

# Brooklyn Law Notes

THE MAGAZINE OF BROOKLYN LAW SCHOOL | FALL 2019

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## **Michael T. Cahill**

The new dean shares his vision for the Law School and passion for excellence in legal education.



***Hello,  
Brooklyn!***

# CLINICS

# 50

1970  
2020

## The Power of Law in Action

The Law School will celebrate the 50th anniversary of its  
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with special events and programs.

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# Dean's Message



DEAR ALUMNI AND FRIENDS,

You may be familiar with Raymond Chandler's classic noir novel *The Long Goodbye*. If a book were ever to be written about my return to Brooklyn Law School, in addition to being much happier than Chandler's, it might be called *The Long Hello*. After being named the new Joseph Crea Dean last December, I officially took office on July 1. Since then, and especially since our Convocation on August 19, it has been a whirlwind of introductions, reconnections, and immersion in a new academic year, interacting with new and returning faculty, our Board of Trustees, alumni, students, and staff. These many and varied gatherings have given me welcome occasion to share my excitement about, and gratitude for, the opportunity I have been given to work with so many talented and dedicated people and to help shape the future of an institution I esteem and cherish deeply.

That work to ensure the Law School's ongoing excellence is a shared effort. Brooklyn Law School's future successes will be rooted in the help of supporters and friends like you. Such help can—and must—take several forms. There are at least four kinds of contributions you can offer to support and strengthen Brooklyn Law School:

- First, you can **help each other** by maintaining your personal and professional ties to classmates and fellow members of the Brooklyn Law community, building a wider yet more tight-knit network of alumni and friends whose mutual support enables mutual achievement.
- Second, you can **help our students** by serving as a mentor, offering informal advice, coming back to lecture in a class

or at an event, or, best-case scenario, providing or pointing toward a job opportunity.

- Third, you can **help the school** by making a gift. Our ability to attract top students, provide them with a top-notch education, and launch them into thriving careers depends on the generosity of donors who were themselves given opportunities by their Brooklyn Law School education and are now in a position to help the next generation flourish and to help the school maintain and enhance its reputation and quality.
- Last but certainly not least, you can **help me**—and our faculty, administration, and Board of Trustees, who collectively govern the school—by getting in touch to share your thoughts about the Law School, inform us about your career experiences, and provide your insights about trends in the law and legal practice that can guide our decisions about where to take the school in the future.

As my own long hello continues, I hope I have the chance to say hello in person to as many of you as possible in the days ahead, and to exchange thoughts and ideas about how to preserve and build on everything we treasure about Brooklyn Law School.

**Michael T. Cahill**  
*President, Joseph Crea Dean, and Professor of Law*

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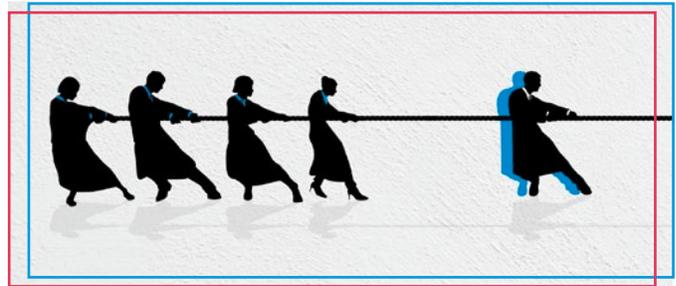
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Vol. 24, No. 2

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250 Joralemon Street  
Brooklyn, NY 11201

### Printer

Allied Printing

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

# NEWS

## Convocation Ceremony Welcomes New Students

BROOKLYN LAW SCHOOL welcomed 403 new J.D. and 16 LL.M. students at the annual Convocation ceremony, held in the ceremonial courtroom at the U.S. District Court for the Eastern District of New York. Vice Dean Christina Mulligan served as master of ceremonies for the event, which featured remarks from Professor Catherine Y. Kim; Gloria Greco '98, chief compliance officer at Bank of America Merrill Lynch and member of the Alumni Association Board of Directors; and Michael T. Cahill, president and Joseph Crea Dean.

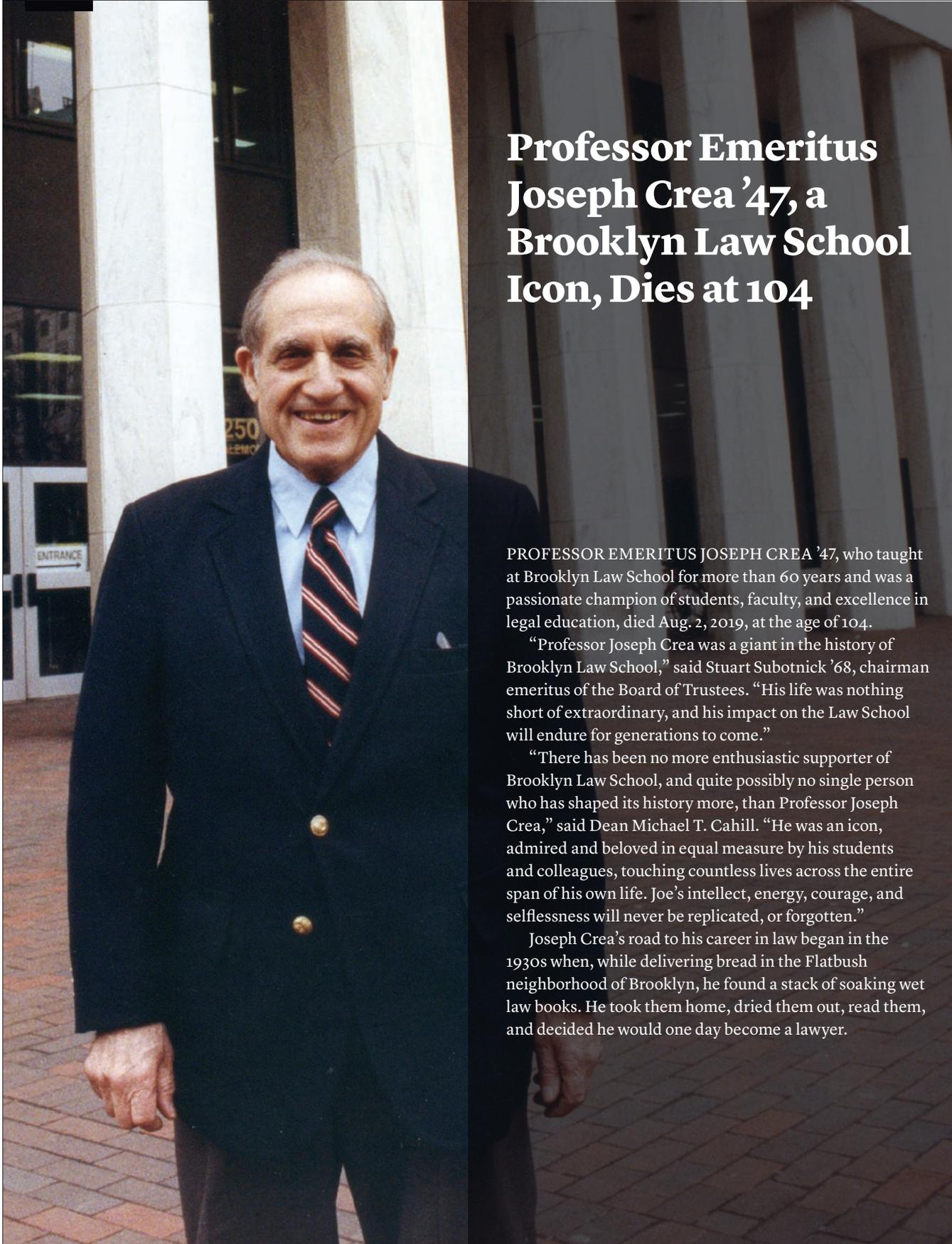
Cahill, noting that this year's new class would be his first as dean, urged students to commit to "developing the character and fitness to be a lawyer." He emphasized

that the mission of the law can be summed up in a single word: justice.

"To be a lawyer is to commit yourself to pursuing justice, which means that you must first believe in justice," he said. "You must believe it is in our collective power to make our community, our society, and our world a more fair, more decent, more humane place."

Ultimately, he said, "pursuing justice is extremely satisfying... because it's also fundamentally optimistic, and if you embrace that optimism, you will have a very happy career."





## Professor Emeritus Joseph Crea '47, a Brooklyn Law School Icon, Dies at 104

PROFESSOR EMERITUS JOSEPH CREA '47, who taught at Brooklyn Law School for more than 60 years and was a passionate champion of students, faculty, and excellence in legal education, died Aug. 2, 2019, at the age of 104.

“Professor Joseph Crea was a giant in the history of Brooklyn Law School,” said Stuart Subotnick '68, chairman emeritus of the Board of Trustees. “His life was nothing short of extraordinary, and his impact on the Law School will endure for generations to come.”

“There has been no more enthusiastic supporter of Brooklyn Law School, and quite possibly no single person who has shaped its history more, than Professor Joseph Crea,” said Dean Michael T. Cahill. “He was an icon, admired and beloved in equal measure by his students and colleagues, touching countless lives across the entire span of his own life. Joe’s intellect, energy, courage, and selflessness will never be replicated, or forgotten.”

Joseph Crea’s road to his career in law began in the 1930s when, while delivering bread in the Flatbush neighborhood of Brooklyn, he found a stack of soaking wet law books. He took them home, dried them out, read them, and decided he would one day become a lawyer.

He was recruited to work at the Selective Service System just before the United States entered World War II; he was later commissioned as a second lieutenant in the Army. Crea applied to the Law School in 1944, only to be rejected because he could not commit to attending classes five nights per week. Undeterred, he convinced then Dean Jerome Prince of his work ethic and secured a spot, taking classes out of order or simply reading textbooks instead when he could not make his schedule work.

That winding journey culminated in a job offer in the library from Dean Prince, and a year later he became an instructor. In the early years of his career, he taught nearly every course in the curriculum.

Crea became known as one of the Law School's most enthusiastic and animated professors. His famous catchphrases, including "Never drop your briefcase and run," are still frequently used by his former students. He taught at the Law School until 2014, continually advising faculty members and participating in admissions committee meetings.

He also played a major role in modernizing the curriculum at the Law School, helping to raise the Law School's standing and reputation on a national level. He advised more than a half dozen deans and advocated for better compensation to attract and retain faculty. Former Dean Joan Wexler once called him a "shadow dean" who always put the interests of the school before his own.

In 2000, in recognition of his contributions to the Law School community, the Joseph Crea Dean chair was established in his name. The Regina and Joseph Crea Memorial Scholarship was established by alumni and friends in memory of Crea's beloved wife, Regina. The Professor Joseph Crea Reading Room in the Brooklyn Law School Library is named in his honor. He also was honored in 2015 as an Icon of Brooklyn Law School at a gala celebration on Ellis Island.

He was the author of *A Guide to Legal Research*, served on a Mayor's Committee for the Selection of Marshals, and served as judge advocate for a veterans' group. He has also been honored with a Distinguished Achievement Award by his alma mater, Brooklyn College.

Crea is survived by his daughters Catharine Crea, Regina Mysliwicz (Ronald), Lorraine Crea, and Elizabeth

Crea '98 (Gloria Greco '98); three grandchildren; and one great-grandchild.

"I wouldn't be where I am today if it weren't for Professor Joseph Crea," said renowned entertainment lawyer **Allen Grubman '67**, founding partner of Grubman Shire Meiselas & Sacks.



## Francis J. Aquila '83 Elected Chairman of Board of Trustees

FRANCIS J. AQUILA '83, a leader in mergers and acquisitions and corporate governance law, has been elected chairman of Brooklyn Law School's Board of Trustees. Aquila, a partner at Sullivan & Cromwell, has been a member of the Board since 2008, serving as vice chair since 2014. He follows Stuart Subotnick '68, president and chief executive officer of Metromedia Company, who has been chairman for 16 years. Subotnick will remain on the Board as chairman emeritus.

"It has been tremendously rewarding to serve as chairman of Brooklyn Law School's Board of Trustees," said Subotnick. "Frank has been an invaluable partner in guiding our great Law School to national prominence. I am confident that the school will continue to thrive under his leadership of the Board."

"Stu Subotnick has been a great leader for our Board and our Law School, and I know I have very big shoes to fill," Aquila said. "I am honored that the stewardship of this distinguished institution has been entrusted to me, and I am excited to continue working to move Brooklyn Law School's mission forward."

Aquila has been widely recognized as one of the world's leading M&A lawyers. In December 2018, the *Financial Times* described him as "one of the most influential and high-profile M&A and corporate lawyers in the U.S.," who has "played a role in many of the largest and most complex deals." The *Wall Street Journal* profiled him as one of the seven top dealmakers of the year.

"Frank Aquila represents everything a person can achieve with a Brooklyn Law degree," said Dean Michael T. Cahill. "He has made us proud and will surely help us prosper. I greatly look forward to working with him."



## Desiree Jaeger-Fine Joins as New Head of LL.M. Program

THIS FALL, DESIREE JAEGER-FINE joined Brooklyn Law School as director of international programs. Previously, Jaeger-Fine operated a private consulting business guiding foreign lawyers entering the U.S. legal field. With a law degree from the University of Bonn and an LL.M. from Fordham University School of Law, she will take the lead in developing and growing the LL.M. program.

## Mark C. Hampton Named Executive Vice President for Administration & Finance

MARK C. HAMPTON has joined Brooklyn Law School as executive vice president for administration & finance and chief business officer. He will lead the offices of finance, facilities, information technology, public safety, and human resources.

Hampton comes to the Law School from Washington College in Chestertown, Md., where he was executive vice president for strategy and operations and had previously been vice president for finance and administration. He also was vice president for enrollment & enterprise analytics at New York Institute of Technology. He has held senior leadership roles at the University of Virginia, Virginia



Commonwealth University, the State Council of Higher Education in Virginia, and the University of Utah.

Hampton holds a Ph.D. in educational leadership and policy, an M.Stat. in mathematical statistics, and a B.A. in mathematics, all from the University of Utah.

# Law School Celebrates 118th Commencement

BROOKLYN LAW SCHOOL celebrated its 118th commencement ceremony on May 17, at the Brooklyn Academy of Music, where 328 J.D. and 21 LL.M. degrees

were conferred. Barbara D. Underwood, solicitor general of New York, was the commencement speaker and recipient of an honorary degree.

