Ready for Takeoff

A dynamic new dean shares her vision for improving legal education

FUSION CENTERS: WHERE PRIVACY AND TECHNOLOGY COLLIDE

FINANCIAL MELTDOWN POST-MORTEM
"I often find myself rushing through the vestibule of the law school from work to a class or from an externship. Although most law students usually walk calmly, quietly, and composed through the classroom door once they arrive at class, it is a bit chaotic before. When I am standing at the guard’s desk, I have noticed other law students rushing to and from, and as a result, I happened to catch this photo.

I joke with my classmates that it feels like we will always be rushing or that we are in a perpetual intellectual whirlwind (especially when you take summer classes). Once law school is over, life really does not slow down and might speed up even more. One thing that I have noticed is that UM Law gives us confidence to explore and conquer new projects or endeavors as law students. As a result, many of us graduate and enter the legal world with refined passions or specialties that make us unique commodities. Thus, I suppose there is no time to slow down but capturing this student ‘in motion’ makes me think that maybe there is just enough time to stop and appreciate all that the law school has taught us.”

Daria Grayer is a second-year evening student, bioethicist at Washington Hospital Center’s Center for Ethics, and an award-winning photographer.
Dear Graduates and Friends,

I have known for many years that Maryland is a great law school. As a law professor at Temple University, I respected so many of UM Law’s faculty and greatly admired the School’s commitment to public service and its groundbreaking Clinical Law Program. During the Dean Search process, the more I learned about the Law School, the more impressed I became. But not until I became a member of the community myself did I fully appreciate how remarkable Maryland Law truly is.

It’s a community that includes the gifted teachers and scholars and committed staff who work here. Outstanding students who study inside these walls. Dedicated graduates who devote countless hours of their time and offer wise counsel. And generous supporters who provide vital resources to sustain our work.

Most meaningfully, this institution’s definition of community doesn’t end at the doors of the Law School, or exclude individuals that have never set foot in our building. Our community includes our neighbors in Baltimore who are given a voice and find justice thanks to the efforts of our legal clinics. It extends to disaster-stricken regions where our graduates help rebuild shattered lives. It reaches Capitol Hill, as our faculty’s scholarly expertise shapes the debate on cutting-edge issues at the intersection of technology and privacy. I invite you to read about all these aspects of our community, and many more, in the pages that follow.

I also to thank so many of you for all you have done to welcome me to your community. I have appreciated learning more about you and your thoughts about the Law School’s future. This issue of the magazine provides an opportunity for you to learn more about me. Another opportunity for us to meet will be October 3, as the School of Law hosts my first formal event as Dean. I hope you will be able to attend and look forward to meeting as many of you as possible.

My door is always open, and I will be relying on your insight and support as we continue to expand the reach and impact of the Maryland Law community.

Best wishes,

Phoebe A. Haddon
Dean
Wit and Wisdom
from Faculty on Legal Issues of the Day

“It’s amazing what we will do and say when we are shielded from social shaming. You think when you’re doing it online, people are images and things that we attack. It’s depersonalized. This generation has been schooled in the misogyny of bravado. It’s become a point of pride that I can talk that way, too. I can be vicious. Young women are jumping on this, thinking it’s empowering. It’s anything but.”

—Danielle Citron, in the Philadelphia Inquirer, speaking about online bullying.

“It’s been nearly two decades since anyone who has not served as a federal appellate judge—for at least a little while—has been confirmed to sit on the Supreme Court. What this means is that justices on the Court have come to be representative of a very narrow slice of the profession. Federal appellate judges, former federal prosecutors and high-powered federal appellate practitioners stand a very good chance of getting nominated. State court judges, full-time law professors, former criminal defense attorneys, even civil practice trial lawyers—not so much.”

—Sherrilyn Ifill in a CNN commentary about the need for professional diversity on the Supreme Court.

“In the last couple of years people are starting to be aware that if they have these units in their car, people can keep track of you. I think it’s a growing public awareness. The problem is that most people feel like, ‘I’m not doing anything wrong, so who cares?’ But I think that’s the wrong way of looking at it.”

—Renée Hutchins in a New York Times article about Fourth Amendment protections for the use of GPS data.

“Did China and India suddenly have gigantic needs for new oil products in a single day? No. Everybody agrees supply-demand could not drive the price up $25, which was a record increase in the price of oil. The price of oil went from somewhere in the 60s to $147 in less than a year. And we were being told during that run-up, it’s supply-demand, supply-demand, supply-demand.”

—Michael Greenberger on 60 Minutes, discussing the role of speculation in driving up oil prices, including a one-day jump of $25.

“No one has done a decent job of covering the four years that Thurgood Marshall practiced in Baltimore. It was a very active period, but it was difficult to get at. He did major civil rights cases, but he also tried to keep his private practice.”


“During the Bush years, it was all too common for administration political appointees to suppress or reshape scientific findings. They infamously tried to suppress a report by EPA scientists on the scope of global warming, for example. But ending such heavy-handed manipulation by political appointees is the low-hanging fruit of the effort to restore science to its rightful role in policymaking. It absolutely needs to be picked, but there’s much more to harvest.”

—Rena Steinzor in a Baltimore Sun op-ed about the relationship between science and policy.

“The AIG bailout is a wealth transfer scheme in the guise of a public investment in a supposedly going concern. In plain English, AIG is winding up its derivative business. Since it was on the losing side of derivatives bets, wind up means payment to winners.”


“The longer an accused remains unrepresented and unable to challenge the government’s case, the more likely delay jeopardizes a fair trial. The prosecutor’s decisive advantage often results in unjust convictions and coerced pleas.”


“I have applauded the Governor for his vision in continuing to invest in the future of biotechnology in our state. There are numerous legal and ethical considerations in this type of research. But the world’s most prominent scientists, researchers, and policy makers in the field recognize that Maryland has developed an approach to stem-cell research that serves as a model for the rest of the world.”

—Karen Rothenberg, Chair of the Maryland Stem Cell Commission, in the Washington Post after Governor Martin O’Malley reconfirmed his commitment to funding stem cell research.

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IN 2002, DAVID PASSON, A DISABLED VIETNAM veteran living on a fixed income, found himself in a desperate situation. Confronting a mound of medical bills, he sold some stocks to pay down his debt. But in finding one off his set of condoms, he unsuspectingly stumbled into a different quagmire.

Six years later, Passon received a $30,000 bill from the Internal Revenue Service (IRS), which had taxed the earnings of the stocks he had sold. Fortunately, Passon immediately notified his social worker, who referred him to UMLaw’s Low Income Taxpayer Clinic.

Enter law student Jonathan Elefant, J.D. candidate 2010. Researching the matter, he determined that the stocks Passon sold had not appreciated enough to warrant the taxes imposed by the IRS. Over the course of nearly three months, Elefant assisted Passon in preparing a new tax return, essentially wiping his financial slate clean.

“I’m so very grateful. Jonathan was marvelous,” says Passon, who, prior to going to the clinic, faced not only an insurmountable debt but the IRS’s threat to garnish his Social Security wages.

The resolution didn’t come easy. “Once the IRS assesses a tax liability, you have to unravel the whole process. We simultaneously negotiate with the IRS to get them to stop collecting against the client while working to determine whether the tax liability is valid,” explains visiting law school attorney professor Pamela Chaney, who oversees the clinic.

Under Chaney’s guidance, student attorneys provide free tax preparation to low- and moderate-income working families in Baltimore City and represent low-income Maryland residents who have disputes with the IRS. This academic year, the clinic prepared an estimated 175 tax returns and assisted 64 clients in resolving tax issues. Students are expected to average 24 hours of clinic work per week, but Elefant took on an additional caseload.

“I stayed late, I worked Sundays,” he says. “Being low-income doesn’t entitle people to any less respect or any less dignity than we would give our friends and family. The fact that they’re here shows they’re trying to resolve them.”

Clinical Law Program Fills Vital Needs

EACH YEAR, THE STUDENT ATTORNEYS who take part in UMLaw’s 26 student law clinics provide free legal services to hundreds of community residents in need, while honing their own legal skills. Brenda Bratton Blom, professor and director of the School of Law’s Clinical Law Program, estimates the clinics provide an average of 100,000 hours of service annually—involving 25 faculty and 250 students. “The number of people who need these services grows every year. When you have to choose between lunch and a lawyer, it’s an easy decision,” Blom says. Accomplishments of Clinic faculty and students in 2008-09 included:

- Students in the Reparations, Reconciliation and Restorative Justice seminar spearheaded passage of a new state law that requires insurance companies wishing to do business in Maryland to disclose any policies they or their predecessor firms provided to slave owners until 1865.
- The Civil Rights of Persons With Disabilities Clinic was instrumental in the case of Shane Feldman, et al., v. Pro Football Inc., et al., which determined that under the Americans With Disabilities Act, closed captioning of scoreboard announcements during Washington Redskins games at FedEx Field was not optional but required.
- The Environmental Law Clinic recorded a number of victories. Students researched and drafted the newly enacted Environmental Standing Bill that gives individuals and associations the ability to challenge state environmental permits, licenses, and Critical Areas variances and other state environmental decisions in state court.
- The Waterkeeper Alliance, represented by the Clinic, reached an agreement with the Maryland Department of the Environment (MDE) resolving the Waterkeepers’ legal challenge to MDE’s general stormwater permit for construction sites. As a result of this agreement, MDE committed to making significant changes to the way it requires developers to prevent polluted runoff caused when rain washes sediment and other pollutants from these exposed areas.
- The Drug Policy and Public Health Strategies Clinic worked with the U.S. Department of Justice’s Civil Rights Division in negotiations with Baltimore to remedy the City’s zoning code’s discrimination against licensed residential substance abuse treatment facilities.

Grappling with Ethical Issues on Stage and Off

From the outset, the new course, Lawyers and Legal Systems and Their Social Context, was an unusual venture. Funded in part by a grant from the Fetzer Institute of Kalamaros, Michigan, the course asked School of Law students to critically examine common assumptions about the legal system, including its fundamental moral and ethical premises.

“We decided it would make sense to present something to the public. We wanted to show the kinds of legal and ethical issues lawyers face,” says professor Michael Millemann, who co-taught the class with Robert Bowie ’77, founder of Bowie & Jensen, LLC, and a part-time playwright. Live theater—an art form defined by the maxim “show, don’t tell”—proved uniquely well suited to this process, so the duo set out to have their student create an original drama.

Millemann, Bowie, and their students decided to focus on the case of Walter Arvinger, whose case made national news in 2004 when he was released after 36 years behind bars for a murder it is now widely accepted he did not commit. Millemann and students from the School of Law were instrumental in bringing attention to the case and securing his release. The play that resulted is actually a play-within-a-play, showing both the events leading to the false conviction, and the moral and ethical issues students grappled with three decades later as they tried to prove Arvinger’s innocence.

The professors initially had expected to cast the show using local actors. “What really surprised me was how completely the students took control of the effort,” says Bowie. “They wanted to act in the roles they created, which was incredible; it really was an added benefit to the class.”

