted this isn’t the first time that concern about financial stability has been a “crucial impetus” for financial reform. He cited as examples the New Deal as well as the creation of the Federal Reserve itself 20 years earlier, which “had been intended at least as much as a financial stability measure as an instrument of monetary policy.”

Dodd-Frank, Tarullo said, represents something of an about-face for financial regulation, which had not addressed systemic concerns for decades.

“This emphasis on financial stability and systemic risk is hardly surprising in light of the damage done by the financial crisis and the ensuing Great Recession,” he said.

Tarullo classified Dodd-Frank into four categories: (1) as a goal for a new regulatory authority; (2) as a vehicle for ongoing analysis and monitoring; (3) as a direct legal standard; and (4) as a potential guideline for actions subject to regulatory approval.

Tarullo observed that the statue does not have a theory of financial stability to guide the regulatory outcomes, which is not surprising since “there is not really an officially embraced consensus theory of how financial stability is undermined.”

“Instead, Dodd-Frank directs regulation at a number of perceived vulnerabilities created by large financial firms in particular, and to some degree in the financial system as a whole,” he said.
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Lynn Toler L’84 is a strong believer in the institution of marriage.

Whether that is ironic or not, you, ahem, be the judge. You see, Toler, that’s Judge Lynn Toler, has been the Emmy-nominated host of the syndicated “Divorce Court” since 2006.

“I think marriage is stabilizing, it’s a great launching pad for the next generation and it’s good to have support because the world can be a hard place and you have to have someone in your corner,” says Toler.

Toler offered her views on what it takes to make – and break – a marriage in a talk last fall at the Law School and in a subsequent phone conversation.

The five-foot-one-inch Toler speaks with the assured authority of a judge and emphasizes the points she feels strongly about. But her style is informal, and with her humorous stories, quips, and ready laugh, she brings to mind comedian Wanda Sykes.

Marriages fail, she says, because, “We’re not doing it right to begin with. We’re not doing the work at the front end. Couples need to discuss their master plan, economic decisions, where they are going to live, who is going to be the primary breadwinner. People get tripped up for those reasons.”

Toler knows that not only from the stream of unhappy couples she has on her show, but from experience. While working as a lawyer and working long, billable hours she met and married a man with four children. (They subsequently had two children.)
LYNN TOLER

Her mother, a loving, but persistent critic, said she made “alarming life choices.” Following marriage, Toler said, “I was the primary bread-winner and the primary bread baker. I did the traditional woman thing.” She did the cleaning and the cooking and the child-rearing and the thousands of other things large and small that kept the household running.

And resentment began to build because she had not heeded the advice of a friend who told her, “Don’t do anything you don’t want to be doing for the next 25 years. People don’t volunteer to clean the house and do the laundry.”

“I was angry about it and didn’t know it for quite some time.” Toler said she had to learn to let her husband know what she wanted him to do.

While communication is a necessary ingredient for marriages, less necessary she said both kiddingly and seriously, is love. Toler explained, “You can’t base marriage on the rush of love, but love is the primary and exclusive thing we consider. We don’t do the homework we need to do to make sure it’s a rational joining. It should be a love thing, but it should be pursued in a practical manner. Do the homework before you get married.” Once married, she said, “you have to address the marriage on a daily basis. You have to pay attention. There is more to marriage than managing the business of life, you have to keep checking in with one another. I’m talking about saying, ‘hey how are you doing,’ for 15 minutes on a daily basis. If you fail to do that, you stop feeding the marriage. We’ve learned to take walks together or have coffee outside together in the a.m. to check in with one another. It makes you talk and reconnect. It puts it in your schedule.”

It’s a formula that has worked for her. She has been married to her husband since 1989.

She added, “Don’t marry someone you are crazy about. Wait until you’ve hated him a few times.”

“My husband and I have such different views on money and what it is for. We have had some very ugly times about that,” Toler said. “We have had to agree to bring up things at the right time. Not right when we first get upset but also not to sit and store them.

“We have a way we let the other one know that we’re about to say something the other one won’t like, but at the same time we’re not looking to argue. It’s ‘I’m not trying to start anything, but let me say this.’ It puts us in the right frame of mind to disagree without anger.”

That works for her, too.

Toler didn’t have any show business aspirations, or a desire to be a marriage, and divorce, authority. In fact, her aspirations were pretty much non-existent during law school. She was admittedly “not a dedicated student” who did just enough to get by. “I recommend none of this,” she advised.

It was when she returned home to her native Cleveland in 1984, and began working for a law firm, that she got serious about her career. Knowing that she had to produce or there would be repercussions motivated her.

At age 33, Toler was elected judge of The Cleveland Heights Municipal Court by one vote (six after a recount), beating a rival who had been “practicing law longer than I had been alive.”

Handling assault, concealed weapons and domestic violence cases, she found the work rewarding because she could make changes before crimes escalated into something more serious.

“I really felt what I did was important.” However, she realized, “As a judge, I was keeping a lid on the chaos after the problem occurred. There were young women making bad life decisions at age 18 and 19. Nothing I could say would change what they were doing.”

She created innovative programs for young offenders such as Woman Talk, a program designed to mentor young, at-risk
girls, and early intervention programs for people who were mentally ill.

Toler won re-election with 80 percent of the vote. “I think I was a really good judge, but I think the best work I did as a judge was not in the robe but in the classes I held,” Toler said.

In 2001, Judge Toler became the host of the nationally syndicated show “Power of Attorney,” which eventually led to her current show. To this day, she is not sure how her audition came about. “I was a sitting judge in Cleveland Heights and I received a phone call from 20th Century Fox Television. They said they heard I was interesting and would I like to audition so I did. I don’t know how they heard about me.”

When she left the bench for the television show, her mother accused her of “failing up.” But her mother has come around and enjoys it when Toler gets recognized in airports. And Toler credits her mother’s “emotional acuity” for much of her success. “She taught me how to read people and emotions.”

In fact, her first book was My Mother’s Rules: A Practical Guide to Becoming an Emotional Genius. The book celebrates her mother’s keen insight into the development of emotional maturity, and how she transmitted that trait to her daughter.


As its name suggests, in Divorce Court Toler resolves the disputes of divorcing couples who agree to submit to binding arbitration with respect to some item or money. The show has expanded over the years to include “advice episodes” in which couples come on the show to have Toler help them resolve marital issues.

One of her favorite episodes was one in which the bride slept with her best man rather than the groom on their wedding night. Divorce Court “is not Masterpiece Theater. I get that. I’m not changing the world for the better,” Toler said. “It’s a look at the human condition with a sense of humor.”

Nonetheless, she believes the show has a certain value. “I try to say at least one thing about relationships and how to make better decisions every day. I talk about practical things that help people get along. I do get feedback from people about those messages.”

You can follow Judge Lynn Toler on Twitter at @RealJudgeLynn.

LYNN TOLER SPEAKS HER MIND IN OH-SO-COLORFUL WAYS.

The easiest way to stay out of trouble is to stay away from where it lives.

A lie can actually start feeling like the truth if you tell it often enough. And if you don’t pay attention, the day may come when you can no longer tell the difference between the two.

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Men have to fight a couple of extra emotional battles in order to pick up the mop. They have to fight the one that involves the ego and the societal notion that cleaning really isn’t a man’s job. No man goes out and talks to his boys about the Dyson vacuum he just got.

Though you can’t decide who you fall in love with, you can decide who you marry.

An intelligent approach to marriage requires an intelligent approach to money.

Our humanity encompasses all of the creative ways we find to do the wrong thing.
Drawing on an array of perspectives, a new Penn Law center confronts the ultimate wartime question: How can we combat terrorism without suffering ethical casualties?

The Perils of Push Button War

By Rick Schmitt

As a tool of warfare in the 12th Century, the crossbow stretched the established limits of armed conflict.

Devastatingly effective even at long distances, it could pierce the body armor of a knight at 200 yards, and compared with the English long bow, was easy to operate. Untrained soldiers and even peasants could master the craft in days or weeks.

In the stratified world of Medieval Europe, however, noblemen and the church saw the weapon as a threat. Pope Innocent II banned Christian-on-Christian use of the crossbow, calling it “the deadly art, hated by God.” A clause banishing “foreign crossbowmen” from England was included in the Magna Carta.

Today, technology continues to change the face of warfare, again testing legal and ethical boundaries.

Unmanned aerial drones have become central to the Obama Administration’s anti-terrorism policy. A new kind of Cold War has erupted in cyberspace, accounting for daily attacks on private and public networks around the globe, not to mention a storyline in the latest James Bond thriller. Serious people are studying “human enhancement” technologies that use drugs and implantable devices to increase soldier performance.

But what are the legal and ethical considerations of conducting a war where the combatant is sitting at a desk in an office half a world from the battlefield? Is a safe and sterile war necessarily a just and ethical one?
What are the legal and ethical considerations of conducting a war where the combatant is sitting at a desk in an office half a world from the battlefield?

When does a cyber attack constitute an act of war? Is it legal and ethical to respond with lethal force if the damage inflicted by such an attack is only economic?

When should the law of war, with its permission to kill, rather than capture, cede to the civil law that favors arrest and due process?

Such questions are all the more complex in a world where conventional ideas about the identity of the enemy and the contours of the battlefield have broken down.

A new institute at Penn Law School, the Center for Ethics and the Rule of Law, or CERL, seeks to address such questions with a novel interdisciplinary approach that brings legal academics together with philosophers, political scientists, economists, as well as practitioners such as military lawyers, journalists, members of the defense and intelligence communities, and public policy analysts.

Its director, Claire Finkelstein, Algernon Biddle Professor of Law and Professor of Philosophy, first conceived the new center while attending a 2010 legal conference at West Point, where she was struck by the diversity of opinion on anti-terror policies between civilian and military lawyers. She proposed a conference at Penn on the legal and ethical implications of the then-nascent idea of targeted killings.

That timely April 2011 conference—followed in a few short weeks by the successful operation targeting Osama bin Laden—led to a well-received book that Finkelstein co-edited and ultimately to the creation of CERL. Additional conferences on the topics of governmental secrecy, cyber war, the logic of deterrence, and the scope of executive privilege soon followed.

Today CERL is attracting attention as a unique endeavor among law schools: Its mission, Finkelstein explains, is “to promote rule of law values in the face of the changing nature of national security.” Such changes, including the rise of non-governmental combatants and new precision technologies, are posing new legal and ethical challenges and exposing gaps in the old rules of warfare.

CERL has attracted some influential and enthusiastic supporters, including William Craven, a Morristown, N.J., defense contractor who has worked on weapons and intelligence systems for the military, and his wife, Pam Craven L’77, the chief administrative officer of Avaya Corp., and member of the Penn Law board of overseers.

Craven said he has long seen a need for a top-rank institute that focused on the ethical and legal consequences of defense system advances. While hardly oblivious to ethical and legal concerns, he said, contractors tend to focus on performance issues and protecting the warfighter. “At the end of the day, you have questions of ethics in the back of your mind, but quite frankly, you go about doing your job and assume others are worrying about these things,” Craven said, adding that “it was refreshing to find an academic who was talking to people in the field who were experiencing the fear and terror of war to understand their perspectives.”

While such debates have been around for about as long as there have been weapons systems, history suggests there are no easy solutions.

“Look at the development of nuclear weapons. It took us most of the late ’40s, all the ’50s, into the late 60s to develop Mutual Assured Destruction,” said James Cartwright, retired Vice Chairman of the Joint Chiefs of Staff, and former commander of the U.S. nuclear force, alluding to the doctrine that governed Cold War relations between the U.S. and the Soviet Union. “We ended up using them in Japan for what we thought was a morally appropriate purpose and even today the debate on what is acceptable and what is not and when would we use such a weapon is still going on.”

“We find ourselves in this quandary as we often do with disruptive technologies. ‘Where is this going? How would I start to set norms?’” said Cartwright, who was a featured speaker at the CERL roundtable on cyber war last fall. “My sense is that we are trying to figure out what is technically possible, and what is culturally and morally appropriate. The art of what is possible is still in the very early stages.”

One controversial trend has been the expanding role of executive discretion in the pursuit of national security goals, which Finkelstein sees as one of the most enduring post-9/11 challenges to the rule of law. Enhanced interrogation policies developed in the George W. Bush administration that declared both the Geneva Conventions and federal statutes obsolete as a limiting force on executive authority have also been offered by
the Obama Administration to justify targeted killing. The legal underpinnings of these policies have been developed in classified memoranda that find their way to the public through leaks, if at all.

“The reluctance of the executive branch to allow elected leaders, members of the judiciary, and ultimately the public, to subject war-related policies and their legal justifications to public scrutiny, represents a significant alteration of the terms of political engagement around military matters,” Finkelstein said. “It also signals a shift in the traditional conception of the balance of powers among the three branches of government. These trends are forcing academics and policy makers alike to return to fundamental questions about the value of transparency and public accountability in democratic politics.”

Finkelstein points out, however, that as a weapons system, there’s a lot to like about drones. They are more precise than traditional aerial bombs, better able to pinpoint targets, and therefore have the potential to dramatically reduce civilian casualties. Remotely operated drones also minimize U.S. casualties. A CBS News Poll found that 70 percent of Americans support using drones to kill suspected terrorists in foreign countries.

“You can loiter around for hours and hours whereas an F-16 cannot do that. It gives you more time to ensure that you have the intelligence right. You are more certain that what you have in the cross hairs is a bad guy,” said U.S. Army Brigadier General Tom Ayres L’91, the commander and chief judge of the U.S. Army Court of Criminal Appeals. “You often have better awareness on the part of the person who is going to make a decision.”

Aires pointed out that the deployment of drones and the command decision to fire on a target are subject to rigorous standards. While the word drone might connote something that is making decisions without human input – the military prefers the term unmanned aerial vehicle – Ayres said the process is overseen by “someone trained in the law of war whose decisions are subject to review and ultimately to investigation if something goes wrong.”

Still, the growing use of technologies that increasingly remove humans from the battlefield is concerning to some experts. Finkelstein cites the story, popularized in a recent book, of a young Jewish orphan about to be shot by a Latvian SS unit during World War II who is pulled out of line and spared by a sympathetic Nazi commander after asking for a piece of bread. “The more distance, the less interaction; the less interaction, the weaker the tug of humanity that can, on occasion, lead to spontaneous acts of mercy,” Finkelstein said, noting that the use of drones preempt such opportunities.