Underwood was appointed as New York's solicitor general in 2007. She served in that

position until May 2018, when she was appointed the state's acting attorney general, the first woman to hold that office. She was reappointed solicitor general by Attorney General Letitia James in January 2019. Underwood, who served as the acting solicitor general and principal deputy solicitor general of the United States from 1998 to 2001, was also the first female solicitor general in U.S. history. She has argued 21

cases before the U.S. Supreme Court, most recently challenging the Trump administration's plan to add a citizenship question on the 2020 census.

"Don't be afraid of being a pioneer. It turns out to be a pretty rewarding thing to do," she told the graduates.

Stuart Subotnick '68, chairman of the Board of Trustees, presided over the ceremony and led the conferring of degrees. He acknowledged the alumni celebrating their 50th reunion year who joined the graduates on stage, David Berkowitz '69, and Jeffrey D. Forchelli '69, a member of the Board of Trustees. Amina Darwish, coordinator of Muslim life at Columbia University, delivered the opening invocation.

U.S. Senator Charles "Chuck" Schumer, who was the commencement speaker in 2015, made a surprise appearance. Schumer extended special congratulations to Jenna Jones '19, who served as the senator's director of scheduling while attending law school.

The graduates also heard from valedictorian Nastassia Shcherbatsevich '19 and Spencer Eliot Smith '19, who was elected student speaker by his classmates.

Interim Dean Maryellen Fullerton spoke of the Law School's history of admitting women in the early 20th century when other schools barred them from pursuing law degrees—and how far women have come in the profession. "Today, women make up 53 percent of the class of 2019. I'm proud to say Brooklyn Law School has played an important role in allowing women access to the law," she said.

The Law School continued its annual tradition of hosting a picnic for graduates and their families in the courtyard of the main campus building.

"Don't be afraid of being a pioneer. It turns out to be a pretty rewarding thing to do."

1. Solicitor General Barbara Underwood addresses graduates
2. Senator Charles Schumer makes a surprise appearance
3. L-R: Cameron Low, Alec Nelson, and Corrin La Bella celebrate



## Family Law and Policy Fellow Caitlyn Garcia '20

CAITLYN GARCIA '20, a Marsha Garrison Family Law and Policy Fellow, won second prize in the prestigious Howard C. Schwab Memorial Essay Contest for her paper "Replacing Foster Care with Family Care: The Family First Prevention Services Act of 2018." This highly competitive award is sponsored by the ABA Section of Family Law, and her work can be found on the ABA's website.

The paper is a critique of the Family First Prevention Services Act of 2018, which provides federal funding to families at risk of entering the child welfare system. Garcia argues that the law fails to provide effective services for at-risk families, many of which are housing insecure, and calls for more funding, earlier intervention, more inclusive services, and daycare.

A Brooklyn Law Students for the Public Interest (BLSPI) Fellow, BLSPI cochair, and notes & comments editor for the *Journal of Law and Policy*, Garcia serves as a research assistant to Professor Cynthia Godsoe, who, along with Professor Marsha Garrison, advised her throughout her writing process. Garcia was an intern at Brooklyn Defender Services—Family Defense Practice, and will return there in spring 2020 as a Pro Bono Scholar.



## Brooklyn Law Team Excels at Vis Moot in Vienna

AT THE 26TH ANNUAL Willem C. Vis International Commercial Arbitration Moot in Vienna, the Brooklyn Law School team received the third-highest score in the General Rounds—the four rounds that determine which teams will advance to the Elimination Rounds. Terry Frederic '19 captured the Martin Domke Award, the top honor for individual oralist, and Rebecca Meyer '19 was awarded Honorable Mention. The team, which also included Dylan Porcello '19, advanced to the elimination rounds and succeeded to the Round of 32.

"The team members said they wanted to make history this year, and they did exactly that," said Lewis Kimmelman, adjunct professor and partner at Sidley. He, along with Adjunct Professor Dana McGrath, investment manager and legal counsel at Bentham IMF, worked with the team throughout the year.

Since 1994, the annual Vis Moot has attracted teams from nearly 400 law schools worldwide, participating in more

than 20 pre-moots each year before the actual rounds. It is the largest moot in the world in its field, with 1,000 students competing annually.

Frederic serves as law clerk for Hon. Claire Kelly '93 on the U.S. Court of International Trade. Meyer is interning in the Paris office of Curtis Mallet-Prevost Colte & Mosle with the international arbitration group and will also serve as law clerk for Kelly in 2020. Porcello practices labor and employment law at Littler Mendels.

## ABA President Visit Focuses on Wellness in the Legal Profession



DURING A SPECIAL VISIT to the Law School on Feb. 14, which included a lunchtime forum attended by more than 100 students and faculty, American Bar Association President Bob Carlson spoke about the ABA's commitment to lawyer wellness. He engaged in a Q&A with Professor Heidi Brown, who underscored how important it is for leaders of the legal

profession to be vulnerable and authentic. Carlson lamented the epidemic of mental health problems in the legal profession, including substance abuse and suicide. "We need strong vibrant lawyers and judicial leadership and a strong vibrant bar to advance the culture of justice under the rule of law," he said.



L-R: Terry Frederic '19 celebrates with teammates Rebecca Meyer '19 and Dylan Porcello '19 (far right).

## Professors Prianka Nair and Sarah Lorr Lead Disability and Civil Rights Clinic

ASSISTANT PROFESSORS OF CLINICAL LAW Prianka Nair and Sarah Lorr joined the Disability and Civil Rights Clinic this year as director and deputy director, respectively. As one of the few law school clinics in the country specializing in this area, it focuses on protecting and advancing the civil rights of adults with intellectual disabilities.

“We do important work to address the legal needs of persons with disabilities, and we provide students with critical advocacy skills and practical experience,” said Nair.

Nair previously worked as a public interest attorney at Disability Rights New York, which advocates for the civil and legal rights of New Yorkers with disabilities.

The clinic functions as a *pro bono* law firm, with students representing low-income New Yorkers and their families in a variety of civil legal matters, including housing, public benefits, access to healthcare, special education, parental rights, alternatives to guardianship, asylum, and discrimination concerning access to programs and services.

The clinic currently represents a pregnant woman with a mild intellectual disability. Her mother, who is her guardian, will likely seek custody of the infant, so the students are seeking to terminate the mother’s guardianship and allow the client to live as an independent adult. Students also are working on an *amicus* brief in the D.C. Circuit Court to find support for incarcerated



Professor Prianka Nair



Professor Sarah Lorr

adults with intellectual disabilities.

“Representing parents with disabilities is one of my passions and a driving force for me as a lawyer,” said Lorr.

Lorr was a supervising attorney at Brooklyn Defender Services–Family Defense Practice, which provides free representation to parents at risk of losing their children to foster care.

“We welcome our two newest clinicians under whose stewardship the clinic will expand enrollment and the types of matters handled, carrying out the vision of our partner and donor, the Taft Foundation,” said Professor Stacy Caplow, associate dean of experiential education. The Taft Foundation is led by Howard Rothman ’71, partner at Kramer Levin, who serves as its president and chairman of the board of directors.

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## Spotlight on Intellectual Life

Each semester, the Law School offers a robust calendar of intellectually rich and dynamic programs sponsored by its centers and institutes, fellowship programs, and journals. Led by our nationally recognized faculty, the programs feature leading scholars, jurists, and practitioners exploring critical topics in diverse areas of the law and policy.

### 100 Years after First Free Speech Case, Symposium Explores Incitement Doctrine

THE YEAR 2019 marks the centennial of the first U.S. Supreme Court cases giving serious consideration to free speech, decided in response to convictions of dissenters who opposed U.S. participation in World War I and allegedly incited interference with the war effort. This year also marks the 50th anniversary of *Brandenburg v. Ohio*, the seminal case that established when political speech can be suppressed for inciting lawless action and when it is constitutionally protected.

Noted scholars and practitioners gathered at the Law School in April for a daylong symposium sponsored by the *Brooklyn Law Review* to consider the history of incitement cases, their relevance in today's world of social media and terrorism anxiety, and their enduring importance. The panel discussions reflected on those foundational cases, examined the constitutional status of dissenting political speech today, and speculated about the future

of free speech as the nation moves into its second century of significant protection for dissenting political speech.

"In an age of terrorism, social media, and instant communication, the question of where to draw the line between strident—though protected—advocacy of violence and punishable incitement of the same takes on an almost existential significance," said Professor Joel Gora, a noted constitutional law scholar on First Amendment issues. "Will the 'clear and present danger' test fashioned in the horse-and-buggy days of 1919 still serve us well in the digital global world of 2019?"

Symposium panels included "The Historical Legacy of the Incitement Cases," moderated by Professor Christopher Beauchamp; "Free Speech and Incitement in the Online World," moderated by Professor William Araiza; and "Free Speech, Incitement, and Terrorism Anxiety," moderated by Gora.



Leslie Gielow Jacobs, University of the Pacific McGeorge School of Law (right), speaks on a panel moderated by Professor Joel Gora (center).

### Center for Law, Language and Cognition Discusses Regulation of Language

YEHONATAN GIVATI, a visiting professor at Brooklyn Law School in spring 2019 from Hebrew University Law School, lectured on the regulation of language at the annual CLE presentation sponsored by the Center for Law, Language and Cognition. Givati (right) finds that countries that regulate their language are more likely to plan their law and economies than ones that let their languages naturally evolve, generating interesting conclusions about differing cultural attitudes. Professor Andrew Gold (left) led a robust discussion with Givati following the lecture.





Professor Dani Rodrik

## Block Center Holds Discourse on Globalization's Wrong Turn

PROFESSOR DANI RODRIK, of the John F. Kennedy School of Government at Harvard University, presented “Globalization’s Wrong Turn” at the International Business Law Lecture, sponsored by the Dennis J. Block Center for the Study of International Business Law and the *Brooklyn Journal of International Law*. Rodrik explored why the shift to “hyperglobalization” that took place in the 1990s was based on a faulty understanding of how markets work, and outlined an alternative perspective more consistent with inclusive prosperity at home while preserving multilateralism abroad.

A roundtable discussion following the lecture included Block Center codirectors Professors Julian Arato and Robin Effron; Professor Steven Dean; J. Benton Heath, acting assistant professor of lawyering, NYU School of Law; Sanjay Reddy, associate professor of economics, The New School for Social Research; and Thomas Streinz, Institute for International Law and Justice Fellow, NYU School of Law.

## Trade Secrets Institute Symposium Examines U.S.-China Relations

IN MARCH, the Trade Secrets Institute (TSI) Symposium “China, the U.S., and Global Trade Secrets Enforcement” explored how cross-border technology transfer, cybercrime, state-sponsored economic espionage, and international trade disputes have all produced a uniquely challenging environment for trade secret law, policy, and practice, particularly with respect to the U.S.-China relationship. The program was organized entirely by TSI Fellows Samuel Goodstein ’19, Kelsie Kelly ’19, and Thomas Landman ’19 as part of their fellowship.

Sharing their experience and insights were Conrad Wong, attorney-advisor, China Team, Office of Policy and International Affairs, U.S. Patent and Trademark Office; Jonathan Engler, partner, Adduci, Mastriani & Schaumberg; Eun Young Choi, Assistant U.S. Attorney and cybercrime coordinator, U.S.

Attorney’s Office for the Southern District of New York; and William P. Campos, Assistant U.S. Attorney and coordinator for intellectual property crimes, U.S. Attorney’s Office for the Eastern District of New York.

“This year’s TSI Symposium really showcased the breadth of issues the fellows cover,” said Professor Christopher Beauchamp, TSI faculty director. “Focusing the event on the international dimensions of trade secret enforcement meant bringing together experts on international trade law, cross-border criminal investigation, economic espionage, and intellectual property diplomacy. It was so impressive to see our students engaging with the global scope of the field.”

The event was cosponsored by the International Intellectual Property Society and the Dennis J. Block Center for the Study of International Business Law.



Samuel Goodstein '19 (right) moderates the discussion among a panel of experts from government and private practice.

## Survivors of Violence Speak Out at Sparer Forum



ANISAH SABUR (center), Coordinator of Coalition Building and Peer Support at the Centering Survivors Advocacy Project at STEPS to End Family Violence, spoke on the panel at this year's Edward V. Sparer Public Interest Law Forum, "Free Them All: Defending the Lives of Criminalized Survivors of Violence." The forum, moderated by Professor Kate Mogulescu (right), codirector of the Center for Criminal Justice, which cosponsored the event, explored how the criminal legal system impacts women who have experienced violence and featured a keynote speech by organizer, educator, and prominent civil rights activist Mariame Kaba.

## CrimFest! 2019 Brings over 200 Criminal Law Scholars to Brooklyn Law School



IN JULY, Brooklyn Law hosted CrimFest! 2019, the largest since the annual criminal law conference began in 2009. The two-day gathering, coordinated by Professor Alice Ristroph and Carissa Hessick of University of North Carolina School of Law, gave scholars a forum in which to discuss their research and workshop papers in progress. Dean Michael T. Cahill (far left) moderated a panel that featured Professor Cynthia Godsoe (second from right).

## At Symposium, Law and Business Scholars Examine Trends in Corporate Compliance

NO LONGER A NEW PHENOMENON, corporate compliance has emerged as an essential component of corporate life. Compliance has become increasingly complex, and its failures can have dramatic consequences. At the March symposium “Emerging Trends in Corporate Enforcement and Corporate Compliance,” sponsored by the Center for the Study of Business Law & Regulation and the *Brooklyn Journal of Corporate, Financial & Commercial Law*, experts from law schools and business schools explored the critical issues and challenges facing the field and shared their research, knowledge of compliance practice, and diverse perspectives on corporate compliance.

“Because compliance has become such a broad field—and such an entrenched responsibility in corporations—it was important to bring together scholars who employ different methodological tools to critically examine external and internal efforts to prevent, and respond to, wrongdoing within firms,” said Professor Miriam Baer, associate director of the center, who organized the symposium with Professor James Fanto, codirector of the center. Professors Andrew Gold and Roberta Karmel moderated two of the panels.

The symposium participants included a compliance consultant and former DOJ prosecutor; a former SEC commissioner; a former criminal defense attorney; two scholars who discussed the American Law Institute’s project on compliance; and several scholars who teach at business schools.

“The real-world comments and questions that were posed by alumni working in the compliance field highlighted compliance’s importance and suggested practical lessons for the many students in attendance who might wish to work in this field,” said Fanto, who delivered the closing remarks.