The students were not without resources. Professional theatrical leadership was provided by Elliott Rash, managing director of Baltimore’s Single Carrot Theatre, who served as director of the production. The cast of four men and four women “entered into the heart of the law,” says Bowie, “by engaging in a process that exposed them to the humanity of law that is usually only learned after the boot camp experience of law school is completed.”

The process of researching, writing, discussing, and rehearsing the play—which included classroom visits by Arvinger himself—and from former Governor Robert Ehrlich, who commuted Arvinger’s sentence—brought a real immediacy to the idea that lawyers’ actions have far-reaching consequences. “I really had to think about what the lawyers did, and that made a big impression upon me,” says graduating student Octavia Shulman, who played Arvinger’s mother, and the “class clown” in the student scenes. “Everyone was so excited by this. It was so unconventional teaching the law in such a creative way. When the Governor came to school that conversation really scared me to death. What I do or don’t do as a lawyer can hugely impact someone’s life. It made me feel I really have to know my stuff.”

For director Elliot Rash, the whole effort really came together when the play was performed in April before a standing room only house of friends, classmates, faculty, and family members of the cast. “There is a moment when the students transform to prisoners in a jail, calling out at Kaplan [Arvinger’s attorney]. It was this really wonderful theatrical moment. Basically in four weeks of rehearsal we bonded and had this opportunity to create something together, and it really worked.”

By Mike Field
DISTINGUISHED VISITING PROFESSOR Justice Bess Nkabinde, a Justice on the Constitutional Court of South Africa, delivered the lecture "The Modern Constitution of South Africa: Are the Promises in the Constitution Realizable or a Distant Dream?" last October 20.

"The promises are not a dream. South Africans retain their faith in the resilience of their Constitution and the vibrancy of their democracy. Never again will we be subject to the oppression of the past," said Justice Nkabinde, noting that after the Constitution was adopted, seven million copies in the 11 official languages of South Africa were distributed throughout the country.

Justice Nkabinde was one of several Distinguished Visitors who spent time on campus during the 2008-09 academic year through a program that invites distinguished legal practitioners and academics—from both legal and non-legal disciplines—to join the School of Law community. Other visitors were Martha Bergmark, president and chief executive officer of the Mississippi Center for Justice, and Mary L. Dudziak, the Judge Edward J. and Ruey L. Guirado Professor of Law, History, and Political Science at USC Gould School of Law.

"We must never stop learning from each other. The beauty of the legal profession is that you always have colleagues to confer with. The knowledge I’ve gained from collaborating with my new colleagues at Maryland will help the Constitutional Court of South Africa," said Justice Nkabinde.

THE UNIVERSAL DECLARATION of Human Rights (UDHR) remains an important, guiding model for governments and people around the world, but 60 years after its adoption by the United Nations, constant political will and effort is still required to see the document’s high-minded promises turn into real protections.

That message was among those aired at the School of Law’s three-day symposium from Oct. 23-25 marking the 60th anniversary of the declaration’s signing. Speakers addressed the challenges posed to the ideals contained in the document by worldwide poverty, hunger, poor health, and persecution. The litany of human rights abuses by autocratic regimes from Chile to Russia and China are being replaced or joined by abuses doked in the banner of counterterrorism, according to several of the more than three dozen speakers and moderators.

For the AFL/CIO, Thomas E. Pérez, Secretary of the Maryland Dept. of Labor, Licensing, and Regulation, and School of Law Dean Karen H. Rothenberg.

"Congress does not have an infrastructure in place to deal with this," said New York Times Editorial Board Member Teresa Tritch, "so a lot of this legislation is being driven by NGOs," said Michael Gorenzerger, a professor at the School of Law and director of its Center for Health and Homeland Security, a panelist and moderator of the symposium. "Congress does not have an infrastructure in place to deal with this.

Justice Chaskalson (right) and Former President of Ireland and U.N. High Commissioner for Human Rights Mary Robinson.

"We all are special trustees of the students’ idealism," he said. "We recruit students because they are idealistic. When they get here, we should nurture that idealism. When they graduate, we have to continue to support it."
Some Key Findings

- Although men and women are equally likely to begin their careers at law firms, they are not equally likely to stay there:
  - 47% of women began careers at private firms; 49% remain
  - 53% of men began careers at private firms; 40% remain
  - 40% of women are employed by government
  - 25% of men are employed by government

The most gratifying finding, Monopoli says, “is that our graduates—both men and women—are generally happy.” But the survey showed that there are still great disparities in career advancement among men and women, and also in their priorities. The women surveyed, for example, were significantly more likely than men to identify flexibility in the workplace, and work-family balance, as important to their career satisfaction. One outcome of the study, says Singer, may be better guidance for employers when it comes to retention.

This is an important issue for law firms, which incur high costs replacing employees who leave. Toward that end, the professors shared preliminary findings in a workshop last April for ays law firms that are committed to better retaining and advancing female lawyers.

“We [aimed] to offer suggestions about what will make lawyers want to stay.” Singer says, such as offering opportunities for flexible schedules, without stigmatizing that choice. Compensation is also an important issue, says Monopoli. “Men measure success by the amount of compensation they receive. Women are less likely to say they are equally compensated. There’s feeling out there that women don’t feel they are getting what they deserve. That to me is an important finding”—for employers and women, she says.

Wendy Butler Curtis ’98, a special counsel in litigation at O’Melveny & Myers’ Washington office, wonders why women, who “were disproportionately ahead in the class” at law school, later comprise just 20 percent of partners in law firms.

Both issues were discussed at a roundtable that Battaglia and Curtis attended in December at the Law School. The discussion was an outgrowth of a career satisfaction study, undertaken by professors Jana Singer and Paula Monopoli and supported by the Law School’s Office of Institutional Advancement and Career Development Office.

The professors surveyed UM Law graduates going back to the Class of 1977. The ultimate aim for their work: to chart a plan of action for improving women’s experiences in the legal profession. Singer and Monopoli queried more than 600 alumni in their Fall 2008 survey. “We were interested in alums in general, but we wanted to know if the experiences of women in the workplace were different, and if they were making different choices in their careers,” says Monopoli, founding director of the Women, Leadership & Equality (WLE) program, which oversaw the project. The questions aimed to reveal differences in career choices, and overall satisfaction with life and work.

“Women don’t feel they are getting (paid) what they deserve.”

—Prof. Paula Monopoli

The election of Barack Obama had an inspiring impact on third-year student Bill Ferguson. Ferguson, a second-year law student committed to improving public education, the inauguration of Barack Obama last winter seemed the perfect setting for proposing marriage to his girlfriend, Lea Smith. After all, she two had met when they were both reaching in Baltimore as part of the Teach for America program. They’d deepened their commitment to the community—and to each other—by volunteering for the Obama campaign, spending election day on a Rabbed truck in Philadelphia, assisting and entertaining voters.

So when Ferguson heard about an essay contest sponsored by the Presidential Inaugural Committee, which offered “Tickets to History” for 10 supporters who could explain what the inauguration of Barack Obama meant to them, he jumped at the chance to enter. “I wrote about why we work in education, how the inauguration symbolized such an important shift in the United States,” Ferguson says. He also promised to pop the question at the inauguration.

That did the trick. Three days before the big event, Ferguson learned that he and Smith were invited to attend the inauguration, and many of the surrounding VIP events. The couple’s magical moment came just after Obama finished his inaugural address, when Ferguson dropped to one knee and made his proposal. Through tears, Smith said yes.

As spring slipped to summer, and the couple’s August 15 wedding date fast approached, Ferguson balanced his wedding preparation plans with his law school studies and his work as a graduate intern for Baltimore City School CEO Andres Alonso. In that role, which he’s held for two years, Ferguson has worked directly with Alonso in reorganizing the central office as funding is decentralized.

“What we’re doing is high level policy reform,” Ferguson explains. “During my first year, the focus was on fair student funding—shifting money from the central office to the schools, so that they can make important decisions about how to spend it.” In year two, he says, efforts broadened to include restructuring—including layoffs—of the central office.

Fiscally Smith has worked just down the hall, as special assistant to Alonso’s chief of staff Tisha Edwards ’91. Ferguson says he’s been inspired in his work because both Alonso and Edwards are lawyers. “I think I connect with them,” he says. “There’s a way that law school teaches you to think, to approach things from every angle, to attack a policy from each stakeholder’s viewpoint.”

For Ferguson, who was also selected this spring to the prestigious Maryland Law Review, the work with CEO Alonso wasn’t the only thing that kept him busy. Just days after returning from the Inauguration, he and Smith learned of a proposed state budget cut to city schools. “We decided to do something about trying to restore the budget for our kids in Baltimore City and we saw our opportunity to deliver our own message of hope and our ability to contribute,” he says. The couple launched “Maryland Ed Equity,” and ultimately hand carried 75 letters, signed by TFA teachers, to Annapolis to present to the Governor.

“Without my experiences with TFA, the law school, the election of President Obama, proposing to Lea, and our experiences at the inauguration, we would never have had the courage or insights to start Maryland Ed Equity,” says Ferguson. “My take away message from all of these wonderful events is that you can’t just wait for change to happen, you have to make change happen.”

—Martha Thomas, with Bryan Pugh

Community Faculty and Student Activities Career Survey Sparks “Call to Action”"
FROM YOUR FIRST CONVERSATION with Phoebe Haddon, it’s quickly apparent why she is universally described as a great listener by colleagues, friends, and family alike. Her smile is broad and luminous, her laughter uninhibited and contagious. She leans slightly forward across the tabletop, maintains a steady contact with her warm, dark eyes, and nods, gently encouraging you to go on. And an interview intended to provide the University of Maryland School of Law’s new Dean with an opportunity to hold forth about herself – at length and without interruption – quickly becomes a conversation in which she listens almost as much as she speaks.

“To listen well is as powerful a means of communication and influence as to talk well,” said John Marshall. Dean Haddon’s record of leadership and the broad respect she enjoys throughout the legal profession bear out the words of the U.S. Supreme Court’s first Chief Justice.

Revealingly, the people she’s most interested in hearing from are those who disagree with her.

“I’m always going to listen to what you say. I’m not afraid to engage the thoughts of others. They may be helpful in fixing what I’m doing wrong,” Dean Haddon says, reflecting two other aspects of her personality repeatedly identified by those who know her best: self-confidence and respect for the views of others.

Over the last three decades, she has employed these strengths to improve institutions ranging from the American Bar Association’s Council of Legal Education and Admission to the Bar, to the Redevelopment Authority of the City of Philadelphia, to the American Law Institute-ABA Committee on Continuing Professional Education.

“Dean Haddon has been recognized as a national leader for years,” says former dean of the University of North Carolina School of Law Judith Wegner, who co-authored the Carnegie Foundation for the Advancement of Teaching’s 2007 landmark report, Educating Lawyers: Preparation for the Profession of Law. “Maryland Law’s unique strengths provide a perfect opportunity for Phoebe to employ her experience and vision for improving legal education in a way that will position the School even more prominently within the legal profession and the legal academy.”

The School of Law’s new dean, a national leader in legal education, is known for engaging the thoughts of others, then acting decisively to move things forward.

By Jamie Smith

Sounds of Progress

By Jamie Smith

The School of Law’s new dean, a national leader in legal education, is known for engaging the thoughts of others, then acting decisively to move things forward.