Even more controversial is how the technology is being deployed, such as in the case of Anwar al-Awlaki, a senior operative of al Qaeda in the Arabian Peninsula (AQAP) who was targeted and killed in a U.S. drone attack in southeast Yemen in September 2011.

Al-Awlaki was an American citizen who, while dubbed the “bin Laden of the Internet,” was not believed to be involved...
in an imminent attack against the U.S. He was also killed in a country that is considered outside the “zone of hostilities.”

“Here we have an American citizen, killed by our government without the opportunity for trial, in a country that, while certainly sympathetic with our enemies, was not part of the war zone,” Thomas Graham, retired U.S. diplomat and veteran arms-control negotiator, observed at the 2011 targeted-killings conference. “Is Yemen all that much different than Canada? Suppose it had been done there? ... There has to be some deference paid to the fact that we do have a Constitution.”

Jens Ohlin, a law professor at Cornell, and a member of CERL’s advisory board, said that the presence of an al Qaeda branch in Yemen with an avowed intent of engaging Americans more than justified the invocation of war powers there.

He said it has never been the case that American citizens taking up arms against the U.S. get special treatment on the battlefield. Nazis with dual American and German citizenship were killed fighting in World War II, he said, and every Confederate soldier in the U.S. Civil War was “a prima facie American citizen” because the Union had never recognized the southern secession as legitimate.

Another board member, Kevin Govern, law professor at Ave Maria Law School, and a former Army Judge Advocate, said that al-Awlaki might be compared to Nazi propaganda chief Joseph Goebbels. “There is ... precedent in the U.S. under national security law ... that propagandists are continually contributing to the combat function,” extending wars by sending false signals and messages or through other acts of sedition, said Govern.

The legal and ethical landscape for cyber attacks is even more uncharted than that for targeted killings. The Pentagon now has an official cyber command, and is developing offensive and defensive cyber capabilities, using computer programs in ways previously reserved for bombs and other conventional weapons. In a celebrated case, President Obama, in his first months in office, accelerated a program begun during the Bush Administration of using a series of bugs to attack control systems for Iran’s nuclear program.

The military is also in the process of revising its official Rules of Engagement for when U.S. forces may deploy cyber force. But setting specific ground rules – such as deciding what kinds of attacks justify retaliation and against whom – will be hard.

While the economic costs of cyber attacks are huge – some $100 billion a year – no one so far has died from one. Knowing the enemy is also tough: adversaries are no longer strictly defined by their manufacturing heft and bomb-making prowess.

Some experts believe cyber weapons may be most effective as a tool to head off war. Historically, so-called soft-power tools, such as economic or trade sanctions, often take too long to have an impact. A cyber weapon, by contrast, could shut down a power grid or banking system in an instant.

“It is really that ability to undermine confidence which plays well into your ability to convince an adversary, ‘You do not want to go down this path,’” Cartwright said, adding that the preemptive nature of cyber is one of its “key opportunities.”

Some acceptable norms of behavior are starting to be identified. George Lucas, professor of philosophy and public policy at the Naval Postgraduate School, Monterey, Calif., has written that a cyber attack is morally justified when the underlying issue in conflict is so grave that war is justified, only military assets are targeted, and every effort short of war has been made to resolve the dispute.

“We have always been challenged by new developments – be it the crossbow or the drone – to do what lawyers and philosophers do, which is to extrapolate from the known to the unknown, to take what we know, to develop appropriate metaphors and similes that try to capture the essence of the new challenges and relate them to the things we know how to do,” Lucas said on a panel with Finkelstein at the University of Utah Law School in February on the ethics of technological warfare. “We are in the midst of that transformation with our new technologies. They do pose challenges to a state-centric system of law, to our conventional ways of thinking about combat, but they do not completely transform them and make it impossible for us to reason reasonably about them.”

**Rick Schmitt has covered legal affairs for the Wall Street Journal and the Los Angeles Times. He is currently a freelance writer living in Maryland.**
WHEN THOMAS AYRES L’91 began studying law at the University of Pennsylvania, he had an engineering degree from West Point and three years’ experience as an infantryman and airborne rifle platoon leader in Italy.

“I was used to the Army experience where there’s always a right and wrong answer,” he says.

After studying hard his first semester, Ayres was chagrined when he received a low grade in one of his courses. He knew the material cold, and couldn’t understand why, so he went to see the professor.

“The whole point of the law is that everything is gray,” the professor told him. “You need to see both sides of the facts and to realize that every law can be read in at least two ways.”

The experience made an impression on Ayres. “It was a valuable lesson in what a lawyer’s job is,” he says, “to see the shades of gray in all situations.”

That lesson has been immensely helpful to Ayres, now a brigadier general who commands the U.S. Army Legal Services Agency and is chief judge of the Army Court of Criminal Appeals.

Ayres, who is stationed at Fort Belvoir, Va., oversees more than 100 Army lawyers on site, as well as more than 25 military trial judges around the world.

Identified as an officer with promising leadership potential, he studied for a year at the Army War College in Carlisle, Pa., and afterward, from June 2005 to July 2007, served two years at the Pentagon as deputy legal counsel to General Peter Pace, then chairman of the Joint Chiefs of Staff.

Ayres served tours in Afghanistan and Iraq. As senior counsel to the operating commander in Afghanistan, he offered guidance about the rules of engagement and soldiers’ obligations under the Hague and Geneva conventions.

He also advised a two-star commander who was responsible for 18,000 soldiers during the invasion of Iraq, and returned when the insurgency gathered strength.

“ You have to have the moral courage to stand up to aggressive personalities and say, ‘This is the edge, and you can’t go over.’ You have to ensure that commanders are knowledgeable and disciplined enough to follow the law themselves and also that all soldiers abide by the law,” AYRES SAID.
himself with the ambiguous or “gray” area of what the military calls “proportionality.”

Ayers never fired a shot at the enemy, but in his travels he was always subject to attack and the ubiquitous danger of improvised explosive devices (IEDs). He was also close enough to the action that he knew in a visceral way the stresses and strains of battle.

“What goes on in the mind of a soldier in the heat of battle is hard to comprehend,” Ayres says. “So that’s why we lay out boundaries and conduct training in abiding by the laws of war.” Part of Ayres’ job was to supervise that training.

On numerous occasions, Ayres dealt with issues arising from “fire bases” or small forward operating bases on the border between Afghanistan and Pakistan, where U.S. soldiers tried to stop the flow of enemy fighters between the two countries.

In one instance, a U.S. patrol spotted a group of men who in the dark of night appeared to be burying rocket-firing devices that launched a daily barrage of rockets automatically. The young leader of the U.S. squad called headquarters for legal advice about the proper rules of engagement. Did the men have weapons? Were they bad guys? It was impossible to tell.

“These kinds of situations arise all the time,” says Ayres. “You’re thinking about when and how to follow the rules, you’re thinking about tactical matters and the consequences of action both legally and morally, and what it does to the mission. It took a while in both Iraq and Afghanistan to realize that sometimes using less force is better than more.

“If we know they’re bad guys and we kill them all, it means we have made enemies. If family members and relatives were on the sidelines before, now we’ve made enemies of them. So there are tactical questions, and mission-success considerations, legal considerations and moral considerations.

“Similar kinds of calculations are involved in deciding whether to call in the Air Force to bomb a building or house or stretch of desert. Is it legally right? Is it morally right? What are the consequences? … How important is it militarily? How sure are we of the intelligence about who the bad guys are and how bad they are? What’s the right and wrong thing to do?”

Warfare, Ayres says, is “not a rational action.”

“Soldiers do not want to kill unless they have to. It’s not rational to fight to the death or to put yourself in harm’s way.”

On the other hand, Ayres adds: “You don’t want to be engaged in a fair fight. Your enemy has immunity to kill you, and you have immunity to kill him. It’s not a war crime to kill a soldier on the opposite side in battle, or to take advantage of superior weaponry.”

Nonetheless, commanders responsible for writing condolence letters home to the parents of casualties, says Ayres, can become aggressive, eager to tread the very limit of what’s legal because they know if they’re not using all the force they can legally, it could cost the lives of U.S. soldiers.

“What that means as a legal advisor is...you have to have the moral courage to stand up to aggressive personalities and say, ‘This is the edge, and you can’t go over.’ You have to ensure that commanders are knowledgeable and disciplined enough to follow the law themselves and also that all soldiers abide by the law.

“I routinely witnessed incredible discipline and restraint by commanders and soldiers under remarkable stress, but I’ve also seen instances where soldiers have lost their perspective and done things that would amount to war crimes. We prosecute them to reinforce that abiding by the laws of armed conflict is essential.”

Art Carey is a freelance writer and columnist/contributor to the Philadelphia Inquirer, where he held a number of editorial positions for 34 years.
RICHARD SHEPHARD has learned a great deal about moral hazard, but not in the classroom. His lessons came in Iraq where he transported guns and ammunition, water and food across lonely – and dangerous – stretches of desert to military bases.

A noncommissioned officer in the Marines, Shephard, like most soldiers in Iraq, did not see combat. Nonetheless, he found himself in constant peril and at risk of losing his life to roadside bombs and snipers while riding in convoys, or to mortar attacks and suicide bombers when on base. He witnessed too many civilian deaths and lost buddies, but managed to come back in one piece. Still, he suffered the wounds of war, and has been left to ponder, years later, the moral dimensions of modern warfare.

“I am torn,” admits Shephard, a rising 2L. “I kind of like the idea of drone warfare where you are not putting American lives at risk. On the other hand, I do understand that… you almost lose the understanding of what life is worth, when it becomes so easy to take someone out with the push of a button.”

Unlike manned aircraft, drones are operated from remote locations by controllers who sit behind a video screen and guide missiles to their targets as if playing a lethal Wii game. Shephard worries that push button war threatens to make conflict too abstract and removed from reality, creating the potential for military forces to kill civilians by mistake and “see every enemy combatant as less than human.”

Shephard sees military service in moral terms as well. He decided to enlist after his father, a Vietnam veteran, suffered a serious heart attack that rendered him incapable of paying for his son’s college education. Truth to tell, Shephard had wanted to serve anyway, since he felt an obligation to defend his country.

He arrived in boot camp at Paris Island, in South Carolina, about a month before 9/11. The attacks lent purpose – and urgency – to his training. Nearly two-and-a-half-years later, after postings around the world, Shephard got the call to Iraq, for which he had volunteered.

“Push button war threatens to make conflict too abstract and removed from reality, creating the potential for military forces to kill civilians by mistake and “see every enemy combatant as less than human,” WORRIES SHEPHARD.

“If people were going to be put at risk, I had no problem with it being me,” says Shephard, who did not have a wife and children. “A lot of people in our unit had kids. They were married. There really was no reason for me not to go.”

It was a critical period in the war. The U.S. military had been losing its position in southwest Iraq. The Marines were put in charge of the volatile Anbar region and told to build a base as a foothold. Shephard was stationed at a base near the hotspot of Fallujah, site of fierce battles between U.S. and Iraqi forces, and another base near the Syrian border. During seven months in Iraq, where he transported supplies to four operating bases in...
THE PERILS OF PUSH BUTTON WAR

western Iraq on 16-to-20-hour-a-day runs, Shephard endured days of 110-degree heat in full military gear. The lack of running water at the smaller bases left him drenched, fatigued and with no means of relief. He also experienced a range of emotions.

He remembers poor and hungry Iraqis who came from miles away to shower him with gifts, such as teapots and rugs, out of gratitude for his participation in the removal of Saddam Hussein. He saw rundown cities without running water, schools, or hospitals spring to life after the Army Corps of Engineers came in and built these much-needed facilities.

But he also witnessed more civilian and military casualties than he cares to remember. “It’s one of those things that, at the moment, you can’t process,” Shephard says. “You have to be immune to it. Long term any death affects any person. It’s one of the things you have to deal with.”

He did lose a number of friends, and it was gut-wrenching. “To know that some of the most amazing people to walk this earth lost their lives in Iraq haunts me to this day.”

Shephard eventually attended and graduated college before spending two years in Camden in the Teach for America program. Now in law school, Shephard reflects on the rules of engagement. He says it’s natural to question the validity of undeclared wars in an era where they don’t end in classic surrender on a battleship, just as it’s important to temper academic theory and opinion with the recognition that the heat of battle requires real-time decisions that sometimes fall short of the ideal.

So while he understands the urge and the need to conduct reviews and to rail against improper military conduct, Shephard asks noncombatants to put themselves in a soldier’s boots.

“A lot of times we do lose sight of what actually happens on the ground, on the battlefield. It is hard to understand the implications and the terms of engagement from an academic office.”

THE FEDERAL AVIATION ADMINISTRATION predicts that there will be 30,000 drones flying over domestic airspace in the next decade. Will law enforcement be able to fly a drone over Los Angeles or Topeka at will? If a drone overhears a conversation in a private home, can the information be used in court without an individualized warrant?

What about the use of drones abroad? Why are there safeguards regarding communications for Americans abroad but no safeguards for killing them?

“...The fact is, as threats, technologies and tactics have evolved, the law has not kept up,” said HARMAN.

LEADING VOICE ON NATIONAL SECURITY CALLS FOR NEW LAWS GOVERNING USE OF DRONES AND OTHER MODERN WEAPONRY

BY JAY NACHMAN
These are a few of the provocative questions posed in April by Jane Harman, president, director and CEO of the Woodrow Wilson International Center for Scholars, who delivered the Leon C. & June W. Holt Lecture in International Law. She addressed what she called the extrajudicial use of drones and the need for a new post-9/11 legal framework.

The fact is, said Harman, a former nine-term congresswoman from California, “As threats, technologies and tactics have evolved, the law has not kept up.”

She called for two steps to counter the new threats: a comprehensive counterterrorism strategy across the U.S. government and for the U.S. Congress to pass legislation governing the application of twenty-first century weapons.

“Using new tools, particularly lethal ones, without public debate or clear legal authority, is a mistake and a slippery slope,” Harman said.

Harman said the reduction in the core of al Qaeda, the rise of al Qaeda affiliates and new networks between al Qaeda and a range of extremist groups, the U.S. drawdown in Iraq and Afghanistan and the civil war in Syria have changed what she called the “threat landscape.”

These circumstances, she said, have created safe havens for terrorists all over the place, taking advantage of power vacuums and failed states. In her talk two weeks before the Boston Marathon bombings, Harman predicted these conditions will lead to an increase in smaller-scale terrorist attacks.

Hezbollah, which she called more an army than a terror group, has the capability of carrying out crude cyber attacks, as do tech-savvy “digital natives.”