## Sixth Annual CUBE Innovators Competition Draws Teams from Around New York

AT BROOKLYN LAW SCHOOL’S SIXTH ANNUAL CENTER FOR URBAN BUSINESS ENTREPRENEURSHIP (CUBE) Innovators Invitational last April, student teams from four New York area schools pitched entrepreneurial ventures to a star panel of judges, including Robert Manne '77 (center), of Ultimate Software. Chynna Foucek '21 (far left) won second prize, and Steven Deolus '20 and Sydney Abualy '20 (second and third from left, respectively) placed third. Adjunct Professor John Rudikoff '06 (far right) assisted in organizing the program.





# *Hello, Brooklyn!*

The new president and dean of Brooklyn Law School discusses his passion for legal education and his vision for the school in the years ahead.

## *Matters of interest*

“While unpacking after my recent move back here,” he recalls, “I found an elementary school assignment where I wrote: ‘It’s very unlikely that I’ll study law, and certainly not criminal law.’ I suppose I wasn’t very good at predicting my own future!”

**Michael T. Cahill** returned to Brooklyn Law School July 1 as President, Joseph Crea Dean, and Professor of Law, rejoining the school after bidding farewell three years earlier to become co-dean at Rutgers Law School. Happily, for both Cahill and the Law School, the farewell was far from a goodbye; Dean Cahill now leads the Law School where he was a faculty member for 13 years (2003–16), during which time he also served as vice dean (2013–15) and as associate dean for academic affairs (2010–13).

Before entering academia, Dean Cahill was staff director and consultant, respectively, for major criminal-code reform projects in the states of Illinois and Kentucky. He received his B.A. from Yale University and his J.D. and M.P.P. degrees from the University of Michigan. After graduating from law school, where he was a note editor for the *Michigan Law Review*, he served as a law clerk to Judge James B. Loken of the U.S. Court of Appeals for the Eighth Circuit.

Although his scholarly work focuses primarily on criminal law, Dean Cahill also has written about health law and policy and taught Health Law as well as Property. He has coauthored three books with noted criminal-law scholar Professor Paul Robinson of University of Pennsylvania Law School, and published numerous articles in top law reviews.

Cahill became co-dean at Rutgers, in residence at its Camden location, just a year after Rutgers–Camden merged with its sister law school at Rutgers–Newark. Under his leadership, the unified Rutgers Law School made significant strides in improving student quality and diversity, enhancing alumni engagement, stabilizing revenue, and cementing a shared identity. Dean Cahill recently sat down with *Brooklyn Law Notes* to share his passion and vision for Brooklyn Law School in the years ahead.

#### **What brought you back to Brooklyn Law School?**

Many things, but I would emphasize two big ones: the people, and the energy. I have longstanding relationships with faculty, administrators, and alumni, including my former students. In addition to respecting these people as colleagues, I value many as friends, so I was eager to work with and be around them again.

And this Law School has a vitality that's unusual. Not only does it draw energy from its urban setting, but many faculty and students live nearby, so they are a presence in the building, and there are daily opportunities to engage meaningfully with them.

#### **What led you from your work primarily in criminal law reform to academia?**

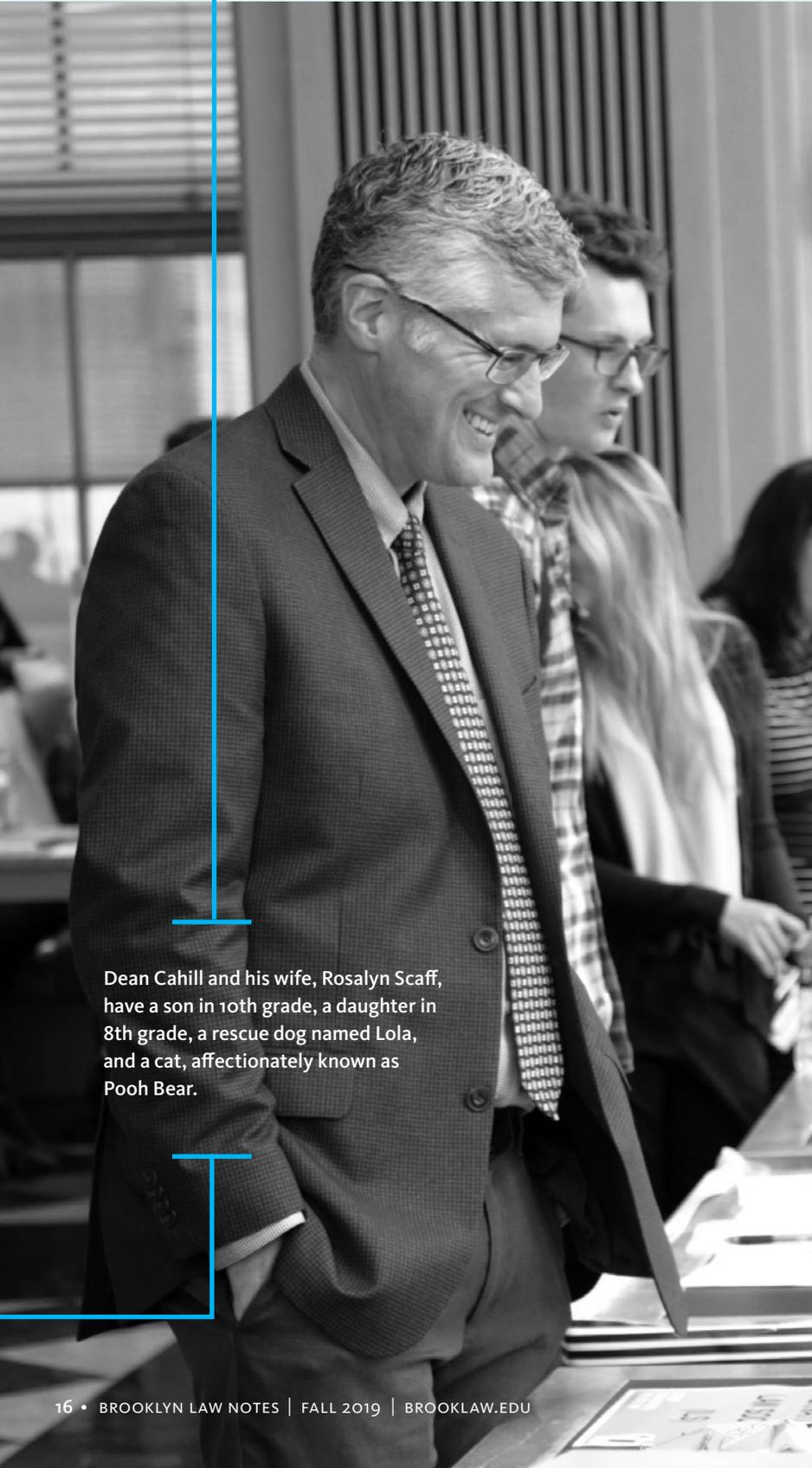
Even as I entered law school, I thought that teaching would be exciting, interesting, engaging, and fulfilling work, and being a professor was my dream job. I tried to look for opportunities after law school that would eventually lead to a career in academia, but getting to this point was ultimately a combination of planning and luck.

He recently read Elena Ferrante's Neapolitan series.

His favorite Brooklyn restaurants and bars include Jack the Horse, Henry Public, the Mile End Deli, and Grand Army (the latter two of which were started by former Brooklyn Law School student Noah Bernamoff). "But," he says, "trying to choose one is like trying to choose a favorite child; there are too many great places around here."

He's currently watching the HBO series *Succession* and making his way through the seven seasons of *Mad Men* "I have one season to go," he says.

He received his B.A. from Yale University and his J.D. and M.P.P. degrees from the University of Michigan.



Dean Cahill and his wife, Rosalyn Scaff, have a son in 10th grade, a daughter in 8th grade, a rescue dog named Lola, and a cat, affectionately known as Pooh Bear.

### **What are your priorities for your first year as dean?**

First, I'm taking some time to get reacquainted with the people and the institution. I don't want to take for granted my existing relationships with faculty, administrators, and alumni. I'd like to reengage with everyone, meet alumni I don't know, and get to know better the faculty who've arrived since I was here previously.

Second, I've undertaken an administrative restructuring. Before I came on board, for example, there were around 15 people who reported directly to the dean, which I feel is too many to be efficient; we're streamlining reporting lines around shared areas of concern, and that number will soon be down to eight. I want to solidify the new structure, and once strong organizational and managerial practices are in place, we'll be in a position to tackle longer-term projects.

### **What are your top two long-term priorities for the Law School?**

My first priority is to explore different kinds of programs we can add to diversify our educational portfolio. As at most law schools, one degree program, the J.D., drives nearly all of our curriculum (and revenue). But unlike most law schools, we're not part of a larger university that also offers a variety of other educational programs. Reliance on a single program has shortcomings as a business model; moreover, it neglects other exciting and interesting possibilities. Of course, we already have an LL.M. program for foreign-trained lawyers, which has great potential to grow, but there are many other avenues as well. We can pursue ways to offer our expertise to people who might not want to become lawyers, but who are interested in further education

He's a passionate New York Yankees fan, and he roots for all University of Michigan teams. Go Blue!

that will help them in a law-adjacent career—and in this day and age, legal concerns are relevant to nearly any professional setting.

The second priority for me is fundraising. We need a sustained effort to broaden the number of alumni who give, and to seek out significant gifts from donors who have the capacity to contribute on a large scale. We have a strong case to make: Supporting the scholars and teachers who are shaping our legal world and serving our community, and the students who will make up the next generation of ethical and dedicated lawyers to preserve our economic and political order and promote justice for all, is as worthwhile a philanthropic cause as I can imagine. We've had a number of generous benefactors in the past, but there are others whom we can inspire to start giving for the greater good of the school, our mission, our profession, and our society.

#### **Where do you see Brooklyn Law School's role in online education?**

I think we should explore some form of online education as well as other innovative ways to incorporate technology into legal education. Much of that effort also will intersect with offerings we can provide outside our J.D. programs. We must remain mindful when integrating technology into instruction that the law is an interactive profession, and we must enable students to speak, write, act, and interact as lawyers do—both in person and via technology. So, although portions of the J.D. program could perhaps take place online, there still would be an essential part that needs to be in residence.



#### **What's the best advice you've received about leading a law school?**

That, above all else, it's about serving students—to ensure they get the training, the support, the encouragement, and the guidance they need to succeed.

#### **Professor Emeritus Joseph Crea '47 recently passed away at the age of 104. What does it mean to you to hold the dean's title in his honor?**

I'm so thankful to have known Joe, and I spoke to him within 48 hours of accepting this position—to express my gratitude for having a title that included his name. He was completely devoted to teaching and helping his students and colleagues, and he also remained devoted to continuing to learn throughout his life. And, on our call, at the age of 104, he did most of the talking. Joe was an important person to me personally, and as important a person as there has been in the history of this Law School.

My title, in his honor, is also a significant reminder to me of the centrality of our faculty. I think it's important to remain conscious that I hold three titles: president, dean, and professor of law. So, among other things, I still am a faculty member, just like my colleagues. And it's still my dream job!

#### **Considering the many law schools in New York, why should a prospective applicant choose Brooklyn?**

Of course, Brooklyn itself is a reason to come here. In the public sector, as the only law school in the city's most populous borough, we have our own set of courthouses, government offices, and agencies, all within walking distance. In the private sector, the borough of Brooklyn, even more than Manhattan, now leads the innovation economy in the city and, in turn, the U.S. And of course, it's a cultural hub. Regardless of the kind of law you want to practice, this is a great place to live and work.

And Brooklyn Law School is a great place to study and grow. Although we're a relatively big law school in a big city, we're able to create the feeling of a small, close-knit community. We pride ourselves on training government and public interest lawyers, as well as business and private sector lawyers. So, no matter what area you want to pursue, our size, location, and breadth of curriculum make us well positioned to provide a legal education that's tailored to your needs. The opportunities are as far-reaching as you could want, but you're never lost in the crowd here, and you'll get to know your classmates and professors.

An East Coast native, Dean Cahill was born in New York City and grew up in northern New Jersey.

He listens to podcasts like *Effectively Wild* (baseball), *Slate Culture Gabfest*, and *the Memory Palace*.

### **How do you plan to build on the Law School's legacy and areas of distinction?**

Brooklyn Law School has always been a place that excels at preparing practice-ready lawyers, and it has always been a place of innovation. Our students benefit from a faculty of outstanding scholars who are nationally and internationally recognized for the excellence and impact of their work. In fact, in terms of how frequently their work is cited by other scholars, we are ranked as one of the top 40 schools in the nation. They bring this depth of expertise to the classroom and offer superb instruction in a variety of subject matter areas. We have tremendous opportunities to build on our faculty strength going forward.

Historically, we've been known for providing access to legal education, and, in turn, access to justice in the community, city, and region. We have long welcomed women when other schools did not. This year's first-year class is 58 percent women. We have a long record of admitting students of color and members of religious minorities, dating back to the early 20th century. This year's incoming class is 34 percent students of color. Our diversity and inclusiveness are a significant component of who we are.

We remain committed to these proud traditions. At the same time, we're committed to doing even more and doing even better. We're continuing to transform our skills-based and experiential education to meet the needs of the next generation of lawyers. We're implementing the dramatic revision of our legal writing curriculum, which was

led by my predecessor, Interim Dean Maryellen Fullerton, along with Legal Writing Director Heidi Brown. We'll continue to expand our clinical offerings, not just in quantity but also in type, so we're not only providing litigation experiences, but also opportunities to counsel clients, represent and advise businesses, and draft essential documents. We have a very exciting future ahead.

### **What are the biggest trends in the legal profession affecting law schools now, and how is Brooklyn Law School responding?**

We must provide students with quantitative skills: the ability to read, understand, and analyze complex aggregated data. Training lawyers who are comfortable with sophisticated statistical and computational models will be a crucial part of legal education, regardless of whether our students practice in business or other areas. Nowadays, successful professionals of all varieties, including lawyers, must both make and understand data-driven decisions, and they must also be able to translate numbers into compelling narratives and arguments. It's a crucial part of the job for professionals with significant managerial roles.