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Phoebe has a philosophy that participation and collaboration are key to the deliberative process. She believes that making things happen after the deliberations are over, says Joanne Epps, Dean of Temple University's Beasley School of Law and a faculty colleague of Haddon’s for more than 20 years. “Some people have great ideas, but can’t go from the idea to its execution. Phoebe is committed not only to arriving at a great idea but also ensuring that it is acted upon.”

A strategic thinker who is deeply engaged in developments in higher education and the legal profession, Dean Haddon is in the beginning stages of organizing a strategic plan for the School of Law. Characteristically, this planning process has begun by listening. She has conducted a retreat with her deans, has begun to meet with members of the Board of Visitors, and—after hosting a breakfast for all Law School faculty and staff on the morning of her first day at Maryland—now facilitates the process of holding one-on-one interviews with every member of the faculty and law school administrators. And while Dean Haddon's plan for the Law School ultimately will reflect the shared views of a wide range of constituents, it will no doubt be shaped by her own vision for the future of legal education.

When the Carnegie Report was published in 2007, its challenge to law schools to focus more on developing students' ethical skills and commitment to justice was highly influential and groundbreaking. Dean Haddon had issued a similar call almost 15 years earlier. In “Education for a Public Calling in the Twenty-First Century,” 69 Washington Law Review 573 (1994) she wrote that law schools “have an opportunity to define good lawyering … as a public calling which emphasizes a professional obligation to promote equality in the legal system … to clarify the values important to the practice of law in contemplation of a more pro-active public role.”

Today, she believes more firmly than ever that lawyers’ moral obligations to advance justice extend far beyond their responsibilities as client advocates and officers of the court. “That doesn’t describe what I believe to be the richness of lawyers’ societal obligations, which can be very broadly and richly defined, and clearly includes something more than simply following the rules of the court,” she says.

In her article 15 years ago, Haddon cited Maryland Law as one of the few institutions that was addressing those issues. Today, Dean Haddon says the School is positioned to be a leader in reshaping not only legal education, but perhaps the legal profession itself. Location, prominence in clinical education, engagement in public service, and an outstanding faculty—committed to excellence in teaching and dedicated to scholarship that searches for solutions to real world problems—all play a part.

“Our location provides a tremendous opportunity to be part of not only a metropolitan statewide conversation, but a national and global conversation,” she says. “We can help define what justice is, and solve problems in ways that recognize the complexity of today’s society. And we can be leaders in thinking creatively about the roles of teachers and scholars, of students, and the legal profession in today’s world.”

A fourth-generation lawyer and educator, Dean Haddon says it was clear from childhood that she would either study law or become an educator, but in her family, she says, “I was the first one who did both.” Her father Wallace James Haddon, a dentist, moved the family in 1955 from Hampton, VA, to Passaic, NJ, after identifying it as a city where an African American could establish a substantial professional practice. Dean Haddon’s mother began her career as a mathematician at the National Advisory Committee for Aeronautics (NASA’s precursor), then became a junior high school math teacher and high school guidance counselor when the family moved to New Jersey.

Throughout Haddon’s middle class childhood, belief in the importance of education was a core value of her family. So, too, were a commitment to excellence and the determination to overcome any obstacles that might deter that pursuit. Dean Haddon points in particular to her grandmother, Phoebe Bassette, as someone from whom she inherited more than her name. Once, Bassette—notoriously late and frequently trying to juggle 20 things at once—was pulled over for speeding down the street in her hometown of Hampton. It was the 1940s, and undaunted by his badge or his race, she told the white police officer of this small southern town, “I’m sorry, but I have some place to go. If you need to talk to someone, my husband’s office is right down the street,” and kept on going.

“I do that sometimes, too. I get so involved in what I’m doing that the fact that there might be some barriers or things that are in the way don’t even occur to me as stopping progress,” says Haddon.

While in high school, Haddon took a month-long trip to France with a student group, engendering a lifelong love of travel that has taken her to every continent except Antarctica and Australia. At Smith College, she earned a degree in government, with minors in economics and African American studies. The experience was so important to her, that she remained deeply involved in the life of the College, serving on the Board of Trustees for a decade, including a term as Vice Chair. After moving to Pittsburgh in the early 1970s, Haddon applied to several nearby law schools. One school offered her admission, as well as scholarship support through an affirmative action program that stipulated its...
participants take one fewer course than other students. She still bristles at the memory. “Though well intended, this requirement was based on some notion that African Americans would not do as well, or meet the same standards, as other students. My background gave every indication that I would do as well, or even better than those gross stereotypical predictions suggested,” she says.

“That kind of broad, overly inclusive assumption does not sit well with me. People have to be judged as individuals. That doesn’t mean we don’t think about how various groups have been discriminated against and try to address persistent structural barriers that continue to impede some groups from attaining equality. But you can’t build your response to discrimination without being mindful of the subtle influence of stereotypes.”

Dean Haddon instead enrolled at Duquesne Law School, where she received a full scholarship and went on to become editor-in-chief of the Duquesne Law Review. After graduating in 1977, she served as a law clerk for the Hon. Joseph F. Weis, Jr., United States Court of Appeals for the Third Circuit, and practiced at Wilmer Cutler & Pickering in Washington, DC, before joining the faculty at Temple law school in 1981.

At Temple, Haddon taught courses on constitutional law, torts, products liability, and race and ethnicity. She established herself as a national scholar on constitutional law and tort law, co-authoring two casebooks in those fields, and published numerous scholarly articles on equal protection, jury participation, academic freedom, and diversity.

“Whether it’s writing about torts or con law, or teaching a seminar on the jury, there’s always been a kind of civil rights edge to what I’ve been doing, my focus has always been shaped by a belief in equality, particularly respect for the rights of others,” says Dean Haddon. “I don’t fit the model of scholars who get interested in one particular substantive area of study and use the classroom and law journals to express their views divorced from the context of the lived experiences of people — I am particularly concerned about approaches that take account of people who are marginalized in the system.”

Haddon’s scholarship is a continuation of her family’s tradition of social activism. Her father was an active leader in the NAACP. Her aunt, Rachel B. Noel, led public school desegregation efforts in Denver, culminating in the U.S. Supreme Court’s ruling in Keyes v. Denver School District No. 1.

“My focus has always been shaped by a belief in equality, particularly respect for the rights of others.”

—Dean Phoebe Haddon

Outside the academy, it’s given her an opportunity to look at the challenges of legal education and the profession not just as a member of one school, or even as an academic, but from a very broad perspective,” says Paul Bekman, Chair of Maryland Law’s Board of Visitors. “At a time when law schools are facing a scarcity of resources, and the legal profession is rethinking ways of serving clients, she is the right person at the right time to be Dean of our Law School.”

Other law schools had pursued Haddon for deanships in the past, but she always demurred. Her experiences had made her an expert in not only legal education, but in law schools themselves. Dean Haddon could tell when the fit just wasn’t right, or if an institution wasn’t poised for future growth. From her first visit to Maryland Law, she knew she had found a new home.

Haddon envisions a Law School that enhances its quality by making itself more accessible to students from a wide range of racial, educational, and economic backgrounds. She wants to broaden the definition of faculty excellence to include a diversity of talents, from theoretical scholars, to outstanding classroom teachers, to policymakers, to practitioners providing experiential learning opportunities consistent with the mission and rich tradition of the law school. In so doing, she wants to attract people who share her vision of a school both accessible and elite in its stature among excellent law schools.

“There are individuals here — faculty, staff, and students alike — who have the qualifications to go anywhere. But they’ve made a commitment to Maryland because they believe in what we can accomplish together. I see that as very different from many other institutions,” Haddon says. “When I hear them talk about their reasons for choosing to be at Maryland, it’s very energizing to me. It reinforces my belief that I made the right choice in joining them.”

“Whether it’s writing about torts or con law, or teaching a seminar on the jury, there’s always been a kind of civil rights edge to what I’ve been doing, my focus has always been shaped by a belief in equality, particularly respect for the rights of others.”

—Dean Phoebe Haddon

New faculty member at Temple Law

With daughter Cara and husband, Frank McClellan
Who Will Watch the Watchers?

Securing Constitutional Rights in the Security State

By Mike Field
Illustration by Martin O’Neill

Traffic is terrible. Late for a meeting, your mind is working overtime on how to adjust your presentation. Suddenly, there’s a clearing ahead. You hit the gas—and fly right into a speed trap. Blue lights flash in your rearview mirror.

On the side of the road the police officer takes your license and registration, returns to his car, and feeds them through an optical scanner. While you sit fuming your name is being checked at a remote government computer center that keeps track of the websites you visit, the books you buy online, your long distance phone bills, and hundreds of other pieces of both public and private information.

Something in your past suggests behavior that authorities deem suspicious: perhaps your name was included on a suspicious activity report for using binoculars and taking pictures “with no apparent aesthetic value” in Los Angeles, as police policy there now dictates. As you wait, two more squad cars appear, their lights flashing, and the officer—now sounding a little nervous—says, “Please step slowly out of your car and spread your arms.”

It may sound like a futuristic dystopian nightmare, but the possibility of this kind of scenario is closer to reality than many people imagine. Government run or sponsored data clearing houses are now active in nearly every state. Known as fusion centers, they are funded by the federal government as part of the national response to the 9-11 terrorist attacks. Originally envisioned as a means of sharing anti-terrorism intelligence among federal, state, and local law enforcement agencies, fusion centers are generally unknown to the public.
“The horse is out of the barn. Fusion centers are not going away. So what do they do? We are very concerned that because there are ambiguous lines of authority there is no policing mechanism in place to prevent abuse.”

—Michael German, ACLU policy counsel
standing the risk. “The reservoir metaphor suggests we underestimate the dangers inherent in damming up and collecting data,” Citron says, reflecting her article’s central premise that new economic eras bring about new concepts of personal harm.

If large uncontrolled databases pose risks—as recurring stories of identity theft and wide scale security breaches would seem to indicate—then the danger becomes even more acute, says Citron, when the scope of information collected is hidden behind veils of national security. “What we are seeing with fusion centers is mission creep. They started out as anti-terrorism tools, but now we are seeing their mission changed to the protection of all infrastructure from all risk. The danger is that they are combining unproven theories of data mining with use of private databases that may or may not be accurate. If the data used is incorrect then the results are going to reflect that. It’s the old story of garbage in, garbage out.”

But the centers are not without their defenders. According to Sean Kates ’07, a law and policy analyst in the Law School’s Center for Health and Homeland Security, first responders such as police, fire fighters, and other emergency personnel are especially likely to see benefits in the centers. “What falls apart first in a large scale emergency is communications,” he says. “First responders look upon fusion centers as a positive because they provide a reliable central source of good information. I have had police officers verify to me that fusion centers have been helpful to them in looking across county lines, and across differing criminal records systems, to aid in investigations. From that perspective it’s a good concept,” says Kates.

Robert Riegle, who directs the state and local program office of the Office of Intelligence and Analysis, pointed to two recent success stories involving law enforcement, in testimony last April before a subcommittee of the Committee on Homeland Security. In one, a DHS operational specialist coordinated with federal officials on an Amber Alert for a 3-year-old girl being taken out of the country by a suspect wanted for rape and murder. Using information and contacts gathered through a California fusion center, he was able to track the youngster to a flight bound for the Netherlands; she was ultimately recovered unharmed. In the second case, the Denver fire and police departments worked with a Colorado fusion center to track and apprehend a suspect wanted for seven different fire-bombings of SUVs.