“The evolution in threat means we can and should increasingly rely on a combination of law enforcement and counterterrorism cooperation with other countries and limited use of kinetic power to mitigate terrorist threats,” Harman said.

As the United States develops its counterterrorism and “remote control warfare policies,” Harman said it must take into account that more than 70 countries also have drones.

“A full debate about this framework will be crucial if Congress acts and the public should be included. That debate will likely be painful. But without it we have no hope of addressing the concerns of both sides of the aisle. We need clear rules of the road.”

“The total absence of international rules of drone use is scary and the U.S. must take the lead and develop a strict legal framework for drones internationally and domestically,” she said.

In addition to drones, there are other new domestic surveillance capabilities from satellites and cell site simulators, the latter of which allows the collection of cell phone serial numbers and locations.

Harman said Congress should adapt the Foreign Intelligence Surveillance Act, or FISA, to provide guidance for the use of offensive cyber weapons and the targeted killings of U.S. citizens abroad. Congress should also review the operational framework for new declarations of armed conflict if a group poses a threat to the United States.
ne of the occupational hazards of my work, I am often asked to name my favorite athletes. I’m still never quite sure how to answer this, so I tend to respond in one of several ways, ticking off heroes of my youth (Cal Ripken, Reggie Miller), fellow Indiana natives (Larry Bird, Don Mattingly), towering figures whose contributions transcend sports (Arthur Ashe, Billie Jean King) or one of those jocks who have made my job easier by being accommodating and accessible (Roger Federer, Steve Nash).

I seldom mention the two athletes who’ve probably had the greatest impact on my career: Mike Tyson and O.J. Simpson. Don’t misunderstand: I admire neither. Long as it stays between us, I consider them both to be pretty loathsome. But, indirectly anyway, they had an outsized impact on my unlikely career path.

In 1996, I was a 2L at Penn Law. As much as I enjoyed my studies and the challenge of the coursework, I wasn’t sure that I was cut out for a conventional career in the law. The previous summer, I had worked in a mid-sized West Coast firm, where I devoted great rations of time to staring at my watch, noting six-minute increments, and then wondering why time seemed only to crawl. I was prepared to work again as a summer associate, when, the occupational equivalent of a Hail Mary pass, I lucked into a summer job in the editorial division of Sports Illustrated.

“You have a lot to learn about writing,” a particularly candid editor told me during an interview. “But we like that you have a legal background.” He went on to explain that in the past few years—during the O.J. murder trial and Tyson’s extended one-man crime wave—the magazine could have used more staffers armed with the skills to pull legal documents, distinguish between an indictment and an arraignment, translate legalese into a language the readers could comprehend. Oh, and when could I start? I accepted the position on the spot. During the workdays that summer, time flew. I took that as a good sign. I started full-time the Monday after I took the bar exam, and have been part of the enterprise ever since.

The editors back then had seemed to recognize what is now plainly apparent. Sports have grown—metastasized, some, including my wife, might say—into something unrecognizable.

Executive Editor of Sports Illustrated gives his take on our national obsession

More than politics, more than religion, more than life itself, sports have become the center of the universe. And unlike politics and religion, one can talk (and talk and talk and talk) about sports in polite and impolite company. It’s filled with falls from grace, tales of redemption, bad actors and admirable characters—the whole human condition. In other words, there’s enough to keep the sports executives, including those in these pages, very, very busy.
The Republic of Sports, as a colleague calls it, is a unique space, with a social code, a set of customs, even a language all its own, writes L. Jon Wertheim.

What was once a mode of escapism is now inescapable. Time was, the sports division at a television network or a newspaper was inevitably called the “toy department,” an offshoot not to be taken seriously; now sports telecasts are the highest-rated shows on the air and helping keep newspapers alive. Games and athletes once gripped fans for a few hours, mostly on the weekends; now they simply don’t let go. Sports has become our Esperanto, our universal language. Catalyzed by everything from ESPN to the Internet to fantasy leagues to gambling, sports have moved from the margins to the mainstream. Collectively, our appetite for sports verges on the insatiable.

As our emotional investment has intensified, so has our financial investment. Depending on where you draw lines of demarcation, globally, sports are a $1 trillion industry. Arenas and stadiums are sometimes funded—disturbingly, I would argue—by taxpayers. The identity of colleges and universities can be tied—again, disturbingly—to the fortunes of their teams. Companies hire athletes as “brand ambassadors” to tell us what kind of soup to slurp, what kind of car to drive, where to invest our retirement savings.

So it was that Sports Illustrated initially hired me to report legal affairs—not to cover games and athletes themselves, but rather to cover the next Mike Tyson scandal. And so it is that sports now offers plenty of roster spots, as it were, to practicing attorneys. If “sports law” once meant looking over a boilerplate contract, it has now come to implicate everything from antitrust to medical malpractice to licensing. My friend and Penn Law classmate, Scott Rosner L’97, has become a national expert in the field. My civil procedure mentor/tormentor, Professor Stephen Burbank, was a longtime special master of the NFL, ruling on disputes ranging from the division of broadcast revenues to whether the league could impose penalties on the New Orleans Saints for the “bounty” scandal. As you read the forthcoming profiles of the four Penn Law alumni working in the sports ecosystem, note the diversity of their practices.

But wait. If sports are another sprawling, global, multi-tiered industry, how is it any different from innumerable other sectors? The knee-jerk response: It’s not. But that’s not really true. A discussion of sports’ virtues can quickly trespass into cliché, so much talk of “building character” and “team unity.” But the Republic of Sports, as a colleague calls it, is a unique space, with a social code, a set of customs, even a language all its own.

In my experience, the same rules and spirit of competition informing the games apply throughout the industry. It is an intensely hierarchical space; there are rankings and rungs, All-Star writers and Top 40 sports lawyers. On the other hand, like athletes, you know what’s required to ascend. Fair play is honored; cheating (and cheap shots) are roundly condemned. It’s very much a meritocracy. You’re rewarded for exceptional performance. You’re called out when you stint on effort. There’s an unmistakable thread of optimism, a sense that possibilities abound, that fortunes can improve, that a lousy outing (or season) can be reversed.

For better or worse, the sportscape isn’t big on ambiguity and nuance. Fans can—and do—stay past last call debating whether, say, the San Francisco 49ers are superior to the Baltimore Ravens. But ultimately, there will be a game between the teams and the scoreboard will provide clarity and leave little open to interpretation. Likewise, those working in the industry often demand definitive resolutions and outcomes. We want winners and losers and empirical results.

There’s plenty of brutal, antisocial behavior in sports (which, selfishly, has enabled me to keep my job). But there’s far more goodness. The notion that being a fan of a team or an athlete means joining a pluralistic, classless community? I’ve seen too many examples of that to dismiss it. That sports can transform and unify and make borders irrelevant and go a long way toward explaining the human condition? Yes, yes, yes and yes.

I usually get tongue-tied when asked if my job is fun. Yes and no. Working in sports is not be confused with working the blast furnace or venturing into the salt mines. (Except for the time I had to interview former Phillies outfielder Jayson Werth.) But it’s still work. As I recently told my 11-year-old son, it’s amazing how much less enjoyable it is to sit courtside when you’re on deadline. Of course, then I added that anytime you can make an avocation your vocation, you should consider yourself lucky. Especially when it all happened by accident.

Consider the perks of Ed Weiss’ L’91 job. He reports to work every day high above the third base line at Fenway Park. His office sits no more than 10 feet away from the home plate concourse, and during baseball season he hears the roar of fans after a rally and smells the aroma of sausages on the grill. When he’s not at the ballpark, he hunkers down in his other office at the New England Sports Network (NESN) whose halls are decorated with the retired jerseys of iconic Red Sox and Boston Bruins players.

And when he’s not in either office you might find him decamped in Fort Myers, Fla., site of the Red Sox spring training camp, for his company’s annual ownership meeting and for what we’ll call reconnaissance.

Can you believe he gets paid for this? Yes, life is good for this Boston native and denizen of Red Sox Nation who serves as general counsel and executive vice president of corporate strategy for the Fenway Sports Group, the umbrella organization that includes the Boston Red Sox, the Liverpool Football Club, NESN, Fenway Sports Management, and NASCAR team Roush Fenway Racing.

Livin’ the Dream

As GC of Red Sox Nation

By Larry Teitelbaum

It’s enough to make a grown man exult. “I am often asked by Boston lawyers what is best about my job,” says Weiss, “and I tell them how lucky I am to be in the middle of the passion in the midst of arguably the greatest run of success any city has ever witnessed in sports, which makes you feel pretty good about coming to work every day.”

Weiss, who missed the Red Sox championship run last decade, joined the Fenway Sports Group in September, 2009. He leads a squad of five lawyers in the United States and another handful in the United Kingdom, home to the soccer team. He devotes much of his time to addressing media rights for the baseball and soccer teams (a regular season match between archrival Manchester United and the Liverpool Football Club reached 400 million households, more than three times the worldwide audience for the Super Bowl), some to the day-to-day operations of a large major league baseball franchise and even a bit of time to structuring programs for the Red Sox Foundation, a highly successful sports charity.
As great as his current job is, Weiss left a good gig at Time Warner, where he hung his hat for more than a decade. He handled worldwide litigation, regulatory and intellectual property issues for the likes of HBO, CNN, Sports Illustrated, and Warner Bros. But the opportunity to return home – and to an organization and team close to his heart – proved irresistible.

Like many young boys in Boston, or Philadelphia, or New York, Weiss worshipped his local teams. He lived and died with the Bruins, the Celtics, and the Red Sox. The baseball revival began in Boston when the Red Sox won the American League pennant on the last day of the 1967 season and made the World Series for the first time in twenty-one years. Too young to bear witness, Weiss, who played Little League Baseball, nurses boyhood memories of the valiant 1975 World Series loss when Carlton Fisk coaxed a decisive home run in Game Six to stay fair and keep the Series alive – a magical moment reenacted at playgrounds all over Boston and by the nine-year-old Weiss himself.

But while baseball might be religion in Boston, Weiss realized quickly that it paid to practice separation of Church and State. In other words, when it comes to business, Weiss leaves his Red Sox cap at home. And let there be no doubt, baseball, like all sports, is BIG business.

“Sports teams have become mini-media companies,” notes Weiss. “They’re much bigger than the family-owned businesses they used to be. They are about different ways to galvanize an audience.”

Take the New England Sports Network run by the Red Sox and part-owners the Boston Bruins. While it doesn’t approach the scope of Time Warner, NESN covers a lot of ground. It brings games and sports programming in High Definition to four million homes in New England.

Then there’s the Red Sox Foundation, which counts among its efforts the long-running Jimmy Fund, an initiative with the Dana Farber Institute to raise money in the fight against childhood cancer, and a new partnership with Massachusetts General Hospital called Home Base, a groundbreaking program to offer medical treatment and support services to Iraq and Afghanistan veterans and their families.

While these are serious efforts, don’t get the idea that Weiss lives in a fun-free zone. You can crack his professional veneer with talk of baseball and the new season.

A few years ago, Weiss predicted during a law school reunion panel concerning the economics of baseball that the league would add another wild card team to the playoffs. That came true. The latest wrinkle is realignment, which equalizes the number of teams in each division and each league – leading to more interleague play.

Here’s where Weiss admits to being a fan. “I like the symmetry of the new system,” he says. “You get a chance to see players – even if it’s only once a year – that you otherwise wouldn’t see.”

Does he feel the same way about more games against, say, the Philadelphia Phillies?

“The Phillies have obviously been one of the best teams in major league baseball for many years now. So that has not worked in the Red Sox favor,” says Weiss, who met his wife, Susan, a Philadelphia native, while in law school.

Ever the media guy, Weiss knows his audience.

“How lucky I am to be in the middle of the passion in the midst of arguably the greatest run of success any city has ever witnessed in sports, which makes you feel pretty good about coming to work every day,”

SAYS ED WEISS
Bill Heller L’78 found a back door to the NFL. His consuming passion as a young Giants’ fan growing up in Hackensack, New Jersey, had been the pursuit of a Y. A. Tittle card. Later, when he was throwing touchdown passes himself at Hackensack High, small colleges pursued Heller. No one in his family had gone to college—his father owned the candy store where Bill bought football cards—but as a young teenager Bill had met a distant cousin dressed impeccably in a three-piece suit. “When I found out he was a lawyer, I suddenly became interested in what lawyers do,” he says.

He had dreamed of being the next Y.A. Tittle, a perennial Pro Bowl quarterback and Hall of Famer—or Earl Morrall or Fran Tarkenton—for the Giants, but he eventually realized his skill set would not land him a spot on any NFL roster. So he picked Rutgers University, about the only school not recruiting him to play football. “I wanted to get good grades and get into a good law school,” he says.

That happened, and, four years later, after he’d applied to all of the Ivy League law schools, he was delighted when a fat envelope arrived from Penn Law, his top choice. “That was one of the most exciting days of my life when I got accepted into Penn Law School,” he says.

Fast Forward 35 years. Heller’s at home in Wyckoff, N.J., on a Sunday afternoon in 2010 preparing for a trial and wondering if he and his wife, Natalie, a 1976 Wharton graduate, are ever going to find time to travel now that their two sons are out of college. He had developed a successful career as a generalist but the demands of private practice had increased rather than decreased over the years. It seemed time for a change of pace and a new career. He was about to discover his hard work had put him in the right place.

Meanwhile, when Wellington Mara, the longtime owner of the New York Giants, passed away in 2005, his son John Mara, the team’s executive vice president and general counsel succeed-
ed his father as president and CEO. The demands of running the team amidst the evolving legal complications of the NFL made Mara realize he needed someone else to fill the general counsel role. Impressed by the work Heller had done for McCarter & English, the firm the Giants had hired to oversee the details of naming rights for the Giants’ new state-of-the-art training facility, the Timex Performance Center, Mara invited him to lunch on April 1, 2010. Heller was so excited about Mara’s offer to work for the team that he could hardly contain himself in the restaurant, but when he called his sons immediately afterward from his car, they tamped down his enthusiasm. “ ‘Yeah, right, Dad,’ ” they chuckled. “ ‘April Fool’s.’”

But the offer proved to be no joke, and on October 1, 2010, Bill Heller became the New York Giants’ general counsel. He had not made it to the NFL as a QB but he had as a J.D.

The perceived perks of the position are sweeter than the actual job description. Heller’s former partners picture him arriving at the office on Monday morning to hash over the weekend’s game with head coach Tom Coughlin then strolling down the hallway to discuss draft strategy with general manager Jerry Reese. “That never happens,” Heller admits. “I’m in my office practicing law.”