### **How is the Law School positioned to thrive in response to shifting demographics and demand for legal education?**

We need to stay ahead of the curve, because there's no assurance that the recent positive trajectory will sustain

itself. The long-term demographic trend starting five or six years from now is that there will be fewer college-age students, and accordingly, fewer recent college grads seeking to enter law school down the road. Meanwhile, the cohort of people in their late 20s to mid-30s will increase. Therefore, we need to provide a variety of educational opportunities for various kinds of professionals. And in turn, having other complementary programs will enable us to be deliberate, rather than reactive, in contemplating the future of the J.D. program and making sure it continues to deliver the skills, knowledge, and values essential to the practice of law in the 21st century.

### **Amid the 24/7 news cycle, political turmoil, and social media, how can students and lawyers uphold their core ideals of character, fitness, and justice?**

From what I see, this generation is as engaged and committed to confronting and overcoming social issues and injustices as any generation that has preceded it. For all of social media's flaws, students are finding positive uses for these outlets and finding their voices. They see their own and our country's problems as global in scope, and they want to solve those problems. It's part of our role as legal educators to channel that passion while keeping it alive, and to remind our students daily about, and offer a model of, the honorable work that lawyers do and their true potential for making a difference in the world with their legal education. ■

—Interview conducted by Elaine Friedman



An avid runner, he completed the Philadelphia Marathon in 2008. His local routes (where he can sometimes be seen with colleague Professor Ted Janger) include Prospect Park, over the Brooklyn Bridge and back over the Manhattan Bridge, and Red Hook, around Ikea and the piers.

## *Institutional Integrity and the Roberts Court:*

# WILL THE JUD



by Professor Robin J. Effron

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**Centrists and progressives pinned their hopes for ideological balance on Chief Justice John Roberts' desire to preserve the Court's image as an apolitical institution. But explicit calls for the Court to consider institutional integrity are themselves contributing to its increased politicization.**

This time last year, the American public waited anxiously to see if Brett Kavanaugh would become the newest U.S. Supreme Court justice. The confirmation was an important one, because supporters and detractors alike assumed that President Donald Trump's newest pick would reshape the ideological composition of the Court. With the addition of a new conservative justice, some liberals have been looking to Chief Justice John Roberts as the possible new centrist or "swing vote" on the Court. Although Justice Roberts is generally a reliably conservative voice, commentators point to a gentle leftward drift and a few key votes as examples of his moderation, such as his majority opinion upholding the Affordable Care Act.

Justice Roberts, the argument goes, might have genuine conservative priors. But he is also deeply committed to protecting the institution of the Supreme Court itself and insulating it from the charge that it has just become a third political branch of the federal government. For anyone worried

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about the future of abortion access, LGBT rights, affirmative action, or pushback against the executive excesses of the Trump presidency, this belief isn't a strain. Justice Roberts seems, at worst, committed to a strategy of incremental change rather than abrupt action, such as a vote to completely overturn *Roe v. Wade*. More hopeful observers offer soothing reassurances that Roberts' long-term interest in the institution of the Supreme Court will be a powerful moderating influence, both in the votes he casts and in the opinions he writes.

### *Hot-Button Cases*

Even if this is true, the "institutional integrity" line of thinking works only if we assume that the most important issues appear in the highest-profile cases. A few key votes on hot-button cases might give the Roberts Court cover to move further rightward on lesser-known issues, or cases involving technical and complex issues that are not easily reduced to Twitter-friendly sound bites. We can expect the pro-business bent of the Court to continue to move further and further right. And in one key subset of cases, the Roberts Court can, with minimal attention and outcry from the general public, push the Court further right with serious consequences for decades to come.

# JUDICIAL GET

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These cases come from the rather dull-sounding area of law called civil procedure. Although these issues may seem boring, a series of carefully picked and well-timed decisions could allow the Court to significantly narrow Americans' access to justice without ever confronting the politically charged issues that dominate the news cycle. The Court has already narrowed consumers' and employees' rights to bring collective actions in arbitration, to file efficient class actions in a single court for defective products, or to sue foreign manufacturers for dangerous products without traveling to a distant American or even foreign forum. More ominously, the Court has been steadily curtailing plaintiffs' abilities to sue government officials for constitutional violations.

The Supreme Court exercises discretionary control over its docket, and it can easily pick procedural cases that seem distant from the everyday lives and concerns of most Americans—perhaps a dispute about where one can sue a railway, or the question of whether a construction company can force a court to transfer a case from one state to another. But no one should be fooled by the humdrum dispute and the dry complexities of the procedural law at issue. These cases form the backbone of our ability to vindicate important public and private rights in court, and a conservative Court could bury a sharp rightward turn in the procedural weeds.

### *Weaponizing Institutional Integrity*

Amid all the handicapping of the newly composed Supreme Court is another new development. It's true that Justice Roberts is known for caring deeply about the institutional integrity of the Supreme Court, and many centrists and progressives pinned their hopes for ideological balance on his apparent desire to preserve the Court's image as an apolitical institution. But paradoxically, explicit calls for the Court to consider institutional integrity are themselves contributing to the increased politicization of the Court. Indeed, a few cases from last term show that appealing to Justice Roberts' sense of institutional integrity can be effective. But more recent events show that the "institutional integrity" card can be weaponized.

Litigants and other interested parties have good reason to believe that strategies that emphasize judicial integrity and impartiality may be persuasive. Sometimes Justice Roberts speaks directly about the importance of an apolitical judiciary, such as when he rebuked President Trump for complaining about a decision by an "Obama judge" that blocked the administration's efforts to restrict asylum. Other decisions show his ability to use procedural tools to delay or avoid politically sensitive decisions, such as his opinion in the census citizenship question case, *Department of Commerce v. New York*, in which he wrote that a



citizenship question itself is not unconstitutional, but that the Commerce Department had provided only pretextual reasons for its inclusion; or his decision to join with the Court's four liberal justices in granting a stay of the enforcement of a Louisiana anti-abortion law, *June Medical Services v. Gee*, while the parties petitioned the Court for certiorari.

It should be no surprise, then, that some parties and other groups have begun to make explicit institutional integrity arguments to the Court. Consider the recent partisan spat between Senate Democrats and Republicans surrounding an upcoming Second Amendment case pending before the Supreme Court, *New York State Rifle & Pistol Association v. City of New York, New York*. The case concerns a restriction that New York City passed on transporting licensed handguns outside the

### *Inevitable End Point*

Here is where things really started to get political. In mid-August, a group of Democratic U.S. senators filed an amicus brief arguing in favor of the mootness dismissal. Their brief made a direct connection between mootness—a superficially arcane and apolitical legal doctrine—and the institutional integrity of the Supreme Court. They argued that a decision to hear the case, despite the fact that the petitioners were no longer aggrieved by an existing regulation, would reveal a political bias toward an aggressively conservative interpretation of the Second Amendment. Senate Republicans recently issued a strong rebuke to this filing, accusing the Democrats of playing politics. Although the Republicans did not take a formal stance



*More hopeful observers offer soothing reassurances that Roberts' long-term interest in the institution of the Supreme Court will be a powerful moderating influence, both in the votes he casts and in the opinions he writes.*



home. Gun rights advocates challenged the restriction in federal court and lost in the district court and before the Second Circuit. Nevertheless, when the Supreme Court granted certiorari to hear the challenge to this case, New York City officials changed the regulation to permit the challenged activity. They then moved to dismiss the Supreme Court petition as moot.

on the issue of mootness, they strongly intimated that ruling in New York City's favor on the mootness issue would be a capitulation to the Democrats' political interests and "capture" of the Supreme Court, claiming that the Democrats had "openly threatened the Court with political retribution." Perhaps this is the inevitable end point of the obsession with institutional

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*When the perceived defining feature of a “swing vote” or “centrist judge” is a commitment to the institution and its attendant procedures, it is only a matter of time before institutional integrity itself is politicized.*

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integrity. When the perceived defining feature of a “swing vote” or “centrist judge” is a commitment to the institution and its attendant procedures, it is only a matter of time before institutional integrity itself is politicized. Although it is certainly nothing new to see academics tussle over these questions, or to see these issues discussed as explanatory commentary on the Court’s cases and decisions, Justice Roberts may find that by centering the importance of an image of judicial independence, he has only encouraged the politicization of that very issue.

Predicting what Justice Roberts will do this term with respect to issues of institutional integrity is difficult. But it’s safe to say that litigants and commentators will only increase vocal and direct appeals about how each case or issue will affect the Court as an institution. In the end, this might not be a terrible outcome. If the Court is, in fact, grounding some aspects of its decision making and reasoning in concerns about institutional integrity, litigants and the public at large should have the opportunity to participate in that dialogue. It will be up to

Justice Roberts to ensure that such debates are an enhancement rather than a distraction, and that the issue of institutional integrity does not take on such a life of its own that it swallows the merits’ questions whole.

The good news is, we still have a system designed for balanced discourse. Those who care about access to justice can start raising the profile of potential Supreme Court cases that would make it harder for Americans to vindicate their rights in court. Let Justice Roberts know that the integrity of the Court depends as much on access to justice as it does on maintaining political balance. Better yet, most of the doors to our court system are open and shut by Congress and rule makers, not by the Constitution. We need to stop relying on courts to save our access to justice, and turn instead to Congress, procedural rule makers, and other legislative bodies to pass legislation that keeps Americans’ abilities to vindicate their rights in state and federal court from disappearing into a morass of “mere technicalities.”

### ***About the Author***

**Robin Effron** is professor of law and codirector of the Dennis J. Block Center for the Study of International Business Law at Brooklyn Law School. Her teaching and scholarship focus on civil procedure, litigation, and international business law, and she edits the Civil Procedure and Federal Courts blog for the Law Professor Blogs Network.

Effron’s recent article, “The Lost Story of Notice and Personal Jurisdiction,” appeared in the *NYU Annual Survey of American Law*.

This article has been adapted from “Hoping Justice Roberts Will Be the New ‘Centrist’? You Should Sweat the Small Stuff,” and “The Procedural Is Political,” previously published in the *New York Law Journal*.



# FACULTY

## Law School Welcomes Seven New Faculty Members

SEVEN NEW FULL-TIME FACULTY MEMBERS joined Brooklyn Law School this fall, further strengthening a faculty that is already highly regarded for its scholarly and teaching excellence.

“This is an exceptional group of scholars and teachers who bring a wealth of knowledge and experience to the Law School,” said Dean Michael T. Cahill. “It is a pleasure and an honor that I will have a front-row seat to witness the many contributions they will make to advance legal scholarship and legal education.”

**Professor Catherine Kim** joined the faculty from University of North Carolina School of Law, where she was the George R. Ward Distinguished Term Professor. An authority on the role of courts and agencies as engines for social justice reform, Kim will teach Immigration Law, Administrative Law, Anti-Discrimination Law, and Civil Procedure. Kim was previously a staff attorney at the American Civil Liberties Union Foundation and clerked for Hon. Carlos F. Lucero, 10th U.S. Circuit Court of Appeals. Kim appeared on Brian Leiter’s list of top 10 lateral moves for 2019–20, the third

year that Brooklyn Law School’s lateral hires have been cited as noteworthy.

**Professor James Macleod**, whose scholarship explores doctrines, procedures, and theories that depend on claims about the ordinary understanding of concepts like causation and intent, was associate in law at Columbia Law School. He will teach Torts and Evidence. Macleod previously was an associate at Gibson Dunn and Williams & Connolly, and a judicial clerk for Hon. Raymond J. Lohier, Second U.S. Circuit Court of Appeals.

Three new full-time faculty members joined the nationally ranked Legal Writing Program.

**Professor Aysha Ames** was an attorney with the United States Department of Education’s Office for Civil Rights, where she worked to ensure equal access to education and to resolve complaints of discrimination. She taught Appellate Advocacy at Rutgers Law School. She also is an expert in yoga law, advising studios and instructors on employment, business liability, tax, and intellectual property matters.

**Professor Catharine DuBois** brings to the Law School more than a decade of experience teaching legal analysis and communication. She was a visitor with New York Law School’s Legal Practice team, and taught Legal Writing at the Maurer School of Law and Law and Public Policy at the Indiana University School of Public and Environmental Affairs.

As a senior lecturer at University of Pennsylvania School of Law, **Professor Cecilia Silver** helped revamp the first-year Legal Practice Skills course, taught Civil Pretrial Litigation, and pioneered the role of writing specialist. She also served as an adjunct assistant professor of lawyering skills and legal writing at the Benjamin N. Cardozo School of Law.

**Professor Prianka Nair** also joined the Law School as the director of the Disability and Civil Rights Clinic, and **Professor Sarah Lorr** joined as the new deputy director (see page 9).



Professor Catherine Y. Kim



Professor James A. Macleod



L-R: Professors Aysha Ames, Cecilia Silver, and Catharine DuBois

The following are selected highlights of recent faculty scholarship.  
To learn more, visit [www.brooklaw.edu/facultyscholarship](http://www.brooklaw.edu/facultyscholarship).

**William Araiza**  
**Professor of Law**

Animus and Its Discontents, 71 *Florida Law Review* 155 (2019)

ANIMUS HAS EMERGED as a favored—yet controversial—doctrinal tool of courts committed to protecting individual rights. Araiza, author of *Animus: A Short Introduction to Bias in the Law* (NYU Press, 2017), presents an approach to animus that both fits the Supreme Court’s analyses of the issue and harmonizes it with its approach to closely related historical doctrines. This allows courts to competently detect animus while mitigating the worst effects of an animus finding on public discourse on deeply contested concepts, securing modern equal protection law on a firmer, more historically legitimate foundation.

**Julian Arato**  
**Associate Professor of Law**

The Private Law Critique of International Investment Law, 113 *American Journal of International Law* 1 (2019)

ARATO ARGUES that investment treaties subtly constrain how nations organize their internal systems of private law—including laws of property, contracts, corporations, and intellectual property. They do so on a one-size-fits-all model, disregarding the wide variation in values reflected in these discrete legal institutions. Moreover, investor-state dispute settlement exacerbates these constraints, further distorting national private law arrangements. This hidden aspect of the system produces problems of inefficiency, unfairness, and inequitable distribution that have eluded the regime’s critics and apologists alike.

**Anita Bernstein**  
**Anita and Stuart Subotnick Professor of Law**

Minding the Gaps in Lawyers’ Rules of Professional Conduct, 72 *Oklahoma Law Review* 125 (2019)

AN EXAMPLE of a way in which regulators “fill the gap” in rules of conduct is a comment to Rule 1.1 of the ABA’s Model Rules of Professional Conduct added in 2012 that tells lawyers that competent representation now includes knowing the risks and benefits of “relevant technology.” Bernstein proposes that artificial intelligence could be a source of guidance to individual lawyers, locating instances of inadvertence before they occur. She cites examples of how the profession can (and does) use this technology to help mind that gap and recommends continuing legal education as a source of expansion.