Skeptics note, however, that a good concept does not always translate into good practice. In order to truly understand the dangers posed by fusion centers that operate with virtually no public awareness or oversight, we must first invent new ways of describing our rights, says Professor of Law and Government Mark Graber. “The great danger is that very often we think of constitutional rights purely in traditional paradigms that don’t reflect current reality. For example, we think that freedom of speech means an individual can stand on the corner and denounce the government without fear of interference. But today free speech often involves someone on the Internet. How do we ensure free speech is not inhibited in this environment?” Fusion centers, he says, pose a special challenge in this new world. “In the old days the concept of privacy meant that there was information that the government couldn’t learn about you without going to court to obtain a warrant. And then they had to go look. In the past if a government official asked me, ‘What have you been reading?’ I would say, ‘None of your business.’ Now they don’t need to go look, they already have the information. From the patterns on Amazon they know your reading habits. So it becomes crucial that they can’t use that information.”

But that may require entirely different legislation than the current regulatory structure concerning individual privacy and electronic data. Congress passed the Privacy Act of 1974 after numerous hearings and a number of reports on such topics as national data banks, commercial credit bureaus, and the effect of computers on personal privacy. In many ways it is a bill very much of its time, reflecting an era before the Internet, when only the government could have the kind of massive concentration of computers needed to keep and search enormous databases of private information. When signed into law the bill established a code of fair information practices governing the collection, use, and dissemination of personal information maintained in systems by federal agencies. Information about an individual could not be disclosed from these systems without that person’s written consent, or by specific statutory exception; and individuals were enabled to access and amend their records in the case of faulty information. In theory, at least, the Privacy Act protects citizens from an intrusive, all-seeing government.

In practice, the Act protects citizens from an intrusive, all-seeing government. “The ACLU report points out that even if fusion centers obtain the unrealistically high accuracy rate of 99 percent, in the U.S. population of 300 million citizens with a hypothetical 1,000 terrorists at large, 990 of the terrorists will be ‘caught’—as will 3 million innocent Americans. ‘We have decided we want to live with more false positives than negatives,’ says Citron. ‘This approach relies on crude algorithms which mean that, for a large number of people, you’re going to be pulled aside.’”

If, as most Roundtable panelists agreed, “the horse is out of the barn” for fusion centers, then the need for effective legal oversight and vigilant public scrutiny is compelling. The Roman poet Juvenal once asked, “Who will guard the guardians?” Ultimately, the experts concluded, there will need to be some kind of online presence “watching the watchers.”
Figuring out what led to today’s economic mess could hold the best clues for moving forward—and averting the world’s next financial crisis.

By Patrick A. McGuire

Some call it a black hole. Others use the more sinister metaphor of “a dark market.” Robert Rhee, an associate professor at the University of Maryland School of Law who teaches corporate finance and corporate ethics says flatly “so much of the financial universe out there is unknown territory.”

His law school colleague, Prof. Michael Greenberger, the former federal regulator and now oft-quoted explainer of the economic meltdown for NPR and 60 Minutes, speaks of “a shadow market.” This is a market, he says, that is understood by few, including top Wall Street insiders. Many of them, he says, had such little appreciation for the details of their risky practices that they not only caused unprecedented losses in the national and world economies, but wiped out tens of millions—in some cases hundreds of millions—of dollars from their own personal wealth.

“It’s crystal clear,” says Greenberger, “that except for some of the people doing the trading, at the highest levels the CEOs, the top officers absolutely did not understand what was happening.”
Exactly what was happening? As policy makers in Washington sift through the debris of derailed derivatives and default swaps for answers to that question, Maryland School of Law faculty such as Greenberger and Rhee see a common cause for the meltdown.

“The biggest legal aspect to what’s happening now is the lack of regulation and the ineffectiveness of regulations,” says Rhee. “Aside from that, the larger causal mechanisms of this crisis remain outside of the law.”

Of course, most mechanisms require lubrication for them to work. In this case, according to a Maryland Law graduate who is now a prominent consultant to the financial industry in regulatory and governance services, the gears of this crisis were greased by bad judgment at the highest levels of government.

“The rampage in derivatives was an outgrowth of the Fed’s ‘easy money’ policies,” says Elyn Brown ’80, a current member of the board of directors of NYSE-Euronext, Inc., the publicly traded entity that owns and operates the New York Stock Exchange and the pan-European stock exchange.

She speaks of “the federal legislative and executive branches’ ill-thought-out and mostly-uncoordinated promotion of home ownership as an absolute good,” as further fuel to the meltdown. That, and what she sees as Congressional resistance to adequate oversight of Fannie Mae and Freddie Mac.

Brown, the Securities Commissioner for the State of Maryland from 1987 to 1992, cites economist Robert Samuelson who “gives perhaps the most organic explanation of the genesis of today’s crisis: ‘Taking financial stability for granted, money managers, bankers, traders, government officials and ordinary investors did things that destroyed financial stability.’

Once the derivative market took off, adds Brown, “extending to the over-the-counter market so that small town pension funds found themselves—perhaps unknowingly—in the market, derivatives then became a major part of the problem and contributed enormously to the market’s plunge.”

President Barack Obama said that the financial crisis has been a result of “gaps and weaknesses in the supervision and regulation of financial firms [that] presented challenges to our government’s stability of our financial system.” In response, the Obama administration introduced a proposal to reform the regulation of financial markets with five key objectives: to promote robust supervision and regulation of financial firms; establish comprehensive supervision and regulation of financial markets; protect consumers and investors from financial abuse; improve tools for managing financial crises; and raise international regulatory standards and improve international cooperation.

Since President Obama’s plan was proposed in June, many experts who have analyzed the crisis point to regulation as the solution, financial industry expert Christine Edwards ’83 cautions that simply creating more regulations won’t help.

“As a country we tend to legislate for the last problem and not for the next,” says Edwards, whose practice as a partner in the Chicago firm of Winston and Strawn focuses on regulatory policy issues in the securities and banking industries. “Trying to look forward to determine what is the next meltdown ready to happen is much more difficult.”

The question of too much or too little regulation, she notes, or the type of legislation needed right now is less pressing than asking whether or not the right regulatory structure is in place to clearly inform and monitor key financial industry players and consumers. She points to a current “patchwork quilt” of regulations that duplicates efforts between federal, state, and local agencies.

Perhaps the gaudiest patch on that quilt—and one that most financial experts now point to as an immediate cause of the current economic chaos—was the passage in December 2000 of The Commodity Futures Modernization Act. A bill introduced by former Republican Sen. Phil Gramm, then chair of the Senate Banking Committee, it was embraced by both sides of the aisle, passed by wide margins and was signed into law just before Christmas by President Bill Clinton.

In effect it deregulated the trading of derivatives and default swaps by telling the Securities and Exchange Commission (SEC) and the Commodities Futures Trading Commission (CFTC) that they had no authority at all over them.

“No one is complaining that stock trading put us in this meltdown, or that regulated futures trading put us here,” says Greenberger, who served on the CFTC from 1997 to 1999. “It’s this dark-market derivative product, these private, bilateral transactions. Over the counter derivatives are today an $800 trillion notional value market. We [the CFTC] thought when it was $27 trillion it ought to be regulated. We lost that battle.

Derivatives are not new. Rhee says that derivatives have a Jekyll-Hyde duality. They can be used to hedge (mitigate) risk, but they can also be used to magnify risk-taking. As opposed to an investment in a commodity itself, a derivative is a bet on the future price of some other asset or index, such as stocks or interest rates. The plaintiff instruments are futures and options. While investing in the standard commodity future remains regulated, newer non-traditional forms such as credit default swaps are private transactions that are legally traded “off the books” and subject to no official scrutiny.

That the risk-hedging derivative suddenly became an economy busting risk of its own derives from its use as a hedge against the failure of investments in sub-prime mortgage securities. According to Greenberger there is more investment money today tied up in derivatives than in stocks and bonds. Given that the supposed fail-safe factor of sub-prime mortgages—housing prices will never fall—actually failed, and given that no one was monitoring the domino effect of thousands of sub-prime mortgage foreclosures on other aspects of the economy, the risks taken seem now in hindsight to be so obviously reckless.

“There has to be a relationship between risk and return,” notes Rhee, a former New York and London investment banker with a Wharton MBA. “But proper risk taking is where Wall Street fell down.”

Rhee, who served as vice president in the investment banking arm of Swiss Re in New York, as well as an investment banker with UBS Warburg and DeutscheBank Alex. Brown, an investment banker at UBS Warburg in London and a real estate investment banker at DeutscheBank Alex Brown in Baltimore, believes unwise risk taking was a product of a subtle change in the way Wall Street firms have organized themselves in the last several decades.

“A while ago,” he says, “Wall Street was made up of private companies that had their own capital. And it used to be you were using the firm’s capital so it was preserved in a way that made sense. People had a greater interest in their stock in the company. The thought was I can’t blow up my own firm because a large part of my wealth is tied up in it.”

But, he notes, many of those firms began going public or were merged with larger commercial banks with large balance sheets.
“Now it’s shareholder’s capital you’re using,” says Rhee. “The capital you can invest is whatever the executive committee or management will allow you to use in terms of your own trading activities. The risk-to-return relationship got skewed heavily. It encouraged excessive risk taking. That explains AIG [American International Group] It was as if people were saying, ‘What we’re doing now is just printing money. The more policies we write the more we sell this type of stuff. My year end bonus will be X million.’ Under those circumstance, people inside that group were probably getting caught up in this.”

It was, he says, a classic house of cards and the incentives were perverse—even substantially employee-owned firms like Bear Stearns were not immune to the new psychology of risk-taking.

“We were in a bubble. The bubble psychology is that you don’t think you’re the person without the seat when the music stops. It’s always going to be someone else. I can’t imagine that these bank executives were immune from that type of psychology.

“Don’t forget some of these bank executives had hundreds of millions invested in their own firms, so if it blew up, it blew up their entire net worth. It leads me to think they knowingly engaged in excessive risk taking without knowing how excessive their risk taking really was. They did not think the risks would be magnified down every chain of every transaction.”

“How could supposedly savvy financiers so delude themselves? Greenberger says it was shockingly simple.

The sub-prime mortgage loans that were bundled together and sold as securities and collateralized debt obligations were, like most loans, classified as senior, mezzanine and junior debt. As such they received credit ratings from organizations such as Moody’s and Standard and Poor’s.

“They got Triple A ratings for the most secure senior debt,” says Greenberger, “but that’s senior debt of sub-prime mortgages, given to people who can’t afford to pay back. But many of the ‘brilliant minds’ are believing they’ve got Triple A and Double A paper and they believe these are conservative, solid investments and they sell them as that. People who buy them think they are conservative, solid investments, not understanding it was a Triple A rating of junk.”