He’s in his Meadowlands office with a Penn Law coffee cup on his desk—the mug’s blue and red colors serendipitously matching his current employer’s—where he covers a variety of areas as the sole member of the team’s legal department. His duties range from licensing and marketing arrangements to labor and employment issues. He oversees the legal aspects of operating MetLife Stadium, recently completing a green energy initiative, and Timex Performance Center. There is not a lot of litigation, but when there is it is of significant magnitude. He finds the rewards of his current work the same as those when he was in private practice. “Tackling an issue, finding solutions and successfully signing that big licensing agreement or resolving a dispute—I always found all of that very satisfying,” he says.

The Super Bowl ring in 2012, the same as the players’, was nice, too. Yet working for a professional football team presents unusual challenges where the power structure is not always top down and company decisions are not always based on his sage legal opinion. For instance, Heller expressed concerns when the coaches wanted to give players electronic tablets with highly confidential information—playbooks, game plans, access to team networks—on them. Those tablets could easily fall into the wrong hands. But the coaches wanted tablets, so the players got tablets. “That’s one example of how football operations trump our legal experience,” Heller says.

Still, he’s a member of the New York Giants and, while his job, like any job, has its shortcomings (including lower pay than private practice), he recognizes it’s a great job. When the team was invited to the White House after winning Super Bowl XLVI, the front office staff waited outside the Oval Office while the players and coaches met with the President. Heller spotted Eric Holder Jr. and introduced himself. The attorney general of the United States jokingly asked Heller if he’d like to switch jobs. No thank you, Heller replied seriously. I’m happy living this dream.

John Rosengren is the author of Hank Greenberg: The Hero of Heroes.
The National Hockey League lockout of 2012-13, which lasted a loooong 113 days, eventually cutting the regular season to 48 games, was a stressful time for Julie Grand L’94. As senior vice president and deputy general counsel of the NHL it is her job to stay up on the minutia and major developments of the Collective Bargaining Agreement between the league and its players. In effect, she is the dotter of the I’s and the crosser of the T’s.

“The agreement was my main priority for the last year-and-a-half. It really took up 90 percent of my time,” says Grand, 43. “In collective bargaining, when it seems like nothing is happening to the outside world, there is always work being done behind the scenes. It may not be sitting across the table and negotiating, like maybe it seems it should, but there is a lot of research, a lot of strategizing. It is a full-time job.”

Grand grew up in the Maryland suburbs of Washington, D.C. “I rooted sort of generally for the Washington teams – Redskins, Capitals – but it was not a big passion. But my father was a patient lawyer, so I was always at least somewhat interested in going into law,” she says.

She came to Penn Law directly from the University of Michigan, where she received a degree in economics, and upon graduation from Penn Law started a job in the antitrust section at Skadden, Arps, Slate, Meagher & Flom in New York. As a
young associate, while she mostly worked on mergers and acquisitions, she also went off here and there to do whatever was necessary for the large firm. Since Skadden, Arps represented several sports leagues, particularly on antitrust matters, the research at times fell to her.

There was a National Basketball Association collective-bargaining agreement and some National Football League litigation and some NHL work as well. She participated in a trial, for instance, that sealed the Los Angeles Rams’ move to St. Louis.

One of her bosses at Skadden, Arps – William Daly III – now the deputy commissioner of the NHL, left in 1997 to become the league’s general counsel, and two years later asked Grand to join his small staff.

“It just seemed like a move that would be fun. I knew and respected Bill and it seemed like a unique opportunity. It has turned out wonderfully,” says Grand.

Grand says that labor peace should let her concentrate more on safety and other day-to-day issues. Though it took an arduous path, the new 10-year-agreement – with a possible opt-out after eight – is quite long for sports leagues these days, and that is something she is pleased about.

“What is great about my job – and keeps me on my toes – is that I come into the office every day thinking I am going to work on a designated project and then something else comes up,” she says. “It keeps it fresh and exciting. We are always getting calls from clubs asking for advice. It could be safety. It could be contracts. It could be a tampering question or a trade call. It never gets boring.”

Grand says she does not have a rooting interest in any one team, but clearly is a hockey fan. “I root for good games,” she says. Living in Westchester County north of Manhattan with her husband and three daughters, she naturally catches games in the three nearby venues where the Rangers, Islanders and Devils play, but also likes going to league meetings in other cities.

Grand acknowledges that the law permeates sports more than ever. Her mentor, Daly, the deputy NHL commissioner, is a lawyer, as is the commissioner, Gary Bettman.

“There are a lot of details to deal with in sports, and lawyers are good at that,” Julie Grand says. “You always hope you won’t have disputes, but they are inevitable. I am glad I have been well-prepared to handle them.”

Prior to the start of the 1991-1992 National Basketball Association season, one of the most memorable and tragic moments in league history occurred when Magic Johnson announced that he was HIV-positive.

Suddenly, the league had to adopt policies on how to treat bleeding players, procedures for dealing with blood-borne pathogens, and regulations for the locker room.

Bill Koenig L’87, who had joined the league in 1990 as a staff attorney and was named assistant general counsel in 1992, drew the assignment. “I had no background in this,” he recalls, but “because lawyers at the NBA are entrusted with coming up with and enforcing policies—and, since no one else here had any experience in this area, I was asked by the Commissioner David Stern and then-General Counsel Gary Bettman to roll up my sleeves, consult with medical experts and come up with something.

“I did realize that a lot of attention would be paid on how the NBA handled this issue—from a social, medical and legal perspective. And, in retrospect, I’m very proud of the measured and thorough way in which we responded,” he says.

His work became a model for changes that were instituted in other sports as well.

Koenig, now executive vice president for business affairs and general counsel for a number of the NBA’s domestic and international entities, said that what he enjoys most about the job and what keeps it interesting is that he gets to do new things all the time, which requires what he called an amalgam of different aspects of law and business. He credits Penn Law with providing the background that keeps him prepared for whatever his days bring, whether corporate, ownership, labor, media or international issues.

“The most important characteristic for a lawyer in the sports business, especially one at the NBA, is to be an issue spotter—and then be a creative problem-solver once the issues are identified,” says Koenig. “I do that on a daily basis.”

Koenig played sports as a child growing up in Florida, but he knew from a young age he wanted to work for a sports league and pursued it with a laser focus. “As a kid, I was just as fascinated with player signings, new big television deals and labor disputes as I was with what was going on the field or court. Maybe because my father was a lawyer - or maybe because I was a little different.”
While a senior at Harvard University he worked for the Boston Celtics doing public relations, writing the media guide and doing whatever else he was asked, including getting lunch for legendary Celtics general manager, president and coach Red Auerbach. At the London School of Economics his dissertation was on collective bargaining in U.S. sports. During his third year at Penn Law, Koenig worked for noted sports law attorney Kenneth L. Shropshire, now the David W. Hauck Professor at the Wharton School. For one credit, Koenig helped develop Shropshire’s syllabus and exams and graded papers. He also took an independent study course in sports law with Penn Law professor Frank Goodman.

As might be expected, Koenig managed to see some games at the Palestra, as well as a lot of Philadelphia 76ers’ games. Following graduation from Penn Law, where Koenig served as an editor of the Law Review, he turned his summer associate position at Proskauer Rose Goetz and Mendelsohn, the primary law firm for the NBA, into a full-time job. He litigated sports and antitrust cases.

After making the leap to the NBA, he spent six years on litigation involving the Chicago Bulls’ agreement with superstation WGN. The NBA believed the agreement infringed on the league’s role as the national distributor of games.

Koenig continues to oversee the league’s national and local television agreements as part of a three-pronged portfolio. He is responsible for all legal work for business units from NBA properties to media ventures to the league’s many international entities. He is also the head of business affairs, which includes handling special projects and major sponsorship and licensing deals all over the globe. And as part of his domestic media business responsibilities, he not only plays a leading role in negotiations with national networks like ESPN and TNT, but also helps set the course for the league’s digital and social media policies and strategies.

As for the league’s future, Koenig says, “We’re very, very optimistic. Our international growth is faster than any other sports league. In China, for example, the NBA is extraordinarily strong and in many places we’re neck and neck with soccer for preeminence.”

On a personal level, experiencing basketball at its highest level, from 23 consecutive All-Star games to classic league championship games, has been, as sports fans can only imagine, “a terrific ride.”

His position means, however, that he can no longer root for individual teams or players. Instead, he says, “I root for the referees; I root for good calls.”

“The most important characteristic for a lawyer in the sports business, especially one at the NBA, is to be an issue spotter—and then be a creative problem-solver once the issues are identified,” says Bill Koenig. “I do that on a daily basis.”
When President Clinton unveiled the first draft of the mapping of the human genome in 2000, he pointed out that in genetic terms all human beings, regardless of race, are more than 99 percent the same.

But what should have heralded a new day in the understanding of both race relations and human genetic diversity by offering further proof that race is not a natural division among human beings but an invented political construct has done just the opposite: provided new opportunities to create racial science to the detriment of minorities. And nowhere, perhaps, have the consequences been more harmful than in health care.

“It’s reinforcing the idea that health disparities are caused by genetic difference and not by social inequality, thereby taking attention, funding and concern away from the social causes of health inequities,” according to Dorothy E. Roberts, the George A. Weiss University Professor of Law and Sociology and the Raymond Pace and Sadie Tanner Mossell Alexander Professor of Civil Rights.

“Race is not a biological category that naturally produces health disparities because of genetic difference. It’s a political category that has staggering biological consequences because of the impact of social inequality on people’s health,” Roberts said.

addressed the clash between the biological definition of race and medicine during the A. Leon Higginbotham, Jr. Memorial Lecture at the Law School in January.

“Race is not a biological category that naturally produces health disparities because of genetic difference. It’s a political category that has staggering biological consequences because of the impact of social inequality on people’s health,” says Roberts.

“The theory is that it works better in African-Americans because of some genetically based difference in the pathophysiology of heart failure in black people,” Roberts said. “BiDil leaves the impression that its developers must have found some genetic difference that makes this drug work for black people. But they didn’t at all.”

BiDil, in fact, is a combination of two generic drugs that have been prescribed without regard for race for 20 years prior to approval. It was developed by a cardiologist whose patent was going to expire and who needed a new novel claim.

“He had no interest in developing a drug exclusively for black people. But the FDA wouldn’t approve the first application,” Roberts said. “The novel claim was that it was a drug for African Americans. His initial patent did not mention race at all. So this was not a drug that was developed with any attention to race whatsoever.

“The FDA allowed approval based on a clinical trial that only included African-Americans. The theory was, it works on black people we can therefore approve it for black people,” Roberts said.

Another example: a patent was approved for a test for African-American women to determine if they had the BRCA 1 or 2 gene, which are indicators of risk for breast cancer. “Why do you need a separate test for African American women?” Roberts asked. “You just test the person to see if she has the gene. There’s absolutely no reason you would need a different test for a black person.”

It is part of a pattern, she said, that has seen a five-fold increase since the 1970s of patent applications for genetic products that use race as part of the claim.

The use of genetic research can also cut to the very core of racial identity.

Sure, Roberts said, many African-Americans want to have a connection to Africa and to learn about their ancestors. However, genetic ancestry testing does not accomplish that, she said. It tells people that they may share a common ancestor with members of a modern day tribe whose DNA the company happens to have in its database.

“It supports this expansion of the idea that it’s our biology that determines who we are as opposed to our political affinities, commitments and values,” Roberts said.

The use of racial biology poses other dangers. Roberts referenced an Associated Press story with the headline, “Gang-Banging May Be Genetic.” The story featured a photo of Latinos surrounded by a contingent of heavily armed guards and was based on a scientific study that claimed that a genetic mutation predicts gang-banging.

Roberts said this “reflects all the potential horrors that could happen from the idea that races are genetic groups that are fundamentally different from each other and that those genetic differences are what explain their different status in society and that then is seen to warrant heavy surveillance against people who can be predicted as a group to be harmful to society.”

Roberts believes that there should be resistance to the idea of looking to genetic explanations and technological fixes for racial inequality. She suggested “we continue to affirm our common humanity as one human race by working to eliminate the social inequalities that are preserved by the political system of race.”
An Advocate in the Making Tosses the Mental Crutches

By LARRY TEITELBAUM

The sticks and stones of society bruise me everyday sore, but still kicking.

Those are the words of Britney Wilson, who issued a manifesto of sorts in her acclaimed poem, “Crutches,” which she performed several years ago at a slam poetry competition.

Wilson, a rising 2L, was born with cerebral palsy, and has been overcoming obstacles ever since. Assertive and yet genteel, Wilson employs poetry, or what she calls spoken word, to declare her presence. There’s no ignoring this independent woman who uses an electric scooter to get around campus.

“I don’t have time to be that bleeding animal in the middle of the road waiting for you to stop staring and see me,” says Wilson, laying out her principles of engagement.

Wilson started writing poetry at age 11. Five years later, the Brooklyn native got wind of a slam poetry competition sponsored by the New York Knicks. She describes slam poetry as competitive recitation rooted in African oral tradition. It’s like Hip Hop poetry, with a dose of conviction and a touch of theater. Judges score participants. She didn’t place that year but made the semifinals the following year. And then she joined a team called Urban Word NYC and hit it big.

In 2009, she was featured on an HBO documentary series, Brave New Voices. To watch the video of her self-assured performance is to understand the then-college freshmen’s maturity, eloquence and determination to rise above what she considers the three-headed stigma of being black, female, and disabled.

She attended Howard University on a full scholarship, and last year began her studies at Penn Law School. Wilson draws parallels between the law and poetry, both of which she considers forms of “impassioned argument.”

“Sometimes people have to warm up to people with disabilities,” says Wilson. “Sometimes they don’t know how to approach us.”

Wilson talks openly about the challenges she faces. She is reluctant, for instance, to go into the city at night for fear that she will have to return alone on public transportation. She also feared for her safety when the fire alarms went off in her hi-rise dorms and no one came to assist her.

To that end, Wilson wants to advocate for the disabled after law school. While there are ramps and elevators for people with disabilities, and bans on discrimination under the Americans with Disabilities Act, Wilson says these accommodations fall far short of the goal: full acceptance.

She compares the status of the disabled to blacks after the 14th amendment was passed. Blacks gained citizenship and equal protection under the law. But the law did not prevent the lash of Jim Crow that still left blacks in the position of second class citizens.

Wilson says the disabled need their own civil rights movement. “Is everything in life set up so that I can live the same life as all of my classmates? I don’t think that it is.