**Susan Hazeldean**  
**Associate Professor of Law**

Privacy As Pretext, 104 *Cornell Law Review* \_\_ (forthcoming 2019)

ONE POTENT WEAPON used to oppose LGBT rights is the claim that anti-discrimination protections for LGBT people undermine privacy because they permit transgender people to use facilities that accord with their gender identity. Hazeldean argues that this rhetoric echoes a troubling history of using privacy concerns to justify unequal treatment of women. It also reifies negative stereotypes about women, undermining sex equality and making all female-identified people more vulnerable to discrimination, mistreatment, and assault.

**Catherine Y. Kim**  
**Professor of Law**

An Empirical Study of Political Control over Immigration Adjudication (with Amy Semet), 108 *Georgetown Law Journal* \_\_ (forthcoming 2019)

KIM AND SEMET present the first comprehensive empirical assessment of the extent to which immigration judges decide cases on the basis of a presidential administration’s political preferences rather than by independently assessing the legal merits of a given case. Using an original data set of over 550,000 removal proceedings, they found that the identity of the administration that appointed an immigration judge was not a statistically significant predictor of the likelihood of an immigration judge ordering removal. However, the administration in control at the time of decision is a statistically significant predictor of removal rates.

**Adam Kolber**  
**Professor of Law**

Not-So-Smart Blockchain Contracts and Artificial Responsibility, 21 *Stanford Technology Law Review* 198 (2018)

“THEDAO,” the first high-profile decentralized autonomous organization, was formed in 2016 to operate like a venture capital fund for the cryptocurrency space. However, a bug in its smart contract code was exploited to drain more than \$50 million in value. Some critics alleged that since “the code is the contract,” the hacker did nothing wrong. Kolber argues that the code does not reflect the entirety of the parties’ agreement, and that unadulterated commitment to “the code is the contract” slogan increases “artificial responsibility” and its associated risks.

**Brian Lee**  
**Professor of Law**

Uncompensated Takings: Insurance, Efficiency, and Relational Justice, 97 *Texas Law Review* 935 (2019)

THE FIFTH AMENDMENT requires the government to pay “just compensation” when it takes private property through eminent domain. Prominent scholars, however, have argued that optimally the government would pay nothing for taken property. Treating takings compensation as a form of government-provided insurance, they argue that owners should be left to purchase that insurance from private companies. Lee argues that both the standard justifications for requiring government compensation and the arguments challenging that requirement have overlooked the importance of a distinct form of “relational justice.”

**James A. Macleod**  
**Assistant Professor of Law**

Ordinary Causation: A Study in Experimental Statutory Interpretation, 94 *Indiana Law Journal* 957 (2019)

MACLEOD REPORTS the results of a nationally representative survey of nearly 1,500 jury-eligible laypeople, testing the Supreme Court’s recent pronouncements about the ordinary meaning of causal language in similar criminal and statutory tort settings. The results reveal clear and consistent patterns of causal attribution and ordinary usage patterns that squarely contradict the Court’s ordinary meaning determinations, raising serious concerns about the outcomes in recent criminal and tort causation cases.

**Elizabeth Schneider**  
**Rose L. Hoffer Professor of Law**

Sex, Trump, and Constitutional Change (with Helen Hershkoff), 34 *Constitutional Commentary* 43 (2019)

SCHNEIDER AND HERSHKOFF explore women’s resistance to the Trump administration’s policies, examining the anticipated impact of the policies and showing that they are likely to exacerbate gendered trends of social and economic disadvantage. The authors look at the lower federal courts and the Federal Rules of Civil Procedure as a pathway through which social movements translate constitutional aspirations into constitutional doctrine. They argue that activists must take account of procedural rulings that potentially blunt the communicative force of a social movement, and thereby diminish its legal and political potential.

## FACULTY

### Professor Anita Bernstein Wins Prestigious William L. Prosser Award

ANITA BERNSTEIN, Anita and Stuart Subotnick Professor of Law, has been named the recipient of the 2020 William L. Prosser Award by the Association of American Law Schools (AALS) Section on Torts and Compensation Systems. She will be presented with the award, which honors the “outstanding contributions of law teachers in scholarship, teaching, and service” related to torts and compensation systems, at the annual AALS meeting in Washington, D.C., in January. Professor Aaron Twerski received the award in 2015.

Bernstein, a nationally recognized authority on tort law, feminist jurisprudence, professional responsibility, and products liability, is a member of the American Law Institute and a past chair of the AALS Executive Committee on Torts and Compensation Systems. Her recent book, *The Common Law Inside the Female Body* (Cambridge University Press, 2019), breaks new ground with an in-depth exploration of U.S. common law through history—focusing on crimes, contracts, torts, and property—as a fertile source for strengthening

women’s rights and freedoms. The book is the subject of forthcoming symposia that will appear in the *Northwestern University Law Review Online* and the *Boston College Law Review Electronic Supplement*.

“This award is a fitting, and well-earned, recognition by Professor Bernstein’s peers of her exceptional contributions,” said Dean Michael T. Cahill. “I join with her Brooklyn Law School faculty colleagues in extending our warmest congratulations on this honor.”



### Professor Cynthia Godsoe Receives Tenure

PROFESSOR CYNTHIA GODSOE, a career-long advocate for the rights of children and families, was granted tenure last spring.

Godsoe teaches courses on family law, criminal law, children and the law, and professional responsibility, as well as a seminar on sex

crimes. The media, including the *New York Times* and *Time Magazine*, have frequently consulted Godsoe on juvenile justice and family law issues.

“I feel incredibly fortunate,” said Godsoe. “Teaching at Brooklyn Law School is the best job in the world. The students are amazingly energetic and thoughtful, my colleagues are generous and interesting, and Brooklyn is the best place in the world to live and work. Interacting with students—and seeing them develop into such leaders in their field—is so rewarding.”

Her scholarship centers on the regulation of intimate behavior and gender roles through family and criminal law,

encompassing topics such as the path to marriage equality, the designation of victims and offenders in intimate violence, and the criminalization of non-conforming girls. Her recent work has appeared in the *Yale Law Journal Forum*, *Tulane Law Review*, and *California Law Review Circuit*, among others.

Before joining the Brooklyn Law School faculty in 2007, Godsoe represented children and youth in impact litigation and individual cases in juvenile justice, education, and child protection matters as an attorney at the Legal Aid Society’s Juvenile Rights Division and Advocates for Children. Following law school, she clerked in the U.S. District Court for the Eastern District of New York for Judge Edward Korman ’67 and was a Skadden Public Interest Fellow. She was chair of the Juvenile Justice Committee of the New York City Bar from 2008 to 2011 and continues to participate in pro bono work on a variety of issues for low-income and marginalized children and families.

In spring 2020, Godsoe will publish an article on the downside of criminal responses to sexual harms in a symposium issue of the *Ohio State Journal of Criminal Law*.

## Professor Bennett Capers: Afrofuturism, Critical Race Theory, and Policing in the Year 2044

WHAT MIGHT THE COUNTRY LOOK LIKE IN 2044, when the United States is projected to tip from being majority white to majority minority, or in the ensuing years, when people of color also wield the majority of political and economic power? And specifically, what might policing look like?

These are the questions Bennett Capers, the Stanley A. August Professor of Law, takes up in his article “Afrofuturism, Critical Race Theory, and Policing in the Year 2044,” 94 *New York University Law Review* 1 (2019). Capers is a prolific scholar on the relationship between race, gender, and criminal justice. At the Law School, he teaches evidence, criminal procedure, and criminal law. He spent nearly 10 years as an Assistant U.S. Attorney in the Southern District of New York.

In his article, Capers analyzes policing issues in the context of Afrofuturism, a cultural aesthetic and philosophy of science and history that explores the intersection of African diaspora culture with technology; and in the context of critical race theory (CRT), a framework that uses critical theory to examine society and culture as they relate to categorizations of race, law, and power.

Capers anticipates that in an Afrofuturist and CRT-informed future, crime will have dropped dramatically, owing, in part, to societal changes in the redistribution of wealth. Extant and emerging technology (e.g., race-neutral surveillance, big data, and terahertz scanners, as well as vast improvements in face, voice, and gait recognition) also will help reduce crime and lead to a drastic reduction in the use of force by police.

“I hope the article will encourage people of color, progressives, and others to think about and envision the future,” said Capers. “It’s easy to be pessimistic about the status quo. But smart people should start planning now for a future world in order to better map a way toward it. It’s important to have a vision.”



## Professor Edward Janger Offers Proposal to Align Governance Rights with Economic Interest of Creditors in Chapter 11 Cases



IN THEIR ARTICLE “One Dollar, One Vote: Mark-to-Market Governance in Bankruptcy,” 104 *Iowa Law Review* 1857 (2019), Edward Janger, David M. Barse Professor of Law, and Adam J. Levitin, professor of law, Georgetown University Law Center, seek to address the problem of creditor opportunism in Chapter 11 bankruptcy cases. Scholars and practitioners have

observed a phenomenon known as the “empty creditor.” Empty creditors may use credit default swaps or other financial instruments to accumulate an economic “short” position and then purchase claims at a discount, allowing them to use their voting rights to frustrate a reorganization.

Janger and Levitin propose a solution to this problem, which they call “mark-to-market governance.” Under their proposal, the governance rights of hedged creditors would be diluted

to reflect the creditor’s true net economic position. Although their distributional rights would be left undisturbed, hedgers and shorts would be subject to dilution or designation; claims purchasers would have their governance rights discounted based on purchase price; and secured creditors would have their credit bidding rights limited to the realizable value of their collateral.

The mark-to-market proposal remedies the problem of “schadenfreude investors,” who benefit from the debtor’s misfortune; “bullies,” who seek control by purchasing claims at a discount; and “Trojan horse” claimants—shorts who purchase a blocking position on the cheap.

According to Janger, “Our proposal aligns creditors’ voting power with their economic interests. Indeed, in proper circumstances the bankruptcy code already gives the judge the power to engage in ‘mark-to-market governance.’ Courts have disallowed the votes of competitors who purchase claims to block a debtor’s reorganization and limited credit bidding rights of secured creditors who sought to grab value from other creditors. We believe that our proposal will help judges limit the power of creditors who are simply trying to obstruct confirmation or who are trying to distort the Code’s distributional scheme.”

## On Broadway

# Professor William Araiza Advises Tony-Nominated Broadway Play

PROFESSOR WILLIAM ARAIZA’S expertise in constitutional law made it to the Broadway stage this year when he served as a *Playbill*-credited advisor on the Tony-nominated play “What the Constitution Means to Me,” playwright Heidi Schreck’s autobiographical exploration of the impact of the Constitution on her life and the lives of other women.

Araiza met Schreck when he consulted on the Elevator Repair Service theater company’s play *Arguendo*, which dramatized a First Amendment case, and took part in several audience talkbacks. Schreck asked Araiza to advise on her new project focusing on the Constitution.

“I explained the law to her, but also encouraged a discussion about the larger questions surrounding those issues,” said Araiza. “Heidi’s work engages fundamental questions about American constitutional law and how that law relates to individual persons. It was an honor working with such a talented storyteller.”



## Noteworthy

**PROFESSOR JULIAN ARATO**, codirector of the Dennis J. Block Center for International Business Law, has been appointed by the Institute for Transnational Arbitration (ITA) to its prestigious Academic Council. ITA provides advanced professional education and networking for lawyers, arbitrators, judges, professors, government officials, and other professionals. Its members come from more than 55 countries and represent leading international companies, law firms, arbitrators, and arbitration counsel.

**PROFESSOR JODI BALSAM**, a sports law expert and former in-house counsel at the National Football League, has been named by the National Collegiate Athletic Association to its Independent

Resolution Panel, one of the groups created as part of the new independent accountability resolution process. The panel will review infraction allegations independently from member schools and review the school’s response to those allegations. It will then conduct a hearing, decide whether violations occurred, and prescribe penalties.

**PROFESSOR DAVID REISS**, an authority in real estate finance and consumer finance law and founding director of the Law School’s Community Development Clinic, has been elected to membership in the American Law Institute (ALI), the leading independent organization in the United States producing scholarly work to clarify, modernize, and otherwise improve the

law. The Institute drafts, discusses, revises, and publishes Restatements of the Law, model statutes, and principles of law that are influential in the courts and legislatures, as well as in legal scholarship and education. Reiss joins 21 other faculty members from the Law School as ALI members.

**LAWRENCE SOLAN**, Don Forchelli Professor of Law and director of the Center for the Study of Law, Language & Cognition, has been honored with a Lifetime Achievement Award from the Germanic Society for Forensic Linguistics. This award is given each year to researchers or practitioners who have made outstanding contributions to the areas of forensic linguistics, forensic phonetics, and/or language and law.



## CONGRATULATIONS

**Maryellen Fullerton has been named the Suzanne J. and Norman Miles Professor of Law.** Fullerton served as interim dean from July 1, 2018, to June 30, 2019. An expert on comparative refugee law, she was appointed to the Distinguished Chair in Law at the University of Trento for the 2012–2013 academic year through the U.S. Fulbright program. She also served as a Fulbright Scholar at the University of Louvain in Belgium, as a German Marshall Fund Fellow in Budapest, and as a Visiting Scholar at the Juan March Institute, Center for Advanced Studies in Social Sciences in Madrid.

# Alumni Events

## Women's Leadership Network Event

### DIVERSITY AND INCLUSION IN THE LEGAL PROFESSION: HOW CAN WE DO BETTER?

IN APRIL, the Women's Leadership Network held an event on "Diversity and Inclusion in the Workplace." Although legal workplaces have enhanced their professional development programs, created initiatives to strengthen their attorney retention and advancement, offered training and education on unconscious bias, and developed metrics to benchmark promotion and compensation, the diversity and inclusion challenges persist.

Moderated by Justice Rosalyn Richter '79, New York State Supreme Court, Appellate Division, First Department, a panel representing a range of legal environments offered insights on the challenges their organizations have faced and the successful initiatives they've taken, as well as the continuing steps that are necessary to build, retain, and promote a diverse workforce.