“The frosting on this devil’s food cake was the credit default swaps. Those who granted the sub-prime mortgages, and those who brought them, took out what was essentially an insurance policy—so that if the mortgage holder defaulted, the insurance paid back their investment. Though these policies were issued by insurance companies, they were not called insurance because then they would fall under state and federal insurance regulations. Labeled credit default swaps, they helped move the delusion from the mortgagees to the insurers.

“They thought, ‘We’re getting premiums for this insurance for which we will never have to pay anything because there are no risks,’” says Greenberger. “It wasn’t just AIG. Everyone was issuing insurance, calling it swaps and not setting aside reserves and it blew a multi-trillion hole in the economy. They never thought housing prices would go down. When housing prices went down the insurance got triggered. But unlike regulated insurance, they never had to set aside reserves to pay those policies. And you’re talking about a minimum of $25 billion in insurance.

“The insurance became the ultimate factor in self-delusion, says Rhee. “I think the insurance fed into the psychology and affected executive opinions as to how much risk they’d exposed themselves to.”

He says a former colleague on Wall Street who specializes in bond insurance, told him recently, “We didn’t know X would lead to Y would lead to Z would lead to a would lead to B. We knew X was a problem. Or Y was a problem. But we didn’t connect all the dots.”

Wall Street traders understood the individual problems, says Rhee, “but there was no one sitting at the top saying ‘Okay, I see the trail of transactions and if something happens the trail of transactions will fall in a domino pattern like this.’”

“In the meantime, a unified strategy for resolving the problem has remained elusive. Many want to concentrate on and punish villains. Banks decry talk of new, day-to-day regulatory monitoring and insist Wall Street be trusted to voluntarily clean up its mess. Reformers want tough new legislation enacting more restrictive regulations. Greenberger is concerned that President Barack Obama’s economic advisors are too close to Wall Street and are taking half-steps toward re-regulation.

“They want a private clearing house,” he notes. “I say that’s not enough. You have to have public exchange trading for these derivatives so you have transparency. Not only to The Fed but to the public as a whole. It gives you an added set of regulatory tools that are being overlooked.”

One proposal would create a systemic risk regulator—someone whose job would be literally to oversee these myriad off-the-books trades and find potential danger points or dominoes about to fall.

“The concept is totally appropriate given the level of sophistication of institutional products,” says Edwards. “What happened in the system that caused meltdown was the piling-on of risk from several different segments of the market simultaneously that were not looked at as a cumulative matter. They acted as accelerants rather than as what they were designed to do.”

Brown agrees that the general idea of regulating for systemic risk seems unavoidable. “now that we actually come face-to-face with the realities of our interconnected financial system.” However, she says, “We need to think not only about counterpart risk and all of the relationships that made Bear Stearns, Lehman Brothers, and Merrill Lynch so vulnerable, but also to the nature of global systemic risk, across institutions and markets worldwide.”

The entire issue of risk regulation, she says “is perilous territory—the danger being that over-regulation will impede the innovation necessary to grow our economy. By definition, she says, innovation of any sort requires risk.

“It is one thing for government regulators to be concerned about, and more to regulate outrageous leverage ratios,” says Brown. “It is quite another thing to ask a regulator to assess the risk inherent in a new financial product or service. Having been a regulator myself I know very well that regulation is a defensive art form. Regulators aren’t out there in the market thinking up new products and services. The regulators’ mission is to prevent problems. Thus, the regulators’ inclination is to say ‘no’ rather than risk being wrong by embracing anything new and different.”

When Professor Michael Greenberger first offered his course on “Futures, Options, and Derivatives” two years ago, just 22 students applied for 25 spaces and the course was only offered in the spring. Flash forward to 2009: 90 students enrolled and the class was offered both semesters.

That number includes Max Romanik, who said the class was especially gratifying because the subject matter is ripped from headlines. “It’s a great experience when the professor can walk in with a statute that came off the presses that day. You don’t have to study byosynthesis. The real world is happening all around you right now,” he noted.

The ongoing global financial crisis has clearly spurred an increase in student demand for law courses on derivatives, the complex instruments that crippled credit markets and wreaked havoc on bank balance sheets. Students are “hungry to decipher how derivatives contributed to the crisis and excited about the prospect of being involved in the regulatory overhaul that could lead to a new phase in the history of global finance,” according to a May 7 news article by Reuters, which profiled Greenberger’s course at the School of Law.

Echoing the sentiment of many of her classmates, Meaghan McCann told Reuters, “I wanted to understand how it happened and what it will mean for our future ... and what we can do to make sure it doesn’t happen again.”
During uncertain times, like those we live in today, it’s tempting to look to the future for reassurance ... and for answers to the problems currently besetting us. Are there ways to temper the downsides of technology’s unrelenting march forward? Can we find a way to fix the global financial mess we find ourselves in?

In the essays that follow, two Maryland Law scholars bring thoughtful analysis to these issues. Danielle Citron shows how “cyber mobs” have brought hate crimes to a frightening new level, and suggests how the law can be employed to better protect victims. And Robert Rhee looks at what went wrong in the world of investment banking—and holds out hope for the emergence of a new kind of business model.
The internet is a double-edged sword. While it can facilitate the empowerment of people who often face discrimination, it can also be exploited to disenfranchise them. Anonymous mobs employ collaborative technologies to terrorize and silence women, people of color, and other minorities, effectively denying them the right to participate in online life as equals.

Consider the case of Bonnie Jouhari, a civil rights advocate and mother of a biracial girl, who was targeted by a white supremacist website. The site posted her child’s picture and Ms. Jouhari’s home address and showed an animated picture of Ms. Jouhari’s workplace exploding in flames next to the threat that “race traitors” are “hung from the neck from the nearest tree or lamp post.” After Ms. Jouhari and her daughter began receiving harassing phone calls at home and work, she left her job and moved. Today, neither she nor her daughter maintains a driver’s license, voter registration card, or bank account because they fear creating a public record of their whereabouts.

Another example: Kathy Sierra, a programmer and game developer, who maintained a popular blog on software development called “Creating Passionate Users.” In 2007, anonymous individuals attacked Ms. Sierra on her blog and two other websites. Posters threatened rape and strangulation. They revealed her home address and Social Security number. Doctored photographs featured her with a noose beside her neck; another depicted her screaming while being suffocated by lingerie. After the attack, Ms. Sierra canceled speaking engagements and feared to participate in online life as equals. When online mobs attack individuals because of their race, gender, or other protected characteristic, they damage individuals, their groups, and society in unique ways.

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Reflections on the Financial Crisis and Investment Banking

By Robert J. Rhee

THE FINANCIAL CRISIS OF 2008 HAS PERMANENTLY changed Wall Street. Conventional wisdom says that Wall Street—the “bad guy” in the simple narrative—enabled the crisis by providing the financial technology, primarily securitization and derivatives, that brought the global financial system to its knees. I don’t disagree, except to suggest that there is nothing intrinsically wrong with these financial instruments. But I take a slightly different perspective on the relationship between Wall Street and the crisis. With the caveat that in hindsight we are all an Einstein or a Buffett, I posit that one of the root causes of the crisis (and there are many) is the way Wall Street organized itself during the 1990s and beyond.

During this period, Wall Street was consolidating at an aggressive pace. The consumption of firms was startling. Consider these venerable names from the not so distant past: Alex. Brown, Bankers Trust, SG Warburg, Donaldson Lufkin & Jenrette, Montgomery Securities, First Boston, JP Morgan, Salomon Brothers, Smith Barney, Paine Webber, just to name a few. Many of these firms were consumed by commercial banks, which had enormous balance sheets but lacked the intellectual capital and operational scale to break into the top-tier of investment banking. These banks included Deutsche Bank, UBS, Credit Suisse, Swiss Bank, Barclays, Bank of America, Chase Manhattan, and the predecessors of Citigroup. These firms brought an enormous amount of new capital to the activity of investment banking.

Like most financial executives I accepted the idea that global finance required intense concentration of capital and a global network of intellectual capital and cross-selling capabilities within a single-firm structure. I was wrong. And so too were the titans of Wall Street who engineered this mega-catastrophe. The consolidation combined stable commercial banking with volatile investment banking. The investment banking business now had far more capital. During this time as well, vast pools of private capital, private equity and hedge funds, also came into prominence and were searching for returns. With the convergence of these factors, Wall Street was primed to take larger risks.

In hindsight as I try to make sense of what is happening now, my moment of insight should have been a valuation study I performed for a large financial institution. The question concerned the value of a large fixed income trading operation, the type of activity that is at the epicenter of this crisis, are and should be lowly valued. Even then, this made intuitive sense: Such activity requires large amounts of capital and are highly risky, thus necessarily resulting in low valuations.

When investment banks were independent, capital was precious and judiciously applied. True, Wall Street is littered with firms that self-destructed as a result of poor risk management. But notable accidents and malfeasances aside, the risks of proprietary trading were contained by an appreciation of risks that could blow out one’s capital. This fear instilled discipline. In the past, Wall Street had focused on high value, high return activities—some of which such as mergers and acquisitions advisory require little capital. The balance radically changed when Wall Street consolidated in the 1990s. Firms were getting larger, fueled by an occasional shot of anti-regulatory steroids. A landmark event was the conversion of Goldman Sachs from a partnership to a public company. The logic is apparent: bigger meant more capital; more capital required greater returns; greater returns are achieved only with greater risk. There are only so many highly profitable, lower risk opportunities to go around. Where would the returns come from? The banks had to take bigger risks, and this meant that the focus would turn to trading—that lowly valued, highly risky business, which was “juiced up” with high leverage to yield greater profits. Just as there was a global credit bubble that fueled the housing bubble, there was a glut of capital on Wall Street, with commercial banks, investment banks and private capital all searching for returns. The resulting financial pressures transformed Wall Street from a value-added, intermediation service provider to an enormous hedge fund.

The organizational changes on Wall Street left it highly vulnerable to a systemic shift in market volatility, just the way a decade before Long-Term Capital Management was vulnerable to the abnormal disturbance in the fixed income market triggered by the Russian debt default crisis. This time around, in the wake of the housing crash and credit illiquidity, it is no surprise that the first casualties were the independent investment banks that did not have the capital to withstand a catastrophic shock: Bear Stearns, Merrill Lynch, and Lehman Brothers. These firms did not have the balance sheets to survive a financial shock, or at least to delay an ultimate demise. I would never have thought that in one fell swoop, these firms would go the way of the dinosaur. Nor could we have foreseen that Goldman Sachs and Morgan Stanley, the two surviving patriarchs of American investment banking, would be forced to convert to banking holding companies.

So what is the future of investment banking? Any answer is speculative. We know that financial institutions cannot be allowed to take the type of risks they took. In hindsight, it was a continuing game of Russian roulette and ultimately the odds caught up. We do not know whether universal banks will voluntarily divest their investment banking operations. My guess: probably not. Investment banking is an alluring activity, and there may still be an appeal of cross-selling financial products under a one-firm umbrella. In any event, it seems that the genie is out of the bottle: Investment banking is no longer the prime domain of American firms, and the financial market is truly globalization. We can only better regulate the risk-taking activities.