“That’s what I’ve been fighting for my whole life, to just be a regular person. I want to be a complete person with an education, a career and a family, not just a person with a disability.”

Don’t try to make me into what you think I am
Helpless
I stand alone with assistance
Rock Star Hones His Legal Chops

BY JAY NACHMAN

FROM THE MILLION-SELLING SINGLE “NO RAIN” TO RAINMAKER? Is that the path Rogers Stevens 2L, guitar player for the rock band Blind Melon, will take?

Blind Melon achieved major commercial success in the 1990s with hit records like “No Rain,” MTV videos, a performance at Woodstock ’94, and a slot supporting the Rolling Stones on their Voodoo Lounge tour. By his own admission, Stevens partyed like a rock star. Then it all came crashing down when the band’s lead singer, Shannon Hoon, overdosed in 1995.

Stevens moved to New York, where he played in bands and did studio work. During that period, he tried to figure out his future. He had enrolled at Hunter College but subsequently dropped out when the band found a new singer and reformed in 2006. The band continues to record and perform but the rock and roll life is over for Stevens, although he still has his moments: on Sept. 5, 2011, Blind Melon played a festival show in Frederick, Md., the night before a civil procedure class at 9 a.m.

“In 2007 and 2008, I spent a year-and-a-half on the road,” says the 43-year-old father of a six-year-old daughter and four-year-old son. “I’ll always make music and perform when I can, but I’ll not live on the bus again.”

Stevens moved to Swarthmore, Pa., a few years ago with his wife, Joanna, a local native, and tried once more to go to college. This time he was successful, first at Delaware Community College and then Temple University, from which he graduated with a philosophy degree.

It was his father’s influence combined with his experiences in the record business that led him to law school. “My dad was a lawyer in Mississippi. I grew up watching him practice,” says Stevens. “He was a small town lawyer, had to do a lot of everything to keep the lights on.”

When the band signed their contract with Capitol, he was 19. “Contracts are very one-sided. There is only so much you can do as a new band. Over the years we had to defend ourselves,” he says. “Over and over, you learn the nuances of how the deal is favorable to them (the record companies).”

For now, Stevens says he wants to learn as much as he can rather than take a specific direction. He adds he is constantly surprised by aspects of the law he finds interesting.

“I never thought I’d like corporate law and I thought the course was fascinating.”

Asked what is easier, writing a song or a brief, Rogers says: “They are both challenging in their own ways. You can try writing a song for a month and nothing and then inspiration strikes and the songs just come. To be creative is some other thing that comes out of the ether. I don’t know where it comes from.”

On the other hand, “A brief is methodical in the way you go about it. I try and make them interesting.”

Blind Melon guitarist Rogers Stevens 2L takes the spotlight during a concert. He’s turned his attention from writing songs to writing briefs.
BOLD AMBITIONS

The Campaign for Penn Law

THIS PAST JANUARY THE RECORD-SHATTERING $200 MILLION BOLD AMBITIONS CAMPAIGN CLOSED WITH A CELEBRATION ON A SITE THAT WAS INTEGRAL TO ITS SUCCESS: GOLKIN HALL. The building of Golkin Hall was but one of many achievements. There were broad expansions of the faculty and of joint degree programs and certificates. There was also sustained growth in the International and Public Service programs, as well as exponential growth in financial aid, both through scholarships and loan forgiveness. In addition, nearly every inch of the Law School was renovated. A couple hundred alumni attended the celebration. They visited the ice bar to renew old friendships and admired the iced rendering of The Goat; but the highlight of the evening was a staged spoof of Jeopardy, in which Penn Law President Amy Gutmann, Penn Law Dean Mike Fitts, and Bold Ambition Chair Paul Levy L’72 played contestants on the game show, offering answers related to the campaign. Gary Clinton, dean of students, stood in for Alex Trebek. Gales of laughter filled the auditorium, as the game show brought down the house.
ALUMNI BRIEFS

1950S

ALAN MILES RUBEN C'53, G'56, L'56 lectured on advocacy in labor arbitration at the Labor Law Seminar sponsored by Teamsters Joint Council Number 41 and the Fraternal Order of Police/Ohio Labor Council and spoke on “Resolving Ambiguities in Collective Bargaining Agreements” at the Labor Arbitration Institute, both in Cleveland, Ohio. He also moderated a panel on new decisions and regulations affecting labor arbitration at the National Academy of Arbitrators' Fall Education Conference in Charleston, S.C. Alan is emeritus professor at Cleveland-Marshall College of Law and an advisory professor of Law, Fun Dan University, Shanghai, PRC.

1960S

JESSE H. CHOPER L'60, Earl Warren Professor of Public Law at UC Berkeley School of Law, has been chosen as the recipient of the Bernard E. Witkin Medal. Jesse, a former clerk to Chief Justice Earl Warren, has been a member of the Boalt Hall faculty since 1965, serving as dean from 1982 to 1992. He received the James Wilson Award from the Law School.

STEPHEN G. YUSEM L'63 has opened a practice concentrating on dispute resolution. He will conduct arbitrations and mediations. Stephen has achieved Fellowship status with the Chartered Institute of Arbitrators and is also a Fellow of the 200-member College of Commercial Arbitrators.

STEPHEN A. COZEN C'61, L'64 was appointed to the board of directors of Global Indemnity plc. Steve served on the board of directors of Global Indemnity's predecessor company. He is chairman and founder of Cozen O'Connor in Philadelphia and serves on the Law School's board of overseers.


FRANCIS J. MORAN L'64 was elected president of the Society of the Friendly Sons of St. Patrick, a nonprofit fraternal and charitable corporation founded in 1771. He is a trial lawyer in Media, Pa.

DAVID H. MARION W'60, L'63 received the 2013 Judge Learned Hand Award from the American Jewish Committee of Philadelphia & Southern New Jersey. The award recognizes outstanding members of the Philadelphia legal community who have distinguished themselves through professional achievement and dedicated community leadership. David is a partner in the Philadelphia office of Archer & Greiner P.C.
Bed Bath & Beyond Executive Comes Full Circle with Scholarship Gift

LOOKING BACK, YOU’D HAVE TO SAY the decision by Allan Rauch C’80, L’83 to transfer from the University at Albany-SUNY after his freshman year in college to the University of Pennsylvania was a good one.

After graduating from Penn with an undergraduate degree in Political Science, he went straight to Penn Law. While having dinner in the old Law School dining hall, he met his future wife, Betsy Evans, an Art History student who serendipitously happened to be eating there. And while at the Law School he met Steven Temares L’83, now the CEO of Bed Bath & Beyond, who recruited Rauch to work there in 1994.

An education, a wife, and a career. Yeah, the decision to transfer worked out pretty well.

In recognition of what Penn has meant to him, Rauch recently made a substantial gift to create the Rauch Family Endowed Scholarship at Penn Law. The gift was made in response to a challenge by an anonymous donor who matched a portion of Rauch’s gift. Any student who qualifies for financial aid is eligible for the scholarship.

“Through a combination of hard work and good luck I have been incredibly fortunate in my professional career since I graduated from Penn Law, and I felt it was appropriate that I give something back to the Penn community, which has been so wonderful to me over the past 35 years,” said Rauch, now the General Counsel of Bed Bath & Beyond.

When he joined the company in 1994 it had 54 stores. It now has more than 1,500. He has a team of 11 attorneys and two paralegals and is responsible for all legal matters, from leases to vendor agreements to making sure the company is legally compliant in all matters.

“I was in the right place at the right time,” he said of his decision to join Bed Bath & Beyond.

Rauch was the beneficiary of grants and loans while he attended Penn. “Penn generously provided me with financial support to enable me to attend school here when I needed the help, and this returns the favor to someone else and completes the circle that started with Penn’s much-appreciated financial assistance to me.”
ED MANNINO C’63, L’66
published his fifth book, Faith of our Fathers: An American Catholic History in August. Based on a course he taught at Penn, it surveys the history of American Roman Catholics from the American Revolution through today. It is available in hardback, soft cover and Kindle editions. Ed, who taught a course on the U.S. Supreme Court at Chestnut Hill College, blogs on American law, history, and culture at www.edmannino.com, and tweets @Edmannino.

ERIC BREGMAN L’68 has joined Farrell Fritz, PC in Bridgehampton, N.Y., as counsel to the firm, concentrating his practice on land use, zoning, real estate, environmental, condemnation, commercial matters and related litigation. Eric has served as East Hampton town attorney and as special assistant district attorney in East Hampton and as special counsel, Town of Southampton, for coastal erosion litigation and legislative drafting matters.

WILLIAM E. ELWOOD L’68 was listed in Best Lawyers in America for Tax Law in 2012. He is a member in Dickinson Wright PLLC’s office in Washington, D.C., and focuses his practice in the areas of taxation, private equity, corporate, international, and mergers & acquisitions.


J. FREEDLEY HUNSICKER JR. L’69, has been selected for Best Lawyers in America 2013. J. Freedley, who specializes in employment law, works in the Philadelphia regional office of Fisher & Phillips, in Radnor, Pa. He was first named to the list in 1995.

ROBERT L. PRATTER L’69 is now a board member of the Overbrook School for the Blind in Philadelphia. Bob is of counsel at Duane Morris LLP.

STEVEN BERK L’74 was elected chairman of the board of trustees of Einstein Healthcare Network and to Einstein Healthcare Network’s board of overseers. He is a partner with Segal, Berk, Gaines & Liss in Philadelphia.


ELLIOIT J. HAHN C’71, L’74 started his own law firm, Hahn Law, PC, last fall in Torrance, Calif. He was re-elected as first vice president of the AEA International Lawyers Network at its annual meeting in May.

M. DUNCAN GRANT L’75 was recognized as a “local litigation star” in Benchmark Litigation 2013. Duncan is a partner and vice chair of the Commercial Litigation Practice Group at Pepper Hamilton LLP in Philadelphia.

STEVEN B. PERI L’75 joined Glowpoint, Inc., a leading provider of cloud managed video services, as executive vice president and general counsel. He was formerly an executive at Tandberg and Cisco.

WILLIAM E. ELWOOD L’68 was listed in Best Lawyers in America for Tax Law in 2012. He is a member in Dickinson Wright PLLC’s office in Washington, D.C., and focuses his practice in the areas of taxation, private equity, corporate, international, and mergers & acquisitions.

JAMES J. SANDMAN L’76, president of the Legal Services Corporation in Washington, D.C., received the Washington Council of Lawyers’ Presidents’ Award, which recognizes exceptional commitment to public service, pro bono, and the public service community. The Law School honored him with its Alumni Award of Merit and its Howard Lesnick Pro Bono Award and Jim was named one of the “90 Greatest Washington Lawyers of the Last 30 Years” by the Legal Times.


EDWARD A. RYAN C’75, L’78, executive vice president and general counsel for Marriott International Inc., was named a “2012 Attorneys Who Matter” by the Ethisphere Institute, which annually selects the world’s most ethical companies.

CATHERINE C. CARR L’79 received the Andrew Hamilton Award for distinguished service in public interest from the Public Interest Section of the Philadelphia Bar Association. Cathy is executive director of Community Legal Services of Philadelphia and a lecturer at Penn Law School.

ROBERT SCHNEIDER L’79, WG’79 has been named one of the 2013 Top Rated Lawyers in Health Care by American Lawyer Media and Martindale-Hubbell. Bob is special counsel to Cuddy & Feder LLP.
2012 LAW ALUMNI SOCIETY AWARDS GROUP
THE LAW ALUMNI AWARDS WERE PRESENTED LAST FALL TO A DIVERSE GROUP OF HONOREES.

They included (from left to right): Ethan Fogel L’83, partner at Dechert in Philadelphia and member of the board of directors of The Homeless Advocacy Project (Howard Lesnick Pro Bono Award); Cathy Carr L’79, executive director, Community Legal Services of Philadelphia (Louis H. Pollak Service Award); Robert Friedman L’67, former senior executive at The Blackstone Group and current board member of Penn Law’s Institute for Law and Economics (Distinguished Service Award); Justine Andronici L’02, founding director of The Centre County Women’s Resource Center (Young Alumni Award); and Robert Marchman L’83, executive vice president of The Legal Section at FINRA (Alumni Award of Merit). Not pictured is Sir Nicolas Bratza, former president of the European High Court of Human Rights (James Wilson Award). Far left is Penn Law Dean Michael A. Fitts and far right is Rick D’Avino W’77, L’80, president of the Penn Law Alumni Society.

PATRICIA VISEUR SELLERS L’79 has been named a special adviser on International Criminal Law Prosecution Strategies for the International Criminal Court. Patricia, a visiting fellow at Oxford University, has advised governments, international organizations and civil society groups on international criminal law strategies. She is a recipient of the American Society of International Law’s Prominent Women in International Law Award.

MICHAEL R. LASTOWSKI L’80 received a citation for excellence from the 2012 edition of Chambers USA: America’s Leading Lawyers for Business, which honors outstanding lawyers and law firms across the United States. Michael is the managing partner of Duane Morris LLP’s Wilmington, Del., office and practices in the areas of bankruptcy law and commercial litigation.
CHRISTINE F. LI L’80, a partner in the real estate department at Greenbaum, Rowe, Smith & Davis LLP, was honored by the New Jersey State Bar Association Real Property, Trust and Estate Law Section in January with the annual Arthur S. Horn Distinguished Service Award in recognition of her significant and longstanding contributions to the development of real property law in New Jersey.

RUDOLPH J. DI MASSA JR. L’81 received a citation for excellence from the 2012 edition of Chambers USA: America’s Leading Lawyers for Business. Rudolph is chair of the Philadelphia office of Duane Morris LLP’s Business Reorganization and Financial Restructuring Group and concentrates his practice in the areas of commercial litigation and creditors’ rights.

CATHERINE A. DRAPER L’81 has been named to the Westchester Library System’s board of trustees. She is president of the Westchester Children’s Association and the Pelham Education Foundation and served nine years on the Pelham Board of Education and 10 years on the Town of Pelham Public Library. She was named “Person of the Year” by the Pelham Civic Association in 2009.

ROBERT I. FEINBERG L’81, an attorney with Boston-based Feinberg & Alban, P.C., obtained the highest jury verdict in the last two years for a personal injury in Massachusetts. His client, a boilermaker, suffered burns after a water heater exploded and scalded his body. The total verdict including consortium claims and with interest was $779 million. It is also the highest award in a decade for a premises liability case in Massachusetts. A complete description can be found at www.feinbergalban.com which includes an article about the case in the Massachusetts Lawyers Weekly.