L-R: Joyce Tavoulares '01, Melique Jones '98, Hon. Rosalyn Richter '79, Professor Maryellen Fullerton, Dona Fraser '01, Professor Bennett Capers, and Harriet Newman Cohen '74.



**For more information** about how to get involved in the Women's Leadership Network and events, please contact Caitlin Monck '02, director of alumni engagement and special programs, at **718-780-0322** or [caitlin.monck@brooklaw.edu](mailto:caitlin.monck@brooklaw.edu).

## ALUMNI REUNIONS

IN MAY, members of the classes of 1954, 1959, 1964, 1969, 1974, 1979, 1984, 1989, 1994, 1999, 2004, 2009, and 2014 celebrated their milestone reunions at the magnificent New York City landmark Cipriani 25 Broadway. They were excited to share memories with friends, classmates, and professors, and to make new ones.



L-R: Jessika Wong '12, Robyn Coote '14, and Qi Men '14



Class of '69 celebrates its 50th reunion, receiving special commemorative medals



Graduates reconnect and reminisce in the great hall



A Brooklyn Law School family legacy—Virginia Gulino Mennona '89 and her father, Hon. John Gulino '69, each celebrating a reunion milestone!



The Class of '79 celebrates its 40th reunion



**Save the date** for Reunions 2020, which will take place on Wednesday, May 13, to celebrate alumni whose class years end in 0 or 5. If you would like to volunteer for your reunion, please contact [alumni@brooklaw.edu](mailto:alumni@brooklaw.edu).

## RECENT GRADUATES GATHER AT THE BRANDY LIBRARY



In April, recent graduates spent a festive evening at the Brandy Library located in New York City's Tribeca neighborhood and owned by fellow graduate Max Leifer '72. This was a wonderful opportunity to reconnect with one another while learning about the Library's many fine spirits.

## MENTORSHIP IN ACTION



Dona Fraser '01, vice president at the Children's Advertising Review Unit and chair of the Alumni Association Professional Development Committee, engages in a lively discussion with Cody Laska '21 at the second annual Mentor Program, which creates one-on-one opportunities for students to learn from experienced alumni. Alumni Association President Valerie Fitch '88 gave students an overview of the program.

# Giving

## Spotlight on the 1901 Society

BROOKLYN LAW SCHOOL 1901 SOCIETY MEMBERS are an influential group of alumni and friends from a range of backgrounds and careers in private practice, government, business, and industry who contribute \$5,000 or more annually to the school. Recent graduates (within the last five years) can become associate members by committing to give at least \$1,000 a year. Meet some of our current members and learn more about their careers and why they give so generously to the Law School.



### BLANCHE GOLDSTEIN '83

After graduating from Syracuse University in 1954, Goldstein dedicated her life to her husband and her children. Then, once their children were grown, Goldstein decided to follow her dream of becoming an attorney: She graduated from Brooklyn Law School at 50 years old. Sadly, her husband passed away just a few years after she became a municipal prosecutor in Clifton, N.J., but her new career became her passion, and she practiced law for 24 years before retiring.

***"I support the Law School," Goldstein said, "because it gave me the opportunity for a whole new avenue in life. I had a successful legal career, and Brooklyn Law School will always hold a special place in my heart. I am excited to see it continue to grow."***



### BRIAN S. SOKOLOFF '86

A highly regarded federal litigator, Sokoloff cofounded his firm Sokoloff Stern in 2008. Today, he continues to serve as a partner, and his clients turn to him with their most challenging trial court and appellate court cases. A longtime member of the 1901 Society, he recently committed to a major gift to establish the Brian S. Sokoloff '86 Scholarship in honor of his upcoming 35th reunion. He also employs several Brooklyn Law School graduates at his firm.

***"I was the first in my family to graduate from a four-year college," Sokoloff said, "and the first to go to law school. Brooklyn Law School gave me the education to pursue a career I love. I tell people, 'If you love what you do, you will never work a day in your life.'"***



### MICHAEL A. LONDON '97

As one of the founding partners of the New York City firm Douglas & London, London represents consumers and injury victims, primarily in mass tort settings. His practice area focuses on products liability and complex litigation with an emphasis on pharmaceutical and medical device litigation. He has served as a primary negotiator for plaintiffs in mass litigation yielding several billion dollars in settlements. As a longtime supporter of the Law School, London stays deeply engaged in the alumni community and employs several graduates at his firm.

***"I received a terrific legal education at Brooklyn Law School," London said. "I am especially grateful for the practical nature of much of the teachings. The overall community that the Law School fostered was fantastic, and I will always try to support the school."***



To learn more about joining the 1901 Society, please contact Matthew Constantino at [matthew.constantino@brooklaw.edu](mailto:matthew.constantino@brooklaw.edu) or call 718-780-7505.



### MICHAEL ASARO '98

A partner at Akin Gump Strauss Hauer & Feld, Asaro focuses on white-collar criminal defense; U.S. Securities and Exchange Commission and Commodity Futures Trading Commission investigations; corporate internal investigations; and complex commercial litigation. Asaro began his legal career in the SEC's New York office, where he later served as a branch chief, supervising staff attorneys working on a wide variety of regulatory investigations and enforcement actions. Asaro then was an Assistant U.S. Attorney in the Eastern District of New York, where he served as a deputy chief of the business and securities fraud section.

***“Brooklyn Law School provided me with invaluable support,” Asaro said, “both in terms of the opportunities it gave me and the financial support it provided when I needed it. I am proud to give back to Brooklyn Law School so that it can do the same for the next generation of young lawyers.”***



### VICTORIA SIESTA '09

As an associate at Paul Hastings, Siesta focuses on commercial real estate, including financings, refinancings, acquisitions, dispositions, and developments in New York and across the country. She works with commercial banks, institutional lenders, servicers, and borrowers on all aspects of the loan process. A graduate of Princeton University, where she played softball and was selected to the All-Ivy Team, she played with the Brooklyn Law School softball team in tournaments and now volunteers as a softball coach with Dream, an organization providing inner-city children with year-round sports, educational, and enrichment activities. She also is an adjunct professor at the Law School, teaching Fundamentals of Legal Writing II: International Legal Writing.

***“The Law School will only be as successful as we make it,” Siesta said. “I believe that alumni support, be it monetary or by serving as a mentor, plays a huge role in shaping the future.”***



## Celebrating Scholarship Giving

Professor Maryellen Fullerton, interim dean 2018–19 (center), joins with Carol Farrell, wife of the late Professor Emeritus Richard Farrell '64, and members of the Farrell family at the annual Scholars and Benefactors event. A scholarship in Farrell's memory was established by the Brooklyn Law School community to honor his legacy. Jack Berry '19 was last year's recipient of the scholarship.

# ClassNotes

1967

**Paul I. Weiner** recently joined Coughlin Duffy as a special counsel for the firm, focusing on employment and labor law, OSHA matters, and private and court mediation. Previously, he served as counsel and mediator at Budd Larner and, before that, he was a labor and employment counsel for Nabisco, GAF, and Certain Teed Products.

**Dennis Block** of Greenberg Traurig, a member of the Law School's Board of Trustees, was named an eminent practitioner in the *Chambers USA 2019* guide.

1969

**Michael Rikon**, a partner at Goldstein Rikon Rikon & Houghton, PC, was named Top Attorney of the Year by the International Association of Top Professionals for his experience in eminent domain law. He is a frequent lecturer on these issues and has contributed to the *New York Law Journal*.

1971

**Charles B. Ortner**, a partner at Proskauer Rose, received the President's Merit Award from the National Academy of Recording Arts and Sciences for his longtime role providing legal counsel to the Academy, which is responsible for the Grammy Awards.

1972

**Dennis Downes** recently joined Bridgehampton, N.Y., law firm Adam Miller Group, where he practices real estate, land use, and criminal law. Previously, Downes was special counsel for the towns of Southampton and Shelter Island.

1973

**Nancy S. Erickson**, a consultant to attorneys and mental health professionals on issues related to law and psychology, was featured in the *National Law Journal Trailblazers* supplement in family law. Erickson, who has taught at several law schools, founded the first women's law students' organization at Brooklyn Law School.

1974

**Arnold L. Bartfeld** joined Norris McLaughlin PA as senior counsel in the New York office. He will focus on real estate and finance, and will represent institutional lenders and developers in finance and banking transactions. He joined the firm from Reed Smith, where he was a partner.

1975

**Daniel P. Moskowitz** published *Bronx Stagger: Tales of the Family Court* (Story Merchant Books, 2019), a novel based on his experience in family court proceedings. He is of counsel at Andreas Vasilatos.

1976

**Clifford S. Weber**, chief risk officer and general counsel for PCSB Bank, was recently named to the board of Legal Services of the Hudson Valley in June. He also currently directs the PCSB Community Foundation and served as a director of the Food Bank for Westchester from 2011 through 2018.

## ALUMNI CONNECTIONS



**Harriet Newman Cohen '74**, cofounder of Cohen Rabin Stine Schumann, a renowned matrimonial and family law firm in New York City, further strengthened the Brooklyn Law School alumni network with her recent hire of **Ankit Kapoor '18** as an associate at her firm. Kapoor, who was born in India, was a NYPD officer who completed his studies through Brooklyn Law School's extended evening program. Having

worked on domestic violence cases as a police officer, he wanted to focus on practicing matrimonial and family law.

Cohen, a strong supporter of the Law School, frequently represents celebrities and other prominent individuals, and her firm has been listed as one of the "50 Law Firms Professionals Should Know About" by Super Lawyers. She will be honored at the annual Alumni Luncheon on Feb. 7, 2020, as an "Alumna of the Year."

# David S. Hattem '81

## From the Courtroom to the C-Suite

"I GREW UP ON PERRY MASON," admitted Dave S. Hattem '81, senior executive director, general counsel, and corporate secretary for AXA Equitable. "My idea of a lawyer was a trial lawyer."

His journey from the courtroom to the C-suite began in Queens, where he grew up. The youngest of four children, Hattem attended New York City's public schools and went on to Hunter College before enrolling at Brooklyn Law School, where he served as managing editor of the *Brooklyn Law Review*, was a member of the Moot Court Honor Society, and gained valuable experience in the Manhattan District Attorney's clinic.

After law school, Hattem went to work for a Wall Street law firm to gain corporate litigation experience, but after several years he recognized law firm life was not for him. In 1985 he changed direction and embarked on a distinguished career as a federal prosecutor with the Eastern District of New York. Hattem was first appointed as an Assistant United States Attorney and went on to become acting chief and deputy chief of the criminal division.

Hattem handled high-profile bank robberies and white-collar crime cases, including an 18-month federal investigation that led to the seizure of 75,000 counterfeit prints, purportedly produced by Marc Chagall, Salvador Dalí, Pablo Picasso, and Joan Miró.

"There were no guns or drugs involved," Hattem said. "To prove the case, we had paper and images spread on the table. There was a Long Island grandmother, her two daughters, and even a granddaughter involved in the operations."

After almost a decade as a federal prosecutor in one of the most active federal courts in the nation, Hattem decided it was time for a change.

He shifted gears in 1994 and joined the New York office of AXA Equitable, a 160-year-old French holding company for a group of international insurance and financial-services companies, including AXA Equitable Financial Services, as head of litigation. Hattem became deputy general counsel in 2004, and then general counsel in 2010. In December 2017, he was elected chair of the board of directors of Life Insurance Council of New York, the domestic trade association representing the life insurance industry. Today, he is also a member of AXA Equitable Holdings' management committee.



Hattem oversees AXA Equitable Holdings' law departments, including compliance and government relations. He is also responsible for the corporate secretary's functions, and helping the company navigate the legal and regulatory environment to achieve its strategic goals.

Today, AXA Equitable is publicly traded on the New York Stock Exchange after an initial public offering last year; the company, said Hattem, now has the feel of a startup—but one whose mission is to have a positive impact on individuals and communities. "We're certainly in the business of making money—we're entrusted with \$600 billion in assets under management through our two principal subsidiaries—but we have a larger responsibility as well," he said.

For example, AXA Hearts in Action teams AXA employees with local nonprofits to spearhead initiatives and projects involving environmental sustainability, disaster preparedness, accident prevention, financial education, and at-risk youth.

"My advice to younger lawyers is this," said Hattem, reflecting on the trajectory of his career. "Be flexible when opportunities arise and make the best of them. Work hard and be the person who can be counted on to get the job done. Also, stay positive. It helps one get through the twists and turns in life, and it certainly [makes you] a lot more fun to be around." ■

—by Elaine Friedman

1982

**Wayne DeSimone**, a commissioner of boys' and girls' basketball programs who served as a director of the Port Washington, N.Y., group for over 10 years, was one of two honorees at the annual gala fundraiser and hall of fame celebration for Port Washington Youth Activities in May. He also served as a member of the group's legal committee and sponsorship committee.

1987

**Maria Mejia-Opaciuch**, senior counsel at Carlton Fields, was elected to serve on the board of directors of the South Florida chapter of the American Immigration Lawyers Association. She focuses her practice on immigration and nationality law for individual, family, and corporate clients.

1989

**Terri Herubin** was named a managing director of portfolio management for residential real estate investor and manager Greystar Real Estate Partners, which focuses on the development and management of high-quality residential housing properties.

1991

**Jill Mindlin**, a member of the Turnaround Management Association and its Network of Women (NOW) Committee, joined Blank Rome as counsel in its finance, restructuring, and bankruptcy group. She will focus primarily on secured asset-based and cash flow financing transactions, loan workouts, restructurings, and liquidations.

1994

**Frank V. Carone**, an executive partner at Abrams Fensterman in Brooklyn, became president of the Brooklyn Bar Association in June. Carone focuses his practice on civil litigation, criminal law, banking compliance, nonprofit auditing, and white-collar criminal defense.

1995

**Dawn M. Kirby** is a founding partner of the new Kirby Aisner & Curley, a woman-owned law firm in Westchester. She and her colleagues focus on corporate and individual bankruptcy and reorganization in a variety of industries.

1997

**Ross D. Levi**, the executive director of tourism for the Empire State Development Corporation, delivered the keynote address at EDC Warren County's 20th annual lunch in May. He is responsible for managing state tourism staff and partners on the I LOVE NEW YORK tourism promotion efforts.