My hope is that, from the ashes of the 1990s and the financial crisis of 2008 Wall Street, will come a different business model. Market forces have brought down an industry of titanic scale, and Wall Street is certainly far smaller now than it was just a year ago. There is no longer a glut of capital in search of returns (indeed we have the opposite problem in that capital is seeking shelter from risk). In life as in fashion, what was once old is sometimes the “new” new. A possible future of investment banking may be a return to the old model of focusing on intermediation services, high profitability products, measured risk taking, and a renewed appreciation that capital is the lifeblood of a firm and it cannot be so easily staked. In any event, the crisis does not mark the death of Wall Street, or capitalism for that matter, but only its transformation into a new form.

Assistant Professor Robert Rhee has worked as a vice president in financial institutions investment banking at Swiss Re, as an M&A investment banker at UBS Warburg in London, and as a real estate investment banker at DeutscheBank Alex Brown in Baltimore.

MY HOPE IS THAT, from the ashes of the 1990s and the financial crisis of 2008 Wall Street, will come a different business model.
The Art of Imperturbability

Roger Wolf has been pivotal to the advance of Alternative Dispute Resolution.

By Martha Thomas

When Roger Wolf lived in Tunisia in the 1960s, he played basketball on a team in the hilly village of Le Kef, traveling with team members to nearby towns for games. A Peace Corps volunteer working on a public housing construction project at the time, Wolf recalls that the lessons on the basketball court were as valuable as his work assignment. As he got to know his fellow teammates and others in the community, he says, their differences—he was a Jewish American, a recent Harvard graduate living in an Arab country—didn’t seem to matter. “They knew me as a person foremost, and we were able to talk about issues in a way that wasn’t hostile.”

Whether Wolf arrived in Tunisia with an empathetic ear, or honed his listening skills while he was there, may be a kind of chicken-and-egg puzzle, but his ability to hear—and understand—both sides of an issue defines his approach to the law, and his popularity as a teacher.

Wolf, who retired from the School of Law last spring, served on the faculty since 1982. In 2001, he founded the Center for Dispute Resolution at the University of Maryland (C-DRUM), which has served not only the schools at the University, but courts and agencies throughout the state. He also ran the school’s mediation clinic. Last year, he was one of the first recipients of the Robert M. Bell award for outstanding contribution to Alternative Dispute Resolution (ADR) from the State Bar Association.

“Roger’s personal influence on advancing the acceptance of Alternative Dispute Resolution within the legal community cannot be understated,” says Rachel Wohl, executive director of the State’s Mediation and Conflict Resolution Office. “He was a pivotal leader at several critical turning points in the development of ADR in Maryland,” she adds, noting that Wolf was one of the key drafters of Title 17 of the nascent Maryland State Bar special committee on dispute resolution. The work launched his leadership efforts into ADR.

For Wolf, mediation and ADR has been a perfect fit. It has been described by a fellow mediation trainer, Harry Fox, as someone “who raises imperturbability to an art form.”

Says Wolf, “I like to think that I listen to people, and I can get people to listen to each other.” ADR, he says, is “not so much avoiding conflict as learning how to deal with it in a productive way.”

After the Peace Corps, Wolf attended law school at George Washington University, and went to work for the Neighborhood Legal Services Program as a Reginald Heber Smith Fellow. Advocating for tenants’ and consumer rights in Lyndon Johnson’s Washington, he says, was gratifying. “We felt we were on the side of what was right.”

Wolf went on to head the Clinical Law program at Catholic University, and took a hiatus from legal teaching to purchase a farm and operate a vineyard in Knoxville, MD, though he continued with private practice in Frederick. A few years after his return to teaching, at the University of Maryland, he volunteered to act as the reporter for the nascent Maryland State Bar special committee on dispute resolution. The work launched his leadership efforts into ADR.

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A Creative Problem Solver

Longtime dean James Forsyth shepherded a generation of students through times of crises.

By Martha Thomas

Such were the heartfelt accolades expressed by UMLaw students for longtime dean James Forsyth, upon his retirement last spring. In his role as assistant dean for registration and enrollment, Forsyth often encountered students during times of crisis—perhaps they were struggling to pay a tuition bill, or complete enough credits for graduation. In response, he was “flexible, kind, and open to creative problem solving, but not a pushover,” says Dawn Cobb, assistant dean for student affairs.

Forsyth joined the School of Law’s administration as assistant to the dean in 1969. At that time, most of the students were white males from Maryland, presided over by two deans and about 20 faculty members. (One of Forsyth’s duties was making sure the school’s manual typewriters were in order so students could type their papers and exams.) Today’s student body is much more diverse, both in terms of race and gender, as well as geographically, with more than 40 percent of students hailing from outside Maryland.

The shift has brought new expectations from students, says Forsyth. Previously, he says, “institutions could get away with marginal services. Students went to class and that was it.” Today, “the school expects more of itself. There are a number of extra-curricular and student activities. It’s more than just a place to go to school.”

Over the years, Forsyth was closely involved in these transformations. In the early 1970s, he was director of financial aid for the University of Maryland’s professional schools, and later worked as an admissions officer for the School of Law. In 1984, he became responsible for registration and student records, before moving on to lead the Office of Registration and Enrollment.

“As a student, you never realized all that he did to keep the Law School running,” says Kenneth Aneckstein ’96, a partner at DLA Piper in Baltimore who has taught estate planning and estates and trusts as an adjunct faculty member for seven years. “As an adjunct, I came to understand how just and wise he is. He takes into account the needs and concerns of various constituencies while keeping the School’s best interests at heart.”

One thing that never changed, says Forsyth, whose mission involved ensuring that students took and passed the required courses, is law students’ ability to frame an argument. “I sometimes admired it when students came into my office and presented a lawyer-like case to convince me of why I should let them do something,” he says. Though he didn’t always bend the rules, he says, “I could appreciate the validity of an argument well made.”

Judging from the outpouring of student responses at Forsyth’s retirement (gathered into a booklet by Cobb), he’ll be sorely missed. “He’s never one to seek the spotlight or be the center of attention,” wrote one student, “but he’s had a huge impact on the lives of students here.”

—Martha Thomas
The School of Law continues to attract leading legal minds to join its community of innovative scholars. Emerging and nationally known stars enhance the school’s outstanding academic reputation.

Promotions

Two faculty were recognized for their contributions to the law school with promotions this year.

DANIELLE CITRON, VOTED “BEST TEACHER” by the law school’s students in 2005, was promoted to Professor of Law and tenured. Her scholarly interests include information privacy law, cyber space law, and administrative law, with an emphasis on legal issues surrounding the government’s reliance on information technologies. Her 2009 article “Cyber Civil Rights,” in Boston University Law Review, was cited as “groundbreaking” and became the subject of an online symposium at the Concurrences legal blog. Other publications within the last year include “Law’s Expressive Value in Combating Cyber Gender Harassment” in Michigan Law Review, “Open Code Governance” in University of Chicago Legal Forum, and “Technological Due Process” in Washington University Law Review.

PETER DANCHIN was promoted to ASSOCIATE PROFESSOR. Before joining the faculty at Maryland in 2006, he was lecturer and director of the human rights program at Columbia University’s School of International and Public Affairs. He has served as a foreign law clerk to Chief Justice Arthur Chaskalson of the Constitutional Court of South Africa. His areas of interest are international law, human rights law, and comparative constitutionalism. His recent articles have been published or are forthcoming in the Colorado Journal of Transnational Law, the Yale Journal of International Law, and the Harvard International Law Journal. His most recent book, United Nations Reform and the New Collective Security (with Horst Fischer), was published last year by Cambridge University Press.

VISITING LAW SCHOOL ASSISTANT PROFESSOR RUSSELL MCCLAIN joined Maryland Law in 2006 as Coordinator of the Academic Achievement Program. Prior to joining the School of Law, he served as a Legal Writing instructor at Howard University. Professor McClain is currently developing a work in progress relating to the discharge of student loans in bankruptcy under the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005. His research agenda includes a follow up to this article, relating to the student lending paradigm generally, and, specifically, comparing student lending to predatory consumer lending. Professor McClain was recently honored by the University of Maryland Chapter of the Black Law Students Association as the 2006-2007 Alumnus of the Year. He graduated Order of the Coif from the School of Law in 1995, going on to practice civil litigation in Los Angeles, and specializing in entertainment, consumer, and bankruptcy law.

Three distinguished and highly qualified scholars and teachers have joined the School of Law faculty this year.

ASSOCIATE PROFESSOR OF LAW MICHELLE HARNER arrives from the University of Nebraska College of Law, where she served as an Assistant Professor of Law and was voted “Professor of the Year” by the upperclass students for two consecutive years. Harner is widely published and lectures frequently on various topics involving financially distressed entities and related legal issues. Her most recent publications include “Corporate Control and the Need for Meaningful Board Accountability,” (94 Minnesota Law Review forthcoming 2010); “The Corporate Governance and Public Policy Implications of Activist Distressed Debt Investing,” (77 Fordham Law Review 705, 2008); and “Trends in Distressed Debt Investing: An Empirical Study of Investors’ Objectives,” (16 American Bankruptcy Institute Law Review 69, 2008). Harner earned a JD at the Moritz College of Law at The Ohio State University, where she served as Executive Editor of the Ohio State Law Journal and also was a member of the Order of the Coif. She earned a BA in English and Political Science at Boston College.

AFTER JOINING MARYLAND LAW IN 2008 AS ITS FIRST HEALTH LAW & BIOETHICS FELLOW, LINDSEY MEYER HENRY is now an Assistant Professor of Law. Her scholarly interests lie at the intersection of bioethics, health policy, and law. Henry’s current research explores the use of “dignity,” and considers the degree to which it has any moral force as a normative concept in law and bioethics. Her most recent article in this area is “Human Dignity and Bioethics,” which was published this summer in the New England Journal of Medicine. Henry’s bioethics scholarship also includes a chapter in The Oxford Textbook of Clinical Research Ethics entitled “What is Fair Subject Selection?” (with James Childress), and an article in the American Journal of Bioethics, which discusses the “Undesirable Implications of Disclosing Individual Genetic Results to Research Participants.” Before coming to the law school, Henry was a Greenwall Fellow in Bioethics and Health Policy at the Johns Hopkins Berman Institute of Bioethics. She earned a JD at Yale Law School, an MSc in the History of Medicine at the University of Oxford, and a BA, summa cum laude, in both History and Medical Ethics at the University of Virginia. She is currently a doctoral candidate in the Department of Religious Studies (bioethics specialization) at the University of Virginia.

ASSISTANT PROFESSOR OF LAW AMANDA PUSTILNIK comes to the law school from Harvard Law School, where she served as a Climenko Fellow and Lecturer on Law. She conducts research in the area of law and science. Her current research includes work on models of mind in neuroscience and criminal law and on torts by semi-autonomous machines. Pustilnik graduated from Yale Law School in 2001, where she was an editor of the Yale Journal of International Law and published notes on law and science. She then practiced litigation with Covington & Burling, where she focused on pharmacological and securities regulation. Prior to practicing law, Pustilnik clerked for the Hon. Jose A. Cabranes on the United States Court of Appeals for the Second Circuit. She graduated Harvard College, magna cum laude, and Phi Beta Kappa, with a concentration in History of Science. She also served as the John Harvard Visiting Scholar at the University of Cambridge, Emmanuel College, where she was affiliated with the History and Philosophy of Science department.
Faculty Publications, Presentations, and Honors

The School of Law’s faculty has a well-deserved reputation for producing outstanding legal scholarship, as evidenced by the rich array of books, articles, working papers, and conference presentations they complete each year. The entries on the following pages represent only a sampling of the diverse scholarly activities of our academic community. For a more complete listing and actual links to articles, visit www.law.umaryland.edu/scholarship.