DENISE M. KEYSER L’83 was named 2013 Philadelphia-area Lawyer of the Year for Labor Law – Management by Best Lawyers in America. Denise also is listed as a Best Lawyer for Labor Law – Management and for Employment Law – Management. She is a partner in Ballard Spahr’s Litigation Department and a member of the Labor and Employment and the Health Care groups.

JOHN D. STANLEY L’83 has been appointed senior vice president, general counsel and chief administrative officer of Air Products, a supplier of atmospheric, process and specialty gases, performance materials, equipment and services.

JOSEPH D. GATTO L’84, WG’84 has joined Perella Weinberg Partners in New York as a partner. He will work in the firm’s advisory business and will focus on senior client relationships, with a concentration in the consumer and industrial sectors. Joe is a member of the adjunct faculty at the Penn Law School, where he teaches mergers and acquisitions law. He is on the school’s board of overseers and on the board of advisors at the Institute for Law and Economics.

JOHN R. HANGER L’84 has entered the 2014 Pennsylvania gubernatorial race as a Democratic candidate. He served as secretary of the Pennsylvania Department of Environmental Protection from 2008 to 2011.

NEIL J. KLEINMAN L’84 has been appointed to the board of Philadelphia Academies Inc., a nonprofit youth-development organization that prepares Philadelphia public high school students for employment and post-secondary education.

RAFAEL PEREZ L’84 has joined Edwards Wildman Palmer LLP’s Madison, N.J., office as a partner in the firm’s public finance department.

JOHN H. GRADY L’85 joined American Realty Capital as chief operating officer and chief compliance officer for ARC’s FINRA member broker dealer subsidiary, Realty Capital Securities, LLC. John will also assume the role of chief compliance officer for Business Development Corporation of America and BDCA Adviser, LLC.

CHRISTINE ESKILSON L’85 received honorable mention in the 2012 Al Blanchard Award contest for short crime fiction. The award goes to New England authors or writers who set their stories in New England. Christine was honored for her first published story, “They Call Me Mr. Fussy,” about an aging misanthrope whose planned
peaceful retirement in a seaside New England town is disrupted by his criminal past. The story is published in Best New England Crime Stories: "Blood Moon" (Level Best Books).

CLIFFORD D. SCHLESINGER W’81, L’85 was elected chairman of Einstein Physician Services’ board of trustees. He is a managing director in the strategic wealth advisory team of Goldman Sachs.

JONATHAN SEGAL C’82, L’85, a partner in the Philadelphia law firm Duane Morris LLP, has been named a “top employment and labor lawyer” by HR Executive magazine, and was listed by Chambers USA: America’s Leading Lawyers for Business in its top-rated lawyers for labor and employment in Pennsylvania.

WAYNE A. MACK L’86 received a citation for excellence from the 2012 edition of Chambers USA: America’s Leading Lawyers for Business. Wayne is co-head of the commercial, securities and antitrust division of the Philadelphia office of Duane Morris LLP’s Trial Practice Group.

DIANNE A. MEYER L’86 received a citation for excellence from the 2012 edition of Chambers USA: America’s Leading Lawyers for Business. Dianne, a partner in the Philadelphia office of Duane Morris LLP, practices in the area of commercial finance, representing lenders and borrowers in secured and unsecured commercial lending transactions. She also practices in the area of municipal finance.

STEPHAN K. PAHIDES L’86, a McCausland Keen & Buckman shareholder, moderated a panel of leading real estate professionals at the “Philadelphia Life Sciences Real Estate Summit.” The panel discussed the Greater Philadelphia life sciences real estate market and reviewed the state of capital markets, development of new life science research facilities, and new initiatives and trends.

KENNETH I. TRUJILLO L’86 was nominated by Pennsylvania Gov. Tom Corbett to the Pennsylvania Liquor Control Board. Ken previously served on the Pennsylvania Gaming Control Board.

ANDREW J. BOWDEN L’87 has been named deputy director of the Securities and Exchange Commission’s Office of Compliance Inspections and Examinations. Andrew joined the SEC in November 2011 as the national associate director for OCIE’s Investment Adviser/Investment Company Examination Program.

EVAN JAY COHEN W’84, L’87 has been elected a regional managing partner in the Americas by Clifford Chance, a global law firm based in London. Evan, who has led the Americas Banking & Finance practice since 2005, is based in New York.

DEXTER R. HAMILTON L’87 was named to the board of the Leon H. Sullivan Charitable Trust, which was founded in 1966 to create economic and community development opportunities and to advocate on behalf of impoverished people. Dexter, a member of the litigation department of Cozen O’Connor in Philadelphia, was also appointed to the Philadelphia Commission on Human Relations.

THOMAS G. SERVODIPIO L’87 received a citation for excellence from the 2012 edition of Chambers USA: America’s Leading Lawyers for Business. Tom chairs the Philadelphia office of Duane Morris LLP’s Employment, Labor, Benefits and Immigration Practice Group and also serves on the firm’s Executive Committee.

MICHAEL B. ADLER W’85, L’88 has joined SquareTrade as chief financial officer. As CFO, he is responsible for global finance including financial planning and analysis, accounting, tax, and treasury. Michael also serves on the board of directors for Yodle, Inc.

MICHAEL J. BONI L’88 has been named vice president of the board of the Jewish National Fund for Northeastern Pa. Michael co-founded Boni and Zack LLC.

ROBERT C. MEIER L’88 was appointed chief executive officer of Dahlman Rose & Company, LLC, an investment bank specializing in the global natural resources supply chain. He previously served as the firm’s head of sales and trading.

STELLA MING TS AI L’88 was appointed to the board of trustees of the Community College of Philadelphia. Stella is a partner at Archer & Greiner P.C. in Philadelphia and a former chair of administrative law in the Philadelphia Law Department.

KENNETH A. ADAMS L’89 has had the third edition of A Manual of Style for Contract Drafting published by the American Bar Association. In addition to lecturing at the Penn Law School, he conducts seminars in North America and internationally and acts as a consultant and expert witness.

PENNY CONLY ELLISON L’89 has been elected to the board of the Pennsylvania SPCA. Penny is an adjunct professor at Penn Law School.

JIM HURST L’89 has been named department head of the Litigation Practice Group of Winston & Strawn LLP, based in Chicago. Jim is a member of the executive committee and chairman of the firm’s more than 200-lawyer Intellectual Property department.
FOR SF LAWYER, VARIETALS ARE THE SPICE OF LIFE

BY LARRY TEITELBAUM

GERRY NIESAR W'62, L'69 is a modern-day gentleman farmer. A partner at his eponymous law firm in San Francisco, Niesar & Vestal LLP, he also moonshines — if he'll pardon the expression — as majority owner of a vineyard in Napa Valley.

He's not exactly panning for gold, but Niesar says his 5.5-acre vineyard turns out a drinkable Cabernet Sauvignon and yields a modest profit.

Niesar and his extended family purchased the property in the Oak Knoll district, the Cabernet sweet spot, thirty years ago and put in a vineyard twenty years later. For the longest time, Niesar viewed the vineyard as a sort of private preserve which produced a crop, whether Cabernet or Sangiovese, for his own consumption and pleasure.

Then, last year, Niesar hired a vineyard manager. And before you could say Varietal, Niesar had a contract with Stag's Leap Winery, a premier Cabernet producer. Niesar says the winery recently bottled 177 cases from the 2008 and 2009 crops.

“If we can get some traction, as they say in Silicon Valley, we will probably produce more in the future.”

The wine is being sold under the Omi’s Farm label, in homage to his late mother-in law, who lived on the property for 20 years. Omi is German for grandmother.

Lest one think that owning a vineyard is an idyllic and romantic venture, consider the economics.

Niesar explains that a prospective owner has to buy the land, invest $20,000 per acre to put in a vineyard, and pay management $50,000 a year — and then wait at least five years for a return on the Cabernet crop.

However, Niesar got in before the entry fees became prohibitive, and he enjoys his avocation. “I like to drink wine … I am very partial to red wine, not only because I need to support the market for Cabernet, but because I think there is a lot more interesting variety in red wines than in whites.”

GERRY NIESAR W'62, L'69 AND HIS WIFE, ORTRUN, ENJOY THE GOOD LIFE IN NAPA VALLEY, WHERE THEY ARE MAJORITY OWNERS OF A VINEYARD.

DANIEL R. KATZ L'89 recently co-authored Adoption Laws in a nutshell (West Publishing Co.) with professor Sanford N. Katz.

TARAS PETER KIHICZAK L'89 was appointed to the California Law Revision Commission by Gov. Edmund G. Brown Jr. Taras is a lawyer and shareholder at The Kick Law Firm APC.

GRANT STEARNS PALMER L'89 was appointed to the board of Legacy Youth Tennis and Education, a Philadelphia nonprofit organization focused on youth tennis, leadership development and educational enrichment programs. Grant is an attorney at Blank Rome LLP in Philadelphia.

ERIC AMES TILLES L'89 has been elected to the board of the Association of Corporate Counsel-Delaware Valley chapter. He is deputy general counsel/manager of ethics and compliance at Arkema, Inc., a global chemical and material supplier.
KILGORE SOCIETY AIMS TO CONNECT THIS ERA’S FEMALE TRAILBLAZERS

CARRIE BURNHAM KILGORE graduated from Penn Law in ’83, after petitioning the administration to admit her as a law student for 10 years. By the way, that’s 1883, and it makes her the first woman to graduate from the Law School, and one of the first in the nation.

She also was the first woman admitted to the Pennsylvania Bar, in 1886—after petitioning the Pennsylvania General Assembly three times. And she was the first woman to serve in a state judiciary, when she was appointed as a master of chancery in Pennsylvania in 1888.

Now this role model is at the forefront once more as the namesake of the newly formed Kilgore Society, Penn Law’s Alumnae Network.

The Society’s mission is twofold, according to Corey Ellen Fulton L’07, the Law School’s director of alumni relations and the society’s organizer.

The Society seeks to foster and maintain a community of outstanding Penn Law women, as well as support and increase the number of women in law and in positions of leadership by providing opportunities for networking, professional development, mentorship, and continuing education.

Among its activities, the Society now maintains a listserv (currently with more than 400 subscribers) to disseminate information about jobs, internships and fellowships, and share news items regarding the professional appointments and achievements of Penn Law women. It has also worked together with the student-run Penn Law Women’s Association to kick off an alumni mentoring program for women who are rising 3Ls, and has established a presence on social media sites such as LinkedIn (currently with more than 200 members). In addition, the Society will create programming geared toward alumnae and will facilitate early morning coffee hours across the country for additional networking opportunities.

The Society’s next major project is to plan Penn Law School’s inaugural Women’s Summit, a two-day conference set for the spring of 2014.

FOR MORE INFORMATION ABOUT THE SOCIETY, OR TO JOIN: contact Corey Ellen Fulton at cefulton@law.upenn.edu or call 215.898.0672.
SALVATORE G. ROTELLA JR. L’93 was named a partner in the Life Sciences Health Industry group in Reed Smith LLP’s Philadelphia office.

ANTHONY M. CALCAGNI L’94, an attorney in the real estate practice group at Verrill Dana, LLP in Portland, Me., was recently recognized as a “leading lawyer” by Chambers & Partners.

F. SCOTT KIEFF L’94, a professor in the George Washington University Law School, was nominated by President Barack Obama to serve on the U.S. International Trade Commission. He is also a faculty member of the Munich Intellectual Property Law Center at Germany’s Max Planck Institute and was inducted as a member in the European Academy of Sciences and Arts in March 2012.

MICHAEL P. WILLIAMS L’96 has joined Picciotti & Schoenberg in Philadelphia, where he will lead the firm’s Forensic Auditing group. He worked for the City of Philadelphia for more than eight years, most recently as the senior attorney in the Law Department’s Health and Human Services unit.

JONATHAN P. KLASSEN C’96, L’00 has been promoted to senior vice president and general counsel of BioMed Realty, an entrepreneurial company focused on providing real estate to the life sciences industry.

KATHI KELLY LUTTON L’96, a principal at Fish & Richardson, has been selected as one of the 2012 Women Leaders in Law by The Recorder. The annual honor recognizes 40 women networkers who have shown creativity and effort in building relationships that create opportunities for their firms or organizations and for others.

PRISCILLA J. (“SALLY”) MATTISON L’97 of counsel to Bernard M. Resnick, Esq., P.C., has been appointed to the Environmental Advisory Council of Radnor Township, Pa.

CANDICE TOLL AARON L’99 was appointed to the board of directors of the LIVESTRONG Foundation. Candice, a compliance leader at GE Capital, is a survivor of papillary thyroid cancer, a founding member and current chair of the LIVESTRONG Young Leader’s Cancer Council and a member of the LIVESTRONG Foundation’s President’s Circle. She reached the summit of Mt. Kilimanjaro in 2006, the same year as her cancer diagnosis.

MEREDITH AUTEN C’96, L’99 has been elected to the board of the Philadelphia Bar Association. Meredith is a partner at Morgan, Lewis & Bockius LLP and a member of its White-Collar Litigation and Government Investigations practice.

YELENA M. BARYCHEV L’99 was elected treasurer and chairperson of the audit and finance committee of the board of trustees of International House Philadelphia. She is a partner at Blank Rome, where she represents U.S. and European companies in connection with business and corporate law matters.

MATTHEW DANOW L’99, a partner in the Real Estate department of Katsky Korins LLP in New York, was named a 2012 Super Lawyer’s Rising Star for the New York metropolitan area.

BETH M. HENKE L’99 has joined Reed Smith of Philadelphia as a partner in the Labor and Employment practice. Beth has been listed in Who’s Who in American Law since 2007.

JEREMY ROSOF C’97, L’99 received the Long Island Business News’ 2013 “40 under 40” award. The publication recognizes rising stars and future leaders. Jeremy is of counsel at Shaub, Ahmuty, Citrin & Spratt.


MICHELE MANEY L’00 was elected partner in the Corporate and Securities practice of Baker & McKenzie in New York.

MAL E. SERURE L’00 has been elected partner at Bryan Cave LLP. He is a member of the Real Estate group in the New York office.
KATHERINE H. BET-TERLY L’01 was promoted to special counsel at Morris, Nichols, Arsh & Tunnell LLP, Wilmington, Del. Katherine is a member of the firm’s Commercial Law Counseling and Real Estate groups.

PETER A. BOGDANOW L’01 was named partner in the Dallas office of Andrews Kurth LLP.