### CAROLYN POKORNY '94 NAMED MTA INSPECTOR GENERAL



**Carolyn Pokorny '94**, inspector general of New York's Metropolitan Transportation Authority

(and the first woman to ever hold this position), was recently profiled in *The Bond Buyer*. Previously, she was a federal prosecutor in the U.S. Attorney's Office, EDNY, where she headed the narcotics and money laundering program, and then the deputy chief of staff under U.S. Attorney General Loretta Lynch. In the article, Pokorny says, "I remember as a college student in New York City in the 1980s, taking the public transportation at certain times in the evening was a dangerous prospect... We have come a very long way since those days, and I'm eager to make sure that the office of the MTA inspector general plays a role in this critical moment for the MTA."

1998

**Richard J. Sobelsohn**, vice president for legal issues at the Cohen Brothers Realty Corporation and an adjunct professor at Brooklyn Law School, authored the chapter "Green Lease Provisions" in a two-volume treatise titled *Negotiating and Drafting Office Leases*, published by Law Journal Press in April.

1999

**Kerry Smith** joined Eisner as a partner in its entertainment practice in New York and California. Previously, she was the head of the television and film group at Greenspoon Marder, and has long represented producers, writers, directors, and on-air talent. Earlier in her career, Smith was a television agent for Artists Agency and director of business affairs for ABC Entertainment.

2001

**Jennifer Philpott Wilson**, a partner at Philpott Wilson, was recently nominated to a judgeship in the U.S. Middle District Court of Pennsylvania by President Donald Trump. As a student, Wilson was president of the Moot Court Honor Society and a member of the *Brooklyn Law Review*.

2004

**Nicole Wyskoarko**, executive vice president of urban operations for Interscope Records, addressed graduates at Florida A&M University's spring 2019 commencement.

2005

**Nicole Skalla**, a partner at Paul Hastings, was recognized as a *New York Law Journal* rising star. Working in the structured credit practice, she deals specifically with investment banks, financial institutions, advisors, and investors on a variety of loans, asset-backed transactions, and securities.

# Andrea Anderson '04

## Changing Where People Work

BEFORE ATTENDING BROOKLYN LAW SCHOOL, Andrea Anderson had a thriving career as a corporate trainer at State Farm Insurance Company. Her field of study as an undergraduate at Temple University involved mathematics, and she graduated with a bachelor of business administration degree in actuarial science and risk management. On the job, Anderson interacted frequently with the company's attorneys, which piqued her interest in the law. "In analyzing contracts, I thought, this would be a challenging and interesting path," she said.

Today, Anderson is vice president, real estate, special counsel, global, at WeWork, the nine-year-old startup that defined the coworking industry. WeWork turned the business of coworking—leasing large office spaces and converting them to hip, attractive work areas that are, in turn, rented out to professionals and companies—into an area of rapid growth. WeWork is the single largest private tenant in Manhattan.

"This is an exciting company that is changing the way people work, and I want to be part of that change," said Anderson. In her role, which she assumed earlier this year, Anderson is responsible for supporting mission-critical initiatives and global transactions.

Anderson credits her father-in-law, Burnside Anderson III '76, a retired senior corporate counsel, legal division, at Pfizer, and a member emeritus of Brooklyn Law School's Board of Trustees, for his influence and support in her decision to pursue a J.D. She enrolled in the Law School's four-year program, which allowed her to attend school at night and work during the day. "My father-in-law told me Brooklyn would give me excellent training to become a practicing lawyer," she said, "and he was right."

As a law student, Anderson worked with Professor Debra Bechtel at the Corporate and Real Estate Clinic. The clinic provides free, nonlitigation legal assistance for low-income cooperatives, also known as Housing Development Fund Corporations (HDFCs), where many of New York City's affordable units are found. "I found the work rewarding, and it helped me develop a good palette of practical skills in addition to my work experience," said Anderson, who, along with other clinic students, assisted the HDFCs with loan closings, corporate governance, shareholder meetings, unit closings, and other matters on behalf of the co-op boards.

Her passion for this area of law was further fueled at Proskauer Rose, where she worked for two summers during law school, joining the firm as an associate after graduation. "I fell in love with



real estate there," she said. "Unlike litigation, real estate is tangible. It's an asset you can walk by and see."

After eight years at Proskauer, Anderson joined the Rockefeller Group as senior counsel in 2013. The Rockefeller Group has a 90-year history and is known for pioneering large-scale urban mixed-use development in New York and nationwide. "When I started working in-house, it was a good synergy," she said. "I could use my pre-law school experience, and I enjoyed working on all legal aspects of transactions, including intellectual property issues."

The training Anderson received at Brooklyn Law School remains essential to her career. "What I loved about my experience was the emphasis on the practical realities of the law, and not just the theoretical," she said. "Brooklyn has a special place in my heart because I had professors who really cared about my success."

The Law School also helped foster Anderson's interest in public service. She serves on the board of directors of Urban Pathways, a nonprofit dedicated to ensuring that homeless and at-risk New Yorkers have access to housing, services, and the support they need to be self-sufficient. As a member of the Law School's Women's Leadership Circle, she is also passionate about sharing her career wisdom and experience with other alumnae and current students.

Anderson urged law students to stay curious and always ask questions. "Know the value of what you don't know," she advised. "Learn from others and listen to how they got to where they are." ■

—by Elaine Friedman

## ALUMNAE IN REAL ESTATE MAKE THE LIST

Five alumnae were named to the *Real Estate Weekly* “Leading Ladies in Real Estate” list in June:

**Hope Brodsky '88**, senior managing director, Newmark Knight Frank

**Patti Stone '92**, member, Rosenberg & Estis

**Aviva Yakren '97**, partner, Sidley

**Laurie Grasso '99**, partner, Hunton Andrews Kurth

**Rebecca Landau '05**, partner, Haynes and Boone

### 2006

**Andrea Chan** was appointed deputy chief of the tax and bankruptcy litigation division of the New York City Law Department in May. She focuses on appellate matters, tax certiorari issues, and real estate closings, and she has also served on the department's women's committee and diversity recruitment and retention committee.

### 2007

**Lucrecia Z. Knapp**, a senior associate for immigration at Harter Secrest & Emery, was named an up-and-coming attorney by *The Daily Record*. In addition to her work representing companies and institutions on I-9 and family immigration compliance matters, she is a board member of Lollypop Farm, the Humane Society of Greater Rochester, and the American Immigration Lawyers Association's upstate chapter and serves as a pro bono attorney for Monroe County.

### 2008

**Phillip J. Lagana** was named partner at the New York office of Chartwell Law in May. He focuses on workers' compensation and insurance defense cases.

### 2009

**Laurie Hutchins** was promoted to partner at DLA Piper. She works in the firm's finance practice, representing lenders and companies in financing and restructuring matters.

**Lana Kleiman** was named executive director of Charleston Legal Access, the first nonprofit sliding-scale law firm in the South Carolina city. She was formerly a staff attorney for matrimonial and family law matters at the New York Legal Assistance Group. She is also an adjunct professor at the Charleston School of Law.

### 2010

**Jason B. Jendrewski** was promoted to partner at Fox Rothschild, where he specializes in labor and employment law, defending clients in federal and state courts as well as in administrative proceedings before the National Labor Relations Board, U.S. Equal Employment Opportunity Commission, New York State Division of Human Rights, New York City Commission on Human Rights, and New York State Department of Labor.

### 2011

**Philip Tucker** was named partner at Herrick Feinstein after serving as an associate for Kramer Levin Naftalis and Frankel. At his current firm, he focuses on condominium and cooperative law for developers, lenders, and investors in complex commercial, mixed-use, and luxury residential projects.

**Jason Hart** was named a managing director of the Holt Construction Corporation, overseeing national operations for the company. He was formerly a construction attorney and project manager, and was named a “Top 20 Under 40” construction professional in the industry press.

### 2012

**Jason D. Labate**, a senior associate in the real estate practice at Goldstein Hall, coauthored “Changing the Paradigm: Creating Scale and Keeping Local Expertise in Nonprofit Affordable Housing Development—How to Stop Competing with Fellow CDCs and Embrace a Joint Ownership Structure” for the *Journal of Affordable Housing and Community Development Law*.

## CONGRATULATIONS TO ALUMNI IN THE ARTS



**Kesav Murthy Wable '08** is pursuing his dreams as an actor, writer, and director. In September, his short film, *Closet Supes*, was screened at the largest South Asian film festival in America, the Tasveer South Asian Film Festival in Seattle. And last year, his original feature screenplay, *Dear Brother*, was selected for the *Maison des Scenaristes* author-producer meetings at the 2018 Cannes Film Festival. His pilot for an original series called *Cuff* was also selected at the 2018 New York Television Festival's Indie Pilot Competition.



**Graham Fuller '08** and his wife Kristina recently wrote and performed a musical comedy about the journey of parenting called *In The Trenches* in Denver. “At the core of our show,” said Fuller in a local news piece, “are relationships and how they change post-baby: parent to parent, parent to baby, sibling to sibling, and parents to their friends.”

# Melissa Rivero '08

## Acclaimed Debut Novel Reveals an Immigrant's Story



**THE  
AFFAIRS  
OF THE  
FALCÓNS**  
A Novel  
**MELISSA  
RIVERO**

AT A TIME WHEN THE UNITED STATES is wracked with debates about what constitutes a 'real' American," wrote Refinery29's Elena Nicolaou, "this rendering of the immigrant experience

couldn't be more important."

Nicolaou was referring to *The Affairs of the Falcóns* (Ecco/HarperCollins, 2019), the debut novel by Melissa Rivero '08, a successful lawyer and writer who is also an immigrant. The *Washington Post* called Rivero's book "a beautiful, serious and life-affirming book," and the *New York Times* interviewed her in the spring. This fall, the book won the 2019 New American Voices Award, given by the Institute for Immigration Research. The award recognizes a novel that "illuminates the complexity of human experience as told by immigrants." It was also on the long list for the Center for Fiction's First Novel Prize.

Rivero wrote her critically acclaimed book after hearing about an incident that happened to her mother in the early years of their life in the United States. She worked on the novel for more than

six years—stealing time to write after her two children were asleep or during her commute to work as the assistant general counsel at Boxed, an online seller of discounted bulk items. The result of her hard work was an incredibly moving story with insightful commentary on the current political climate.

*The Affairs of the Falcóns* tells the story of Ana, an undocumented Peruvian immigrant living with her husband and two children in 1990s New York City. After Ana's husband loses his job at a meatpacking plant, the family is left living in a single room in a cousin's apartment in Queens. As Ana's unceasing factory shifts become the family's sole form of financial security, her struggles to keep her family together become a tale of resilience.

Rivero's own story is also one of resilience. Born in Lima, Peru, she moved to Brooklyn when she was very young and still lives there today—now with her husband and their two sons. After living as an undocumented immigrant for most of her childhood, she became a U.S. citizen in her early 20s. Then, after graduating from New York University and Brooklyn Law School, she got a coveted job as an associate in the corporate law department at Proskauer Rose. But on her first day of work, Lehman Brothers collapsed, and the financial crisis began to worsen.

Many of her colleagues and classmates from law school were laid off. Rivero kept her job, but around the same time, her father started to lose his battle with cancer. Needing more time to help care for her father and reassess her career goals, Rivero took advantage of a one-year opportunity from Proskauer to work on-site at a nonprofit. Rivero worked at the Martha Graham Dance Company, which she found incredibly inspiring and sparked her creative ambitions.

After her year at the dance company ended, Rivero pivoted to in-house work in tech companies and began to seriously pursue writing.

Her training as a lawyer, she said, has been indispensable to her success as a novelist. "What I've found extremely helpful from my legal training is the discipline," she said. "You're always reading or writing [in law], and you have to get things done in an efficient and timely manner. That discipline is what helps me to actually sit down and write and finish the novel. I certainly feel like Brooklyn Law School gave me those skills."

After publishing a successful debut novel while maintaining a vibrant legal career, Rivero hasn't abandoned that discipline. She's still finding time on the subway and during her children's naps to type observations and characters on her phone, knowing all those moments will eventually become her second novel. ■

—by Dominick DeGaetano

# Andrew Bochner '12

## Pioneering the Next Wave of Biotech and Patent Law

"I SAVED MY STACK OF REJECTIONS from hundreds of law firms when no one was hiring," says Andrew Bochner '12, now the intellectual property counsel at Click Therapeutics, a medical software developer based in New York. "That stack still motivates me. It reminds me that all it takes is one chance, or one opportunity, for everything to change."

As a pre-med biology major at Yeshiva University, Bochner wanted to be a doctor—until he learned about patent law during his junior year. After making a quick pivot from studying for the MCAT to taking the LSAT, he won a full scholarship to Brooklyn Law School. Today, he works at the forefront of biotech, software, and intellectual property in a fast-changing field.

Digital therapeutics companies like Click Therapeutics employ technology to supplement or replace traditional clinical therapy. Patients are prescribed software as a medical device that could work alongside or in place of drug treatments. For example, the software could use cognitive or motivational stimulation to promote behavioral change, and capture data to track progress. Digital therapeutics apps focus on delivering clinical outcomes and are validated through rigorous clinical trials. As software therapeutics, Click's products are personalized to optimize engagement and outcomes.

Click Therapeutics' current product, an app called Clickotine, is marketed directly to consumers to help them quit smoking. To expand its future reach, the company is focusing on prescription-only products, said Bochner, who is responsible for all facets of IP, licensing, and related transactional matters.

In January, Click Therapeutics announced a \$300 million partnership with Otsuka America, a subsidiary of a Tokyo-based global pharmaceutical company, to develop an FDA-approved app to treat major depressive disorder.

"The app is based on Emotional Faces Memory Task technology, which is a proprietary system monitored by doctors to trigger neurobiological responses in the brain related to cognitive control and emotion processing," Bochner said.

The path into biotech and patent law for Bochner was somewhat circuitous. He first worked as an intern for Celgene, a global biopharmaceutical company, during his second summer and third year of law school.

"At Celgene, I learned the importance of talking to my clients—the scientists and inventors—and just schmoozing with them," he said. "I found out what they were working on and sometimes discovered that what they thought was insignificant could actually be



a critical development in the patent world. I was learning by doing."

Then, during his last semester of law school, he interned at Weiss & Arons, a patent firm in the New York City suburbs, which offered him his first job as an associate after graduation. "That firm focused on software and medical device work, which opened up a whole new field I was excited to explore," Bochner said. He later added to his experience and expertise in intellectual property as associate at Cowan, Liebowitz & Latman and at Wiggin and Dana, both in New York. His legal and scientific paths finally merged at Click Therapeutics.