Barbara Bezdek contributed the book chapter “Putting Community Equity in Community Development: Resident Equity Participation in Urban Redevelopments” in Law, Society and Property, (Robin Paul Malley and Nestor Davidson, eds., Adagite 2009); and presented “Stable Housing for the Future” at the 140th Anniversary Symposium at the University of Southern California Law School (October 23, 2008).


Kathleen Dachille published the Law Synopsis “Pick Your Poison: Responses to the Marketing and Sale of Flavored Tobacco Products” (Tobacco Control Legal Consortium, February 2009) and presented “Flavored Tobacco Products: Legislative Activity and Options” and “Free-Safe Cigarette Laws: How This Legislation Swept the Country Like Wildfire” at the National Conference on Tobacco or Health, Phoenix, Arizona (June 11, 2009).


Martha Etzman presented “The Upside of Baby Markets” and “Developing a Scholarly Agenda” at the National University of Kyiv-Mohyla Academy School of Law, Kiev, Ukraine (November 2008); “Incorporating Sexual Orientation Issues into Teaching Contracts,” at the AALS Annual meeting in San Diego (Jan. 2009); and “Race Tension: The Unfold Story of America’s Ban on Polygamy” at Washington University in St. Louis’s workshop on Family, State and Public Policy (March 2009) and at the University of Baltimore Law School’s Legal Feminism Conference (April 2009).


David Gray presented “A No-Excuse Approach to Transitional Justice” at the conference on Conflict and Transitional Justice at Emory University (September 19-20, 2008).


Deborah Hellman published the article “Prosecuting Doctors for Trusting Patients,” 16 George Mason Law Review 701 (2009); gave presentations on her book WHEN IS DISCRIMINATION WILFUL? at the Syracuse University Law School Faculty Colloquium Series (February 16, 2009), at the Association of Practical and Professional Ethics Annual Meeting (March 6-7, 2009), and at the Woodrow Wilson International Center for Scholars (Sept. 16, 2008), and presented the paper “Willfully Blind for Good Reason” at the University of Toronto Legal Theory Workshop (January 16, 2009) and the University of Southern California Law School (March 13, 2009).


Diane Hoffmann
ROBERT PERCIVAL

Robert Percival published the new sixth edition of his best-selling casebook Environment Regulation: Law, Science & Policy (2009); and presented the 15th Annual Lloyd K. Garrison Lecture at Pace University School of Law (April 1, 2009). He also made presentations at the law schools at Harvard, Duke, American University and Vermont, addressed the IUCN Academy of Environmental Law in Mexico City (Nov. 10, 2008), and the Congress of the World Junior Association in Kiev, Ukraine (March 24, 2009). In May 2009 he served as an environmental expert for the U.S. State Department in China, delivering 14 lectures in six Chinese cities at universities, think tanks, consulates, the Chinese Ministry of Environmental Protection, and the Guangzhou Lawyer’s Association.

MICHAEL PINARD

Michael Pinard served as a panelist for “The Future of Clinical Legal Education” at the University of Maryland Clinical Law Program’s 35th Anniversary Conference, Curriculum Reform: Linking Theory and Practice, (March 6, 2009), and “A Comparative Perspective on the Collateral Consequences of Conviction: Lessons the United States Can Learn from England and Wales, Canada and South Africa”, at the New York University School of Law Faculty Workshop (February 18, 2009); and presented “The Civil Rights Dimensions of Prisons Remedy: The Impact on Individuals, Families and Communities” as the Dr. Martin Luther King Memorial Speaker for the Public Interest Law and Policy Speakers Series, Washington University School of Law (January 22, 2009).

GARRET POWER


PETER QUINT


SHRUTI RAMA


WILLIAM REYNOLDS


ROBERT RHEE


KAREN ROTHENBERG


JANA SINGER


MAXWELL STEARMAN


RENA STEINZOR


LAWRENCE SUNG


DAVID SUPER


MICHAEL VAN ALSDINE


KATHERINE VAUGHNS


ELLEN WEBER

Ellen Weber presented “Relaxation of and Restrictions on Physician Prescribing,” Obstacles to the Development and Use of Pharmacotherapies for Addiction (November 7, 2008); “Disability Discrimination and Health Privacy Standards,” University of Maryland School of Medicine, Addiction Psychiatry Fellows Forum, Baltimore, Maryland (December 22, 2008); and “Protecting Civil and Health Privacy Rights of Patients with Addiction” at the Maryland Society of Addiction Medicine, Baltimore, Maryland (March 7, 2009). She also received the 2009 Public Citizen Award from the National Association of Social Workers – Maryland.

Deborah Weimer served as a panelist for “Medical-Legal Partnerships in the Law School Setting” at the 2009 AALS Annual Meeting (January 9, 2009) and presented “Current Issues Facing Women Living with HIV” at the UMB Interdisciplinary Conference for Law, Medicine, Social Work, Nursing, and Pharmacy students (January 11, 2009).

Marley Weiss participated in the Roundtable Session, “Towards More Effective Legal Governance” at the Conference on Humanizing Trade/humaniser le commerce, sponsored by the Global Labour Governance (GLG) Project, Montreal, Quebec, Canada (April 27-29, 2009); and presented “The Employee Free Choice Act” at the National Lawyers’ Guild Regional Conference, University of Maryland School of Law, Baltimore, Maryland (March 28, 2009).

Gordon Young published the article “Judging Motive Analysis in Judicial Review,” 17 Williams & Mary Bill of Rights Journal 191 (2008); and authored the entries “Judiciation Stopping” and “United States v. Klein” in the Encyclopedia of the Supreme Court of the United States (Gale 2008).
BLSA Celebrates Intellectual Relevance

SEVERAL HUNDRED STUDENTS, alumni and faculty gathered Feb. 21 for the annual Black Law Students Association Banquet, dedicated this year to the theme “Intellectual Relevance.”

Julie D. Goodwin ’82, Morgan State University’s General Counsel, was named Practitioner of the Year. The Hon. Wanda Heard ’82, Associate Judge for Baltimore City Circuit Court (pictured receiving her award from BLSA Parliamentarian Nancy Oyedele ’10), was named Alumna of the Year. U.S. Representative Donna Edwards, the first African American woman to represent Maryland in Congress, delivered the keynote address. The Impact Award, given to a member of the Law School community who has contributed a significant amount of time and assistance to help in the furtherance of BLSA’s programming and overall goals, was presented to the Office of Institutional Advancement as a whole.

Students Make Winning Arguments

MARCH 11 WAS A DAY DEVOTED to appellate advocacy.

At noon, the final round of the 39th annual Morris Brown Myerowitz Moot Court Competition took place in the Ceremonial Courtroom, with Dana Backlund earning the nod for best oral argument from judges Diana Gibbon Motz of the U.S. Court of Appeals for the Fourth Circuit, Albert J. Matricciani, Jr. ’73 of the Court of Special Appeals of Maryland, and Phyllis D. Thompson of the D.C. Court of Appeals. In addition to finishing as a runner-up for best argument, Joey Tsu-Yi Chen was awarded the prize for best brief.

That evening, the Moot Court Board presented the dinner-discussion “Appellate Advocacy: Legal Specialty or Legal Necessity?”

Judge Matricciani, Mike Leotta of the U.S. Department of Justice, Kevin Arthur ’87, Jessica V. Carter ’92, and Peter Nothstein ’95 offered their personal and professional insights on the changing nature of appellate advocacy and the need for the legal profession to address these changes.

THE SCHOOL OF LAW’S MAY 15 Hooding Ceremony was enough to stop traffic – literally. The faculty and 235 members of the Class of 2009 gathered before the ceremony in Westminster Hall, then processed together down a closed Fayette Street to the Hippodrome Theatre, where an overflow crowd of family and friends awaited.

U.S. Congressman Elijah Cummings ’76 delivered the keynote address and Lisa Elder and Bob Maddox, Presidents of the Day and Evening graduating class, respectively, announced that a record 96 graduates had contributed to the Class Gift. Later, graduates attended UMBC’s Commencement Ceremony at the 1st Mariner Arena, where the speaker was Maryland Governor Martin O’Malley ’88.

2009 Commencement

JD 2009

2009

JD 2009

JD 2009
An Investment in Law Pays
Unexpected Dividends

Celebrating the distinguished career of Joe Hardiman '62, one-time CEO of NASDAQ.

“I’ve watched in awe as the economies of the world have grown closer together.” —Joseph Hardiman

Joseph Hardiman ‘62 didn’t intend to go into the investment business. But, following his own advice, he kept his mind open to possibilities—and went on to become president and CEO of the NASDAQ stock market.

“I went to law school with the full intention of spending my career in the law, as a practicing attorney,” says Hardiman, and his career illustrates a tenet he says is as true today as it was 40 years ago. Law degrees, he says, “clearly do not confine one to the practice of law.”

After earning his JD at the School of Law, he began his career conventionally enough, practicing law in Baltimore for five years. By 1968, though, Hardiman began to widen his scope. He was recruited by the Baltimore-based banking house Robert Garrett and Sons, Inc., which was later sold to Alex. Brown and Sons. There, Hardiman quickly rose through the ranks, ultimately becoming Alex. Brown’s managing director and chief operating officer.

The work prepared him well for what was to come. In 1987, he signed on to lead the investment world’s foremost self-regulatory organization, the National Association of Securities Dealers (NASD)—most familiar for its wholly owned subsidiary, NASDAQ.

Hardiman said at the time that he would stay at least five years, but no more than 10. “I had the strong feeling that the person at the helm has to be there five years to make an impact … but if you stay more than 10 years, you’ve probably stayed too long,” he says. During his nine and a half years at the helm of NASD, it grew into the world’s second largest private equity market, second only to the New York Stock Exchange. Daily volume of trading increased from 130 million shares to more than 550 million shares.

Under his leadership, NASDAQ adapted corporate governance requirements and increased listing standards for all NASDAQ National Market companies, improving protection for investors and paving the way for parity of treatment under state blue sky laws. He’s also credited with introducing a marketing and customer driven ethic into an organization that was traditionally more bureaucratic.

Throughout that time, and in particular since his retirement in 1997, Hardiman has been an active philanthropist in Baltimore and beyond. He serves on the Board of the University of Maryland Baltimore Foundation, Inc., where he is a representative to the investment committee that manages the system-wide endowment. He was also chair of the Board of Visitors during the fundraising campaign that gave the School of Law its much-admired building. And it was his generosity that served as the catalyst to establish the new Karen H. Rothenberg Fund for Public Service. Last spring, Hardiman was honored with the University of Maryland School of Law Distinguished Graduate Award.