ADAM E. LYONS L’01 has been named a shareholder in the Albuquerque office of Brownstein Hyatt Farber Schreck.

JOHN PAPIANOU L’01 was named to the board of trustees of the Curtis Institute of Music in Philadelphia. He is a partner at Montgomery McCracken Walker & Rhoads, LLP.

JOLIE SIEGEL C’98, L’01 has joined IntraLinks, a global technology provider of enterprise content management and collaboration solutions, as senior vice president, deputy general counsel.

JANNIE K. LAU L’02 was appointed executive vice president, general counsel and secretary of InterDigital Inc., which she joined in 2008 as associate general counsel. Janine serves on the board of directors of DELVACCA, the Delaware Valley chapter of the Association of Corporate Counsel, and the executive committee of the Asian Pacific American Bar Association of Pennsylvania.

MICHAEL MUGMON C’99, L’02 has been promoted to partner at WilmerHale. He practices in the firm’s Palo Alto office.

TRACEY SORENS PACH-MAN L’02 was elected to the board of Women’s Way, a nonprofit, Philadelphia-based women’s funding federation. Tracey is an assistant general counsel with Aramark.

SARAH KATZ L’03 was appointed a visiting clinical professor at Temple University Beasley School of Law, where she is teaching and supervising the Family Law Litigation Clinic. The clinic handles custody, support, paternity and adoption matters. Sarah was previously a supervising attorney in the Family Advocacy Unit at Philadelphia’s Community Legal Services.

JEFFREY POLLACK L’03 has been promoted to partner at Duane Morris LLP in Philadelphia. He is a member of the trial practice group.

DAVID BERNSOHN L’04 has been promoted to partner at Duane Morris LLP in Philadelphia. David practices in the areas of corporate law and commercial finance.

The Penn Law Journal has benefited in recent issues from the work of three class correspondents: David Williams L’10, Karyn Brudnicki GR’07, L’07, and Paul Meier L’99. They have provided valuable updates on and renewed their bonds with classmates. Anyone interested in following their lead and gathering information for us should contact Journal editor Larry Teitelbaum at lteitelb@law.upenn.edu. We will provide the lists for a broadcast e-mail. Thank you in advance.
JAY SPADER L’05 has joined the corporate and business department of Brownstein Hyatt Farber Schreck as of counsel. He will work in the Denver office.

JOEY T. SHABOT L’06 has joined the international law firm Greenberg Traurig, LLP as of counsel in its Tel Aviv office. He focuses his practice on M&A, financing, and other corporate transactions.

MELANIE BREAUX L’07 has published her first novel, The Puppeteer, as an eBook on Amazon.com. Melanie wrote the first draft while a student at the Law School and draws loosely on her experience there and her time practicing law.

CATHLEEN GARRIGAN L’07 has joined the San Francisco law firm of Farella Braun + Martel LLP as an associate in its Intellectual Property Litigation department. Previously, she was with Quinn Emanuel Urquhart & Sullivan.

GEORGE GERSTEIN L’07 joined the ERISA practice at Morgan Lewis. He is working in the Philadelphia office. He previously worked at State Street Bank and Trust Company and Deutsche Bank.

DEAN KRISHNA L’07 has rejoined Dechert in Philadelphia as an associate in the tax group. His practice focuses on domestic and international taxation. He had been practicing for a Midwest firm.

BRAD LEWIS L’07 joined the Chicago office of Ropes & Gray, where he a member of the Government Enforcement practice group. He had been with Winston & Strawn in Chicago.

RUBEN MUNOZ L’07 was promoted last January to counsel at Akin Gump, where he practices in the area of intellectual property, with an emphasis on patent infringement litigation.

KINDL DETAR (nee SHINN) L’09 was named an associate attorney in the Charlotte, N.C., office of Robinson Bradshaw & Hinson, P.A.

ANTHONY J. FRICK L’10 has joined Diversified Search of Philadelphia as vice president and general counsel.

EMILY TORSTVEIT NGARA L’10 is in the midst of a two-year clinical teaching fellowship and LLM program in Clinical Teaching, Social Justice, and Systems Change at the University of the District of Columbia David A. Clarke School of Law. She supervises and helps teach second and third year law students in the Immigration and Human Rights Clinic.
ALUMNI BRIEFS

ALEXANDER M. NAITO L'12 has joined Miller Nash LLP in Portland, Ore., as an associate.

NARDA NEWBY EDWARDS L'95 and her husband, Malik, are pleased to announce the birth of their daughter, Kayla Nia, on June 12. Narda is the assistant firm counsel at Steptoe & Johnson LLP in Washington, D.C.

SHARONE MENCZEL C'95, L'99 and her husband, Keith, had their first child on Nov. 11.

DANIELLE SHIRA ROSENTHAL L'05 was married to Ashley Boland Summer on Feb. 23 in Cleveland. Danielle is assistant general counsel, intellectual property litigation, at Honeywell International in Morristown, N.J.

ALEX GIN L'07 and his wife, Mary Anne, had a baby boy on Valentine's Day. His name is Conrad.

PATRICK KENNELL L'07 and his wife, Sheri, had their first child in November. Her name is Anelie Sophia.

JOHN MCCAULEY L’07 and his wife, ERIKA MEDINA L’06, had their second child, Mathias, in June. Erika is working hard taking care of the boys at home, and John is practicing commercial litigation at Dinsmore & Shohl in Cincinnati.

ANDREA E. HAINES L'10 gave birth to a baby boy, Oliver Joel, on Sept. 7, 2012 in Chicago.

CHAO PAN L'10 was engaged to Ivy Cheng. Chao is in the Navy Judge Advocate General’s Corps.

JOSH SCHLENGER L'10 and his wife, Yael, welcomed a beautiful baby boy on Feb. 25. Josh is a litigation associate at Weil, Gotshal & Manges LLP in New York, where he works on complex commercial litigations in both state and federal court.

CANDACE LYNN THOMPSON W'07, L'10 and GEORGE THOMAS KIMMET L'09 were married Oct. 20, 2012, in Big Sky, Mont. She is a law clerk for the Hon. Russell C. Fagg, Montana Thirteenth Judicial District and he is an associate with Moulton Bellingham, PC. The couple reside in Billings, Mont.


PENN LAW SCHOOL WON THE WEBBY AWARD, THE INTERNET’S HIGHEST HONOR, in the Law category. Penn was the only law school nominated. The Law School won the award for its redesigned web site. Accepting the award for the Law School were (left to right) Christopher Herdt, IT project director; Rebecca Anderson, associate director for communications; Christine Droesser, associate director of ITS and director of web services; and Emily Brennan, manager of new media.
I believe that the Greek philosopher Heraclitus was right when he said, character is destiny. And ARLEN SPECTER C’51 had exceptional character. We saw it not only in the way he lived his life, but in the way he died. Never bending, never yielding. My dad used to have an expression he taught his boys. He’d say, never explain and never complain. The only man I’ve ever met who truly lived up to my father’s admonition without exception, from my observation, was Arlen.

When Arlen was your friend, he was your friend. Arlen reminds of me of that old saying, a friend is someone who walks in when others walk out. Arlen always walked into my life at moments that were of great consequence for me — for good and bad. He always walked in. I mean literally walked in. Unannounced, he’d walk into my office; unannounced and always — always, always, always — to publicly support me.

In 1990, I was going through a pretty rough patch in my reelection. And I had the most vicious campaign ever run against me. It opened up with my opponent saying this election is about character — in a televised debate — looking at me and saying, and Senator Biden has none. And it went downhill from there.

I got a call from Arlen at a time when there were talks about whether he would be primaried. And he said, Joe, I want to go on television for you. I said, Arlen, that makes no sense for you. He said, no, I want to. I said, well, no, let’s think about this. You know what he did? He had his ad team record a 30-second ad for the Philadelphia market and sent it to me with a note saying, any time you wish to use it, use it if you think it would help.

Do any of you know anybody who would do that in politics knowing that it would have hurt him badly? That’s Arlen Specter.

I never used the ad, although it would have helped. But I never forgot.

And we went through a lot of battles together — all those Supreme Court nominees. This was a man who I don’t think anything mattered more to him than the Constitution. I don’t think anything was in his view more consequential in terms of the future stability of this country than the Constitution.

And I’m confident he thought there was no single endeavor short of war that a President undertook that was more consequential than the make-up of the Supreme Court. And it was an honor and a privilege to learn from him, to watch him.

Arlen was fully capable of being a senator, but he was also fully capable of being a Supreme Court Justice. He was fully capable of doing anything — anything — that he desired to do.

And I watched him single-handedly reinvigorate the National Institutes of Health. I watched him through all the battles, such as the battle to save the SLEP program at the Philadelphia Navy Yard. By the way, when Gov. Rendell had finished talking to Arlen, he’d call me. But it’s amazing. It’s amazing how long it worked for Arlen. I mean it’s just absolutely amazing. And he always knew how to get to me. You know how he had that closing argument? He’d go through the argument, and he’d say, and, Joe, remember, you’re Pennsylvania’s third senator. And like a sucker, I bought it.

I think though maybe the most incredible legacy that Arlen left is how many hundreds of thousands of people in this country are struggling with cancer, but how many have taken such incredible hope from Arlen’s struggle. Arlen shouldn’t have made it this far, period. I think they’re going to find out someday at the NIH that attitude has a gigantic impact on recovery. I’ve never seen a man with as much undaunted courage as Arlen, both
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physical and political courage. He believed that he could change
the world. He believed if you just worked at it hard enough, you
just kept at it, you could change anything.

In his final speech as a senator he said, “An extraordinary
experience has come to an end, but my dominant feeling is pride
in the great privilege it has been.”

I've served more than all but 13 men in the history of the
United States of America in the United States Senate. I’ve had no
greater privilege than serving with and being a friend of Arlen
Specter.

This applies more to Arlen than any man I’ve ever known. In
the words of Shakespeare: “He was a man, take him for all in
all. I shall not look upon his like again.

John Biden, former U.S. Senator for the State of
Delaware, is Vice President of the United States.

Paul R. Anapol L'60, died July 6, 2012, in Portland, Maine,
with his family by his side. He was 79. After a year of law
school, he served as a lieutenant in the Army and was stationed
in Ansbach, Germany, during the Korean War. Following a
two-year deployment, he graduated with honors from the Law
School. After graduation, Mr. Anapol served as a clerk to the
Honorable Harry Kalodner of the U.S. 3rd Circuit Court of Ap-
peals. In 1975, he founded his own law firm, now known as
Anapol Schwartz. Mr. Anapol dedicated his career to fighting
for victims’ rights and was a true champion of justice. He is
also remembered for being a terrific raconteur, who could keep
a room spellbound for hours. He served as a county freeholder
in New Jersey, was president of the Philadelphia Trial Lawyers
Association in 1986-1987, and received multiple awards and
commendations throughout his legal career before retiring in
1992. He is survived by his wife, Sarah M. Thompson; first wife,
Sara Jane Anapol of Sarasota, Fla.; their three children, Andrea
Anapol of Key West, Fla.; Ruth Anapol of Greenwich, Conn.,
and Thomas Anapol and wife, Bonnie, of Bryn Mawr, Pa.; four
grandchildren, Caroline and Elizabeth Anapol of Bryn Mawr,
Pa. and Laura and Nicolas Navarrete of Greenwich; his beloved
Labrador Retriever, Patrick; and best friend, Jerry Schwartz of
Cherry Hill, N.J.

Stanley J. Bernstein L'68, of Boston, Mass., died on March
30. Mr. Bernstein was CEO of The Biltrite Corp., a producer of
thermoplastics products. He was a long-standing supporter of
the Law School, most notably creating the Stanley J. Bernstein
Loan Assistance Fund to help alleviate debt burden for gradu-
ates entering public interest careers. In addition, he was a trustee
of Brown University and The Roxbury Latin School, and loyal
contributor to a number of other organizations. Mr. Bernstein
charted a life dedicated to the causes in which he firmly believed.
An incredibly loving and devoted husband, father, brother, and
friend, he is survived by his wife, Cathy, sons Michael and Geof-
frey, and daughters Marissa and Carly.

Fred Blume L'66, chairman emeritus of the Blank Rome law
firm in Philadelphia, died April 8 after a long illness. He was 72.

Despite a long battle with a rare pancreatic tumor, he served
as Blank Rome’s managing partner and chief executive officer
from 2003 to 2006.

Mr. Blume was born in Philadelphia and grew up in Felton-
ville. He graduated from Olney High School in 1959 and earned
a bachelor’s degree at Temple University, where he graduated
first in his class in 1963. While studying law at the University
of Pennsylvania, he met his future wife, Sylvia. "I was dating
his best friend," she recalled. When they broke up, that friend
asked Mr. Blume not to ask her out, but he called anyway, she
said. That was in 1964. He earned his law degree in 1966, and
they got married later that year.

Mr. Blume joined Blank Rome in 1967. "Fred's tenure with
Blank Rome lasted close to half a century," said Alan Hoffman,
the firm’s current managing partner and co-chairman. "Duri-
ing his time with us, he demonstrated a fierce dedication to his
work, his community, and his family. We mourn not only the
loss of an esteemed colleague, but also that of a true mentor and
beloved friend," Hoffman said.

Under his leadership, Blank Rome experienced significant
expansion, opening offices in New York and Washington, D.C.
Committed to mentoring, he started Blank Rome University to
teach younger attorneys both substantive legal skills and busi-
ness of law skills. Mr. Blume was still active in the firm before
his death.

Mr. Blume served on the board of City Year Greater Phila-
delphia, the board of advisers of the Institute for Law and Econom-
ics of the University of Pennsylvania, and the board of visitors
of Temple University’s Fox School of Business. He also served
on the board of the Greater Philadelphia Film Office and was a
member of the board of trustees of the National Museum of
American Jewish History.

In addition to his wife, Mr. Blume is survived by sons Mi-
ichael and Edward; a daughter, Deborah; seven grandchildren;
and a brother, Martin.