"Because of my background in biology, as well as technology and software, the opportunity at Click was a perfect fit for me," said Bochner. Today, he shares his career experience and wisdom as an advisor with the Brooklyn Law Incubator & Policy (BLIP) Clinic.

"Law students should remember that their career is built on more than one job," he said. "It's built on experiences and having a network of people to call on in the future. So many people I met at Brooklyn continue to help me now with their friendship and advice. And for that, I'm grateful." ■

—by Elaine Friedman

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**Hayley Newman** was named partner at Heidell, Pittoni, Murphy & Bach. She joined as an associate in 2013, advising hospitals and insurance companies in malpractice litigation cases.

### 2013

**Daniel Faessler**, staff attorney and clinical supervisor for the health and welfare practice at the East Bay Community Law Center in Berkeley, Calif., was awarded the 2019 Kathi Pugh Award for Exceptional Mentorship by Berkeley Law School.

**Scott H. Reing**, who co-owns a law firm specializing in tax matters with his father, was elected chairman of the Putnam County Democratic Committee in June.

### 2014

**Joshua P. Brady** joined Chartwell Law as a member of its insurance defense team, where he will focus on matters including slip-and-fall cases, motor vehicle liability, and construction defects.

**Emmanuel Fashakin**, an associate at Debevoise & Plimpton, won the 2019 Champion of Justice Award from the Brooklyn Bar Association Volunteer Lawyers Project during its annual gala. The award is given to individuals who show a commitment to providing legal support for Brooklynites who otherwise wouldn't have access to a lawyer.

### 2016

**Christina C. Fasitta** joined Reed Smith's real estate practice group in May. Previously, she was an associate at Goldstein Hall and Wachtel Missry, where she practiced corporate and real estate law.

### 2017

**Mark Potkewitz** began serving in May as codirector of Ulster University's Legal Innovation Centre in Belfast. He was formerly an associate at Bruce Fein and Associates and communications director at the Foundation for Fund Governance.

**Father Patrick J. Keating** was named economic and vicar of finance of the Brooklyn Diocese, effective June 1. In this capacity, Keating will oversee the treasury and assist in budgeting plans. Previously, he was deputy CEO of Catholic Charities' Brooklyn and Queens chapter as it restructured.

## In Memoriam

### Joy Ann Weber '89



Joy Ann Weber '89, a distinguished leader and teacher in the field of financial compliance and regulation, passed away on October 6, 2019. She was 55.

A dedicated student, Weber graduated *summa cum laude* from both Pace University and Brooklyn Law School, where she was managing editor of the *Brooklyn Journal of International Law*. This became her springboard to a long, accomplished career in the financial industry.

She worked at the New York Stock Exchange, rising to the rank of vice president and department head. She then became the executive director of regulatory affairs and deputy general counsel at UBS Financial Services, managing the bank's defense strategies and its relationship with the Securities and Exchange Commission (SEC), the Financial Industry Regulatory Authority (FINRA), and other state, federal, and international regulators.

Weber made sure to use her position and experience to lift others who followed her. While at the NYSE, she ran its internship program. When she returned to Brooklyn Law as an adjunct professor of law, she endeavored to create such opportunities for students. Her Securities & Market Regulations Externship Seminar brought in guest speakers from the financial industry to impart practical advice to students and provide guidance to those seeking careers in compliance, as well as hands-on work at an industry externship. She also was a longtime member of the Board of Directors of the Brooklyn Law School Alumni Association.

She is survived by her husband, Jeffrey Burke '00; her sons, Jack Burke and Douglas Tortorici; her sister and brother-in-law, Ave and Kevin Doyle; and her sister- and brother-in-law, Anne and Michael Burke '02. The family requests that donations be made in her memory to the Joy Weber Memorial Fund at Brooklyn Law School.

### Robert F. Weinberg '53



Robert F. Weinberg '53, founder of a prominent real estate firm who helped shape the face of Westchester County for more than 60 years, passed away September 3, 2019.

Weinberg was born in 1928 in Manhattan. He earned a degree in mechanical engineering from New York University and a master of science degree from MIT before graduating from Brooklyn Law School.

In 1957, he cofounded the Robert Martin Company, a pioneering real estate investment company that would

reshape Westchester County, developing more than 6 million square feet of office and industrial parks, as well as more than 3,000 apartments, condominiums, and single-family homes. The company built the first office park in Westchester and led the redevelopment of downtowns in White Plains and Port Chester.

As founder and chairman of the Outreach Committee on Orderly Growth in Westchester for over 40 years, he took a leading role in setting the discussion on the development of the county. He also served in leadership roles in numerous civic and philanthropic organizations. He donated generously to Brooklyn Law School's Annual Fund and Residence Hall Fund.

He is survived by two grandchildren and three great-grandchildren.

## Richard E. Schneyer '71



Richard E. Schneyer '71, a partner at Tannenbaum Helpen Syracuse & Hirschrift and a respected leader in trusts and estates law, passed away August 19, 2019, at age 73.

Born in 1946, Schneyer grew up in the Bronx and Brooklyn. He graduated from Brighton Beach's Abraham Lincoln High School in 1963 and Brooklyn College in 1967. He was a member of the Brooklyn Law School class of 1971, and received a LL.M. in Taxation from New York University Law School in 1967.

For over 30 years, Schneyer carved a niche in two areas of the law: trust and estate matters, and the operation of family and other closely held businesses. Schneyer, through his connection with the Margot Sundheimer Foundation, was instrumental in funding the Hon. I. Leo Glasser Scholarship, honoring the former dean of Brooklyn Law School and current senior U.S. District Court judge of the Eastern District of New York.

He is survived by his children, David, Mark, and Rebecca Schneyer; and his grandchildren, Ella and Alexandra Schneyer.

## J. Michael Fried '75



J. Michael Fried '75, founder of two real estate investment firms that both grew into billion-dollar enterprises under his guidance and a longtime supporter of the Law School, died September 7, 2019.

Fried attended Brooklyn Law School after completing a B.A. in History and American Studies from Michigan State University and an M.A. with honors in Psychology from Long Island University. In law school, he served as a senior editor of the *Brooklyn Law Review*, graduating *magna cum laude*.

After graduation, Fried joined the law firm Proskauer Rose before leaving in 1979 to found what would become Related Capital Company, the financial services arm of the Related Companies. He led the company to become the third-largest owner of multi-family properties in the United States. He left Related in 1999 to found Phoenix Realty Group, where he raised and deployed over \$5 billion of investor capital and mentored a generation of real estate capital executives.

A generous philanthropist, Fried established an endowed scholarship in memory of his father, Albert Fried, and contributed generously to the Residence Hall Fund, which helped finance the construction of Feil Hall in 2005. He was a member of the President's Advisory Council and often returned to the Law School to mentor and speak to students, most recently as a participant in the Business Boot Camp.

He has left behind a Brooklyn Law School family legacy: along with his brother, Arthur Fried '68, his daughter, Miriam Fried Klein '03, is a graduate. He is survived also by his wife Janet Fried; daughter Rachel Dayan; grandchildren Rebecca, Max, AJ, Hannah, Jonah, and Gabriel; and sister Susan.

1950

**Marvin I. Sameth**  
June 11, 2019

1951

**Irwin Reicher**  
July 6, 2019

1952

**Murray Braunstein**  
July 7, 2019

1954

**Leon Segan**  
July 5, 2019

1955

**Gerald Gelles**  
July 2, 2019

1956

**Minna J. Edelman**  
May 17, 2019

1957

**Stuart Kessler**  
August 5, 2019

1959

**Barry S. Shanbron**  
May 19, 2019

1961

**Charles A. West**  
July 11, 2019

1962

**Joseph M. Ryan**  
June 15, 2019

**Berj Andrew Terzian**

June 19, 2019

1964

**Howard S. Fleischman**  
May 15, 2019

1965

**Steven M. Licht**  
August 26, 2019

1966

**Daniel P.J. Sheerin**  
August 8, 2019

1973

**Dorothy Steele**  
May 8, 2019

1978

**Frances R. Zujkowski**  
April 3, 2019

1981

**Leif Magnusson**  
May 2, 2019

**Professor Carlo Caffuzzi**

March 20, 2019

by Stacy Caplow and Maryellen Fullerton

## Protecting Asylum Seekers: A Report from the Border

TIJUANA, MEXICO, JUST ACROSS THE U.S. BORDER, is well known for its tourism and commerce. Today, it is also an overcrowded bottleneck for asylum seekers, thanks to the Trump administration's ironically named Migrant Protection Protocols, known more accurately as the "Remain in Mexico" policy.

Responding to a call for volunteer lawyers from Al Otro Lado, a nonprofit that helps families from Honduras, Guatemala, Cuba, Venezuela, and elsewhere who have been prevented from applying for asylum in the United States, we had the opportunity to observe conditions at the border firsthand. Because they are not authorized to work, these families live in shelters, depend on handouts for food, have little or no access to health services, and are unable to enroll their children in school. They exist in limbo.

Many asylum seekers are families with small children. They did not try to evade the Border Patrol, but were put into detention. After spending one or more days in hieleras ("ice boxes," holding cells maintained at very cold temperatures), the families were returned to Mexico. They huddle in Tijuana, carrying their identity documents, children's birth certificates, letters from school principals about gang threats at their elementary schools, and news articles about gang murders of family members. These are not stereotypical economic migrants attempting to slip undetected across the border, nor are they gang members.

The current Trump administration policy, which deters, delays, and discourages asylum seekers, defies U.S. laws that provide for due process. At pre-dawn hours, entire families are bused to Immigration Court proceedings in San Diego and returned to Tijuana that same day. Almost all the asylum seekers we met had been to San Diego Immigration Court at least once, and were destined to return multiple times—in nearly every case without a lawyer and forced to articulate their claims through randomly assigned interpreters.

A typical case may involve four or more visits to Immigration Court, each separated by weeks or months. After multiple trips, which involve formal notice of the charge that the asylum seeker has attempted to enter the United States without prior approval, a formal request for asylum, and submission of evidence that supports the application, the immigration judge finally schedules a court hearing on the merits of the asylum claim. Not until

the fourth journey, on average, will the asylum seekers be able to testify—usually *pro se*—and the judge begin to review and assess the evidence. Meanwhile, the asylum seekers—adults and children—languish in Mexico. This dilatory pace ensures that many will give up and leave.

Noncitizens in Immigration Court proceedings do not have the right—as do criminal defendants—to appointed counsel, but they do have the right to be represented by an attorney if they can find one. The Remain in Mexico policy undercuts this legally guaranteed

Legal representation matters: studies show that 60% of those represented by a lawyer in Immigration Court are successful, compared to 17% of those who are unrepresented.

right to the assistance of counsel, because forcing asylum seekers to remain in Mexico effectively ensures they will never find an attorney. The Immigration Court, required to provide information to indigent individuals on sources of free or low-cost legal assistance, distributes a standard list of California nonprofit legal organizations.

These organizations and pro bono lawyers, however, do not have the capacity to handle the volume of asylum seekers or the ability to properly prepare the applications. Even more fundamentally, the asylum seekers cannot cross the border to consult with U.S.-trained attorneys who might be able to help them.

Al Otro Lado tries to fill this gap with "know-your-rights" presentations in Tijuana, referrals to social services, document translations and—once a month—a volunteer legal clinic where lawyers who can make their way to Mexico try to help asylum seekers fill out applications. But Al Otro Lado cannot provide direct representation to the flood of people essentially blockaded from U.S. legal assistance. And legal representation matters: studies show that 60% of those represented by a lawyer in Immigration Court are successful, compared to 17% of those who are unrepresented.

Although we cannot return to Tijuana every month, we are committed to making a contribution. We encourage law students to do the same. Our prior work with the New York Immigrant Representation Study has increased legal representation of immigrants in New York and has proven the enormous benefit that legal assistance can provide. ■

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**Stacy Caplow** is associate dean of experiential education, overseeing all aspects of clinical and experiential education and is codirector of the Safe Harbor Project. **Maryellen Fullerton** is Suzanne J. and Norman Miles Professor of Law and former interim dean of Brooklyn Law School. Both are experts in asylum and refugee law.

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| <b>Feb. 7</b>   | <b>Alumni Luncheon</b><br>Honorees: Harriet Newman Cohen '74,<br>David Berger '89, Jason Jia '11<br>Mandarin Oriental Hotel, New York City   | <b>March 26–28</b> | <b>35th Annual Jerome Prince Memorial Evidence Competition</b>   |
| <b>Feb. 21</b>  | <b>Sixth Annual Disability and Civil Rights Clinic Breakfast Roundtable</b><br>Cosponsored by the Center for Health, Science & Public Policy and the Disability and Civil Rights Clinic      | <b>March 27</b>    | <b>Brooklyn Journal of Corporate, Financial &amp; Commercial Law Symposium</b><br>Topic: Consumer Welfare, Market Structure, and Political Power<br>Sponsored by the Center for the Study of Business Law & Regulation |
| <b>Feb. 25</b>  | <b>Criminal Justice Discussion</b><br>Topic: Prisons and Invisibility<br>Sponsored by the Center for Criminal Justice  | <b>March 31</b>    | <b>Trade Secrets Institute Symposium</b>   |
| <b>March 4</b>  | <b>International Business Law Lecture</b><br>Speaker: Professor Katharina Pistor, Columbia Law School<br>Sponsored by the Dennis J. Block Center for the Study of International Business Law | <b>April 2</b>     | <b>Edward V. Sparer Public Interest Law Forum</b>  |
| <b>March 6</b>  | <b>Brooklyn Law Review Symposium</b><br>Topic: Data-Driven Legal Interpretation<br>Sponsored by the Center for Law, Language & Cognition   | <b>April 6</b>     | <b>Public Service Awards Ceremony</b><br>Speaker: Desmond Meade, President, Florida Rights Restoration Coalition   |
| <b>March 12</b> | <b>Barry L. Zaretsky Roundtable</b><br>Sponsored by the Center for the Study of Business Law & Regulation  | <b>April 14</b>    | <b>CUBE Innovators Invitational Competition</b><br>Sponsored by the Center for Urban Business and Entrepreneurship   |
|                 |  | <b>May 13</b>      | <b>Alumni Reunions at Cipriani 25 Broadway</b><br>Classes of 1955, 1960, 1965, 1970, 1975, 1980, 1985, 1990, 1995, 2000, 2005, 2010, and 2015<br>Cipriani 25 Broadway, New York City                                   |

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