In reflecting on his career over the last five decades, Hardiman says, “I’ve watched in awe as the economies of the world have grown closer together, keeping pace with their clients.” Another marvel has been the impact of technology. When he started, the floor-based exchanges saw transactions of about 2 million shares per day, and they had to close one day a week to keep up with the paperwork. Now markets are able to handle transactions of billions of shares daily.

Those beginning their financial careers today “have challenges we did not have, and that is sobering,” he concedes. But he stresses the value that the law’s Socratic method of teaching has to any number of professions. “Today,” Hardiman says of those hitting the job market, “there is a wide range of possibilities.”

—Christine Grillo

Cool Amidst the Chaos

When times are most devastating, Juliet Choi ‘03 steps in.

By Christine Grillo

When disaster strikes, Juliet Choi ’03 does some of her best work. A senior director at the national headquarters of the American Red Cross (Washington, D.C.), she helps to manage and execute national disaster relief operations, supporting chapter networks and thousands of volunteers, and serves as the principle-in-charge for NGO strategic partnerships for the Red Cross. At one point last fall—as hurricanes Fay, Gustav, Hanna, and Ike overlapped—she oversaw simultaneous relief efforts in 14 states with more than 5,000 volunteers.

Just a few months earlier, the Midwest flood season was one of the worst in more than 15 years. And that same year saw more than 160 tornadoes in the U.S., one of the largest numbers in a decade. During national-scale disasters, Choi helps to administer the day-to-day exchange of immense amounts of information among local chapters, government, and non-governmental agencies.

After earning her law degree in 2003, Choi set out to pursue the practice of civil rights, not disaster relief. After completing a clerkship with the Hon. Dennis M. Sweeney (Circuit Court, Howard County), she began a two-year civil rights fellowship at the Asian American Justice Center in Washington, where she focused on national origin discrimination. Then, a year into her fellowship, while working to amend the Stafford Act to ensure protection of limited English speakers in times of disaster, Hurricane Katrina hit.

“I started receiving random phone calls from Gulf Coast Asian communities,” says Choi. She made nearly a dozen trips to the Gulf Coast, attending community meetings, fact-finding, and doing legislative legal research. This turn was “completely unintentional and unplanned,” she says, “but it made a lot of sense to get into Katrina advocacy.”

Working with immigrants from Southeast Asia—Vietnamese and Cambodians mainly—Choi saw at close range how devastat- ing language barriers can be. Many of the Asian hurricane survivors were not aware of emergency support services, most had never heard of FEMA, and some were fearful of asking for assistance. “You see the issue to the nth degree when all systems are overwhelmed and dysfunctional,” says Choi.

When her fellowship ended in 2006, she joined the Red Cross. She sees systems change advocacy—as a critical part of her career. Her work is complex, but her goal is simple: She wants to help build robust, flexible frameworks that provide equal access to all. “I want everybody to have access to the table.”
A Celebration of Leadership

On May 7, more than 200 Maryland Law graduates and friends gathered at Baltimore’s Center Club for “A Celebration of Leadership,” an event honoring Dean Karen Rothenberg and distinguished Law School graduates. Over the past decade, Dean Rothenberg—who plans to return to the faculty after a sabbatical—led the Law School to new heights of achievement. Paul Bekman ’71, Chair of the Board of Visitors, announced at the celebration that more than 160 individuals contributed over $180,000 to establish the Karen H. Rothenberg Fund for Public Service.

Dean Rothenberg with U.S. Congressman Elijah Cummings ’76

(left) Alumni Board President Jason St. John ’00

(below) Ed Feingold ’58, Alice and Eugene Schreiber ’60, Faith Feingold

(left) Renowned photographers Larry Gibson, Professor of Law, and The Hon. Robert M. Bell, Chief Judge of the Maryland Court of Appeals

(below) University System of Maryland Chancellor William E. Kirwan with Distinguished Graduate Award recipient Joseph Hardiman ’62

(left) Board of Visitors Chair Paul Bekman ’71

(right) Osborne Scholar Bryan Sanon ’09 and Board of Visitors member Hamish Osborne ’86
ON FEB. 6, TOP CHINESE PUBLIC interest lawyer Zhang Jingjing (center, with Environmental Law Program Director Robert Percival, left) and Joel Fedder ’58 delivered the Fedder Lecture, “Taking the Long Distance Bus to the Court: A Practitioner’s Perspective of Environmental Litigation in China.” Known as the “Erin Brokovich of China,” Jingjing is Director of Litigation for the Center for Legal Assistance to Pollution Victims. She helped win the largest class-action environmental suit in Chinese history, when more than 1,700 villages in Fujian Province were awarded compensation from a factory that had dumped chlorine and chromium into the water supply. The lecture was supported by the Fedder Environmental Fund, established in 2007 through the generosity of Mr. Fedder and his wife, Ellen.

ON APRIL 7, THE LAW SCHOOL welcomed more than 20 members of the Class of 1959 to a luncheon celebrating the golden anniversary of their graduation. Helping welcome them to the half-century club were more than 40 members of classes who had already celebrated their 50th graduation anniversary, including Victor Laws ’41 and Marvin Mandel ’42. Mary Katherine Scheeler ’53, Chair of the Legacy Council, addressed the gathering.

CURRENT AND FORMER STUDENTS from the School of Law’s Evening Program came together at their annual reception on Feb. 13, swapping war stories about juggling classes and full-time jobs, and honoring a pair of individuals for their service to the program. The Evening Program Service Award, recognizing an individual’s exemplary contributions of service and leadership to the students of the evening program, was awarded to Senior Judicial Fellow John F. Fader, II ’68. The A.J. Bellido de Luna Leadership Award, established by the 2004 Evening Division Graduates to recognize leadership shown by a graduating Maryland Law student, was presented to Elizabeth A. Green ’09.

SINCE ITS INCEPTION FIVE YEARS AGO, the Leadership Scholars Program has provided financial support for more than 150 outstanding students. Christine Edwards ’83 (pianist), who permanently endowed a full scholarship for a student concentrating in business law, spoke at a May 8 luncheon honoring the Class of 2009 Leadership Scholars. More than 80 current and past Leadership Scholars, including Anne B. Gallagher Memorial Scholarship recipient Ryan Palmer ’09 (pictured with Peter Holland and Peggy Gallagher), have given to the Leadership Scholars Legacy Endowment to provide support for future Leadership Scholars. With Making an Impact campaign co-Chair Henry Hopkins ’68 pledging to match every dollar made to the endowment, the efforts has already raised more than $73,000.

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From students providing vital legal services to Baltimore citizens, to faculty shaping state and federal legislation and providing scholarly expertise to governments around the globe, the School of Law is improving law and society through teaching, scholarship, and public service. To expand these efforts, the law school has embarked upon the ambitious $50 million Making An Impact campaign. The School of Law extends its deepest appreciation to the generous supporters whose major gifts led the Campaign past $28 million this year.
Members of the Maryland Law School Foundation are philanthropic leaders committed to sustaining the law school’s prestige and influence locally, regionally, nationally and internationally. Every member contributes annual gifts totaling $1,000 or more, and we are proud to include almost 200 graduates and friends as members of the club. The School of Law thanks each of these donors not only for their loyalty and generosity, but also for the role they play in helping the law school to educate future leaders and increase access to justice.

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Jana Singer

All listed graduates have made an annual gift to the Law School Fund between July 1, 2008 and June 30, 2009. In addition, all graduates who have made $25,000 or more to the Law School Fund between July 1, 2008 and June 30, 2009 are designated as Major Campaign Donors.

All listed graduates have made an annual gift to the Law School Fund between July 1, 2008 and June 30, 2009. In addition, all graduates who have made $25,000 or more to the Making an Impact campaign as of June 30, 2009.

Our graduates support the School of Law and its students in many ways: from volunteering with students to serving on boards and assisting with mentoring and career development. Additionally, our graduates’ generous financial gifts are vital to the law school’s continued success. The School of Law thanks these individuals for their ongoing commitment.

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To make a gift to the School of Law, please contact the Office of Development at 410-516-6155 or visit marylandlaw.umd.edu/give.

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In addition to making annual gifts at the Maryland Law School level between July 1, 2008 and June 30, 2009, donors listed in bold also have made a major gift to the Making an Impact campaign as of June 30, 2009.
CAMPAIGN

JD 2009

ENDOWED AND NAMED FUNDS

Endowments are a way to combine a donor’s vision with the needs of the School of Law, and a strong endowment reduces the law school’s dependence on tuition revenue. Typically, a portion of income generated by each endowment is spent every year, with any excess reinvested to grow the endowment and compensate for inflation.

ENDOWED AND NAMED FUNDS CONTINUED

In addition to making a gift to an endowed and/or named fund by July 1, 2009, donors listed in bold have also made a major gift to an Impact campaign as of June 30, 2009.

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- P2 2009
Friends are individuals that contribute their time, effort and financial resources to advancing our mission. Friends include parents, spouses, family members, legal professionals and more. The School of Law thanks all its friends for their generous contributions.

In addition to making an annual gift between July 1, 2008 and June 30, 2009, donors listed in bold also have made a major gift to the Making an Impact campaign as of June 30, 2009.

Anonymously:
- Gina M. Akers
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The Legacy Council recognized generous, forward-looking donors who have included the School of Law in their estate planning. Through long-range gift planning, graduates and friends leave a major impact through long-range gift planning, graduates and friends leave a major impact and donations of life insurance.
The School of Law thanks our corporation, foundation, law firm and other organization partners. Beyond, and together, we continue to serve our communities and accomplish great things.
MORE THAN 200 GRADUATES GATHERED last fall for the School of Law's second Black Law Alumni Reunion, enjoying a weekend of fun, fellowship, and substantive discussions about race, law, and society. A highlight of the weekend was the unveiling of "Thurgood Marshall's Early Career in Maryland: 1933-1937," in the Marshall Law Library. Drawing on three decades of research by Professor Larry Gibson, the permanent exhibit reveals little-known facts and stories about the formative years of Marshall's early law practice, and was unveiled by his widow Cecilia Marshall in a rare public appearance.

A companion exhibit depicted the leadership efforts of Emerson Dorsey '79 and Judge Andre Davis '78, with student leaders of the Black Law Students Association, to have the Law Library named in honor of Justice Marshall. "Our first reunion five years ago was such a success, that we had to have another. At the same time, we sought to make this one more substantive, more meaningful, and more fun. I think we succeeded on all counts," said Dorsey. "We discussed some very important issues in the African American community today, raised awareness about how the Law School faculty is addressing these issues, and reconnected with friend and colleagues from all over the country."
October 1
Law & Health Care Program 25th Anniversary Celebration.

October 3
The School of Law will celebrate the appointment of Dean Phoebe A. Haddon with "The Global Economy, Political Will, and Challenges for International Trade," featuring a keynote address by Ambassador Ron Kirk, U.S. Trade Representative, and an address by Dean Haddon.

October 8

October 19-22
UMD Founders Week.

November 4-6
Maryland Public Policy Fellows Program.

November 12-13
The International & Comparative Law Program Conference "Global Governance and Multilateralism" will feature a keynote address by Madeline Albright, U.S. Secretary of State from 1997-2001.

November 13
Environmental Law Program Winetasting Party.

For an updated and comprehensive list of happenings at the School of Law, visit www.law.umaryland.edu/docket