Cassin W. Craig L’49, who served as solicitor for the Mont-
gomery County Housing Authority for 37 years, from 1959 to
1996, died July 8, 2012, at the age of 91. Mr. Craig enlisted in
the Navy in 1942 and earned a bachelor's degree from Haverford College in 1943 before going on active duty. The Navy sent him to Harvard Business School for a year’s training as a supply officer, after which he served on a convoy escort from the East Coast to the North African campaign. After graduating from the Law School, Mr. Craig joined the firm that became Wisler, Pearlstone, Talone, Craig & Garrity, where he became partner in 1957 and from which he retired in 1995. A longtime resident of Fort Washington, Pa., Mr. Craig was president of the Montgomery Bar Association in 1970. He was also solicitor for four halfway houses for psychiatric rehabilitation. He was board chairman of the Masonic Village at Lafayette Hill and a warden of the Church of the Messiah in Gwynedd. Mr. Craig was also a member of the St. Andrew's Society for more than 50 years and also served as its counselor. He was a Scottish Rite Mason and was a longtime member of the Rotary Club in Ambler where he was a Paul Harris Fellow. He is survived by his wife of 56 years, Jean; sons William and David; daughter Pamela Delaney; and six grandchildren.

CORNELIUS T. FINNEGAN III L’72, of Darien, Conn., who had recently retired from the law firm of Willkie Farr & Gallagher, where he was a longtime partner specializing in corporate law, died July 17, 2012. He was 67. He also worked briefly as general counsel at W. R. Berkley Corporation. He was an editor of the Penn Law Review and also served in the Army National Guard for four years. After retirement, Mr. Finnegan was a frequent attendee at the Darien Community Association Senior Men’s Lecture Series and pursued his interest in history by taking many courses at Norwalk Community College. He also was a talented accordion player. Mr. Finnegan is survived by his wife, Maureen O’Brien Finnegan of Darien; sons Cornelius IV of Darien, Christopher of Los Angeles, and Justin of Bhutan; daughter-in-law, Erin (Miller) Finnegan; two grandchildren, Cornelius V, and Aoife; brothers Kevin, Barry, Brendan, and Mark. His brother, Edward, predeceased him.

BERNARD A. “BUDDY” FISCHER W’39, L’49 died June 3, 2012. He is survived by his cousins and spouses.

THE HONORABLE ISAAC S. GARB L’56, who as a Bucks County, Pa., Court Judge presided over the controversial Point Pleasant pumping station case that garnered national attention, and the trial of William Bradfield of the "Main Line Murders“ case, died Dec. 4, 2012. He was 83 and lived in Buckingham, Pa. Judge Garb, known as Zeke, was still handling settlement conferences, bail hearings, and bench warrants as a master until two-and-a-half weeks before he died. He had retired as a full-time judge at the state-mandated age of 70. He served 10 years as president judge during his 33 years on the bench. He was best known for his ruling supporting construction of the pumping station to take water from the Delaware River for utilities in Bucks and Montgomery counties and for the Philadelphia Electric Co. Limerick nuclear power plant. In 1983, at the height of the 15-year environmental and political controversy, protesters camped in the lobby of the courthouse. Many, including the activist Abbie Hoffman, were jailed for civil disobedience. The chief justice of the state Supreme Court picked Judge Garb to preside over the 1983 trial of Bradfield, who was charged with the 1979 killing of Susan Reinert, an English teacher at Upper Merion High School, and her two children. Judge Garb sentenced Bradfield to three life terms after a jury found him guilty. Bradfield died in prison in 1998. As president judge, Judge Garb made the county court system one of the most efficient in the state by taking over the assignment of criminal cases from the District Attorney’s Office. Judge Garb grew up in Trenton, N.J., where his city sprinting title led to a football scholarship at a Methodist college in Missouri. He returned home and graduated from Rutgers University after incurring injuries on the football field. Judge Garb entered the Army, doing counterintelligence work in Washington, in the early 1950s. He attended the Law School on the GI Bill and, after graduation, hitchhiked through Europe and the Middle East for nine months. He went on to work as a public defender and a lawyer in the U.S. Attorney’s Office in Philadelphia before resigning to run for the state Assembly in 1962. In 1966, he was appointed to the county court, where he served until he retired in 1999. Besides the law, Judge Garb’s passions were his vegetable garden, the Metropolitan Opera, and the New York Yankees. He and Joan, his wife of 47 years, met on a blind date in New York in their early 1930s. She died in 2009. He is survived by children Maggie, Emily and Charlie, and a grandchild.

THOMAS J. KALMAN L’42, a military hero, accomplished businessman, public servant, philanthropist, and practicing attorney for more than 60 years, died June 9, 2012 in Greensburg, Pa. He was 94. Mr. Kalman graduated from the Officers War College in Norfolk, Va., and the Naval War College in Rhode Island. He was a Navy officer in World War II, participating in the invasions of Sicily and North Africa and also serving in the Western Sea Frontier. He retired as a senior captain and remained active in military affairs as a member of the Retired Officers As-
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sociation, the Knights of Columbus, The American Legion, the Veterans of Foreign Wars and the Catholic War Veterans. Mr. Kalman established a law firm in Uniontown, Pa. He served in the Pennsylvania State Legislature as senator from 1957 to 1970 and as chief clerk of the Senate from 1971 to 1980. He was appointed by Presidents Ford and Carter to serve on Presidential Advisory Commissions. The Catholic Church played a central role in Mr. Kalman’s life. He served as a board member at the Institute for Church Life at the University of Notre Dame. In 2007, he received the honor of being inducted as a Knight of the Equestrian Order of the Holy Sepulcher of Jerusalem, the only lay institution of the Vatican State charged with the task of providing for the needs of the Latin Patriarchate of Jerusalem and for all the activities and initiatives which are necessary to support the Christian presence in the Holy Land. He was preceded in death by his first wife, Clare Reagan Kalman, and his father, Albert Joseph Kalman. He is survived by his second wife, Donna Forrai Kalman; daughters Mary Ann Kalman of State College and Mary Catherine (Cay) Griglak; stepsons James Forrai, Edward Forrai, and Steven Forrai; granddaughter Alexandra White and Williams, LLP in Philadelphia. He was also chair of the firm’s marketing committee. Mr. Krol is survived by his wife, Alice Milrod; his daughter, Rachel Milrod and son-in-law Scott Kirker; his parents, Ann and Anthony Krol; brothers David Krol and George Krol, and sister-in-law, Melissa Welch.

A. PETER KANJORSKI W’57, L’60, a founder of the Earth Conservancy who served as its director from 1994 to 2004, died Nov. 15, 2012. He lived in Nanticoke, Pa. and was 77. The nonprofit Earth Conservancy reclaims mine-scarred land for reuse or as green space. After law school, he started out in practice with his father, also named A. Peter Kanjorski, and his brother Paul, a former U.S. congressman. He was a longtime member of the Wilkes-Barre Law & Library Association and the Pennsylvania Bar Association. Pa. Gov. Robert Casey appointed Peter Kanjorski to the state’s Workers’ Compensation Appeal Board, where he served from 1990 to 1995, serving as chairman of the board. He was then appointed by Secretary of Labor Robert Reich to serve as a judge on the U.S. Department of Labor’s Employees’ Compensation Appeals Board until his retirement in 2005. Beginning in 1960, he served in the U.S. Army Reserve for six years as a member of the 402nd Military Police Prisoner of War Camp, attaining the rank of first lieutenant. Mr. Kanjorski is survived by his wife of 52 years, the former Nancy Tarkett; four sons, Peter A. and his wife, Susan; Russell and his wife, Jennifer; Mark and his wife, Wanda, Seattle, Wa.; and Paul Eric and his wife, Shannon; eight grandchildren, Peter Alex, Katherine, Elizabeth, William, Emma, Sam, Isabella and Sophia Elise Kanjorski; brother, the Honorable Paul E. Kanjorski and his wife, Nancy; sisters Aloise Zavoy and Charie Aponick and her husband, John. He was preceded in death by a sister, Wendy Workman.

JOHN E. LANDIS W’41, L’48, of Souderton, Pa., was so licitor for Lansdale Borough from 1966 to 1977, died Thursday, Oct. 4, 2012. He was 92. Mr. Landis began his legal career in Philadelphia in 1948, but soon joined the Lansdale firm of David E. Groshens. After Groshens left the firm, Mr. Landis headed his own law firm, with various partners, and focused on estate work until he retired in 2003. He was a member of the Montgomery County Bar Association, a 50-year member of the Kiwanis Club of Lansdale, and a longtime United Way volunteer. Mr. Landis is survived by sons Thomas, John W., Frederick, and Robert; a sister; and three grandchildren.

SAMUEL S. LAUCKS, JR. L’42 died Sept. 19, 2012, in Dallastown, Pa. Following his graduation from Penn, he entered the U.S. Army and served as a commissioned officer in the Pacific Theater in World War II. Following completion of his military service, he began practicing law with his father, Samuel S. Laucks Sr., also a graduate of the Law School. Mr. Laucks was a founding partner of the firm Laucks & Monroe in York, Pa., and later, along with his son, David M. Laucks, formed the firm of Laucks & Laucks in Red Lion, Pa. A former solicitor for the York County Industrial Development Authority, Mr. Laucks was also a director of Southern Pennsylvania Bank and its successor, Dauphin Deposit Bank. He practiced law in York County Pennsylvania for more than 60 years. He was a former president of the York County Bar Association. He is survived by his sons, Dr. Samuel S. Laucks, II and his wife, Jeanne, of Dallastown Pa., and David M. Laucks of Red Lion, Pa. He is also survived by three grandchildren, S. John, Suzanne E. and Joseph M. Laucks; and a brother, Dr. S. Philip Laucks, of Dallastown, Pa.

THE HONORABLE CHARLES D. LEMMOND L’55, a longtime Pennsylvania state senator and community leader, died May 30,
2012, in Wilkes-Barre, Pa., at age 83. During his early years as a lawyer, he was a principal in the firm of Silverblatt and Townend, and he served as solicitor for a number of municipal entities, including the Lake Lehman School District, Dallas Borough and Exeter Township. As Luzerne County first assistant district attorney he prosecuted and won a number of high-profile criminal cases. In 1980 he was appointed by Gov. Dick Thornburgh to serve as a judge of the Luzerne County Court of Common Pleas, where he was the Orphans’ Court judge. He represented the 20th Senatorial District from 1985 until his retirement in 2006. Often referred to by his colleagues as “The Gentleman of the Senate,” Judge Lemmond chaired the State Government Committee and was vice chairman of the Judiciary Committee. He was a member on the criminal justice commission and the reapportionment task force of the national conference of state legislatures, and served as vice chairman of the Pennsylvania Higher Education Assistance Agency Board of Directors. He was a 33rd-degree Mason, a member of the Caldwell Consistory, and served as potentate of the Nobility of Irem Shriners in 1979. He was a life member of Wyoming Seminary’s board of trustees and an advisory board member of the Salvation Army and Penn State University’s Wilkes-Barre campus. He was a lay leader of First United Methodist Church of Wilkes-Barre, and over a period of years served in many leadership roles in the Wyoming Conference of the United Methodist Church. Mr. Lemmond received an honorary degree of Doctor of Humane Letters by Wilkes University in 2000. The Misericordia University named its campus performing arts center the Lemmond Theater. Mr. Lemmond is survived by his wife Barbara; children Charles Lemmond of Austin, Texas, John Lemmond of Virginia Beach, Va., Judith Lemmond of Dallas, Pa., and David Lemmond of New York City; a brother, George H. Lemmond of Atlanta; daughter-in-law, Tracy Lemmond; son-in-law, Pedro Elizondo; and grandchildren Courtney, Gretchen, Carter and Kendrick Lemmond.

JOHN F. (JACK) MCCARTHY, JR ’48, the former New Jersey chairman of the State Commission of Investigation from 1970 to 1973, died on June 22, 2012. He was 90. Mr. McCarthy was born on Charlton Street in Princeton, the same street where he would practice law for decades. He captained the undefeated 1942 Princeton University baseball team as an all-ECAC first baseman, played varsity basketball, and graduated with honors. He hit a home run over the right field fence at Cornell, a feat matched previously only by Lou Gehrig. His college classmates voted him “best sense of humor” and “best natured.” In 1943 Mr. McCarthy was commissioned as a second lieutenant in the 87th Field Artillery. After landing in Normandy, he served as an artillery forward observer, was wounded twice, received the Purple Heart, and was awarded the Bronze Star for bravery in the rescue of six stranded enlisted men. Mr. McCarthy practiced law in Princeton for 64 years. He attended daily Mass at St. Paul’s Church, fulfilling a promise he made on the battlefields of France. When former Governor Brendan Byrne spoke at the 250th anniversary of Princeton University, he joked, “Princeton is known as the home of three famous people - Albert Einstein, Woodrow Wilson and Jack McCarthy.” Mr. McCarthy is survived by his wife of 66 years, Katherine; two sons, Jack and Kevin of Princeton, and five grandchildren.

MILO G. MILLER III C’55, L’58 died on June 5, 2012. A retired stockbroker with Morgan Stanley, Mr. Miller had been a member of the Phi Kappa Sigma fraternity and the varsity crew team at Penn.

JOHN V. O’HARA L’89, a partner at the Philadelphia law firm Obermayer Rebmann Maxwell & Hippel LLP, died Dec. 2, 2012, at the age of 48. Mr. O’Hara was a partner in the firm’s Business and Finance department and a member of its Healthcare practice group. He was known for meticulous attention to detail and ability to close deals. He served as an editor of the Penn Law Review. He joined Dilworth Paxson as an associate after law school and moved to Obermayer in 1992. Mr. O’Hara was a coach in the Haverford Soccer Club and was an active member of the community. He is survived by his wife, Lisa, of Havertown; son Ryan; and daughters Elaine and Mairead.

WILLIAM “BILL” SHANE L’61, who served as dean of admission and financial aid at Penn Law School, died in early October of 2012. He was 77. Mr. Shane graduated from Indiana, Pa. Area Senior High School and obtained his undergraduate degree from Harvard College. After serving six years as a Democratic member of the Pennsylvania House of Representatives in the 1970s, Mr. Shane spent the majority of his career in the Pennsylvania Public Utility Commission. He also served as an Indiana County Commissioner. An avid exercise enthusiast, he completed 14 marathons. Mr. Shane was an active and lifelong member in Graystone Presbyterian Church and he was involved in numerous community service projects, including the Chevy Chase Community Center in Indiana. Mr. Shane is survived by his wife, Esther, of Indiana; his sister, Peggy Thrush; three children, Susan, Mark, and Joe; and two grandchildren, Owen and Madeline.
Ducks in a Row

Rubber ducks stand sentry as extra eyes and ears on the desk of longtime security guard, Cormel Green. The rubber brigade took shape after a student bought a Beanie Baby duck for Cormel, who placed it on the rim of her desk. The flock grew as students and faculty brought more and more feathered (or Latexed) friends to her. The ducks enjoy a lot of downtime: Cormel only brings them out during heavy rains. Water rolls right off ’em, you know.