

FALL 2012

MARYLAND CAREY LAW

UNIVERSITY OF MARYLAND FRANCIS KING CAREY SCHOOL OF LAW MAGAZINE

An artistic illustration of a hand in a white shirt cuff holding a gavel. The gavel's head is inscribed with the words 'We the People' in cursive. The hand is positioned over a map of Maryland that is cracked and fragmented into red, blue, and purple sections. The background is dark and textured.

DOMESTIC TRANQUILITY?

The fallout from Constitutional rulings—on issues ranging from health care to campaign finance—has further divided an already fractured citizenry.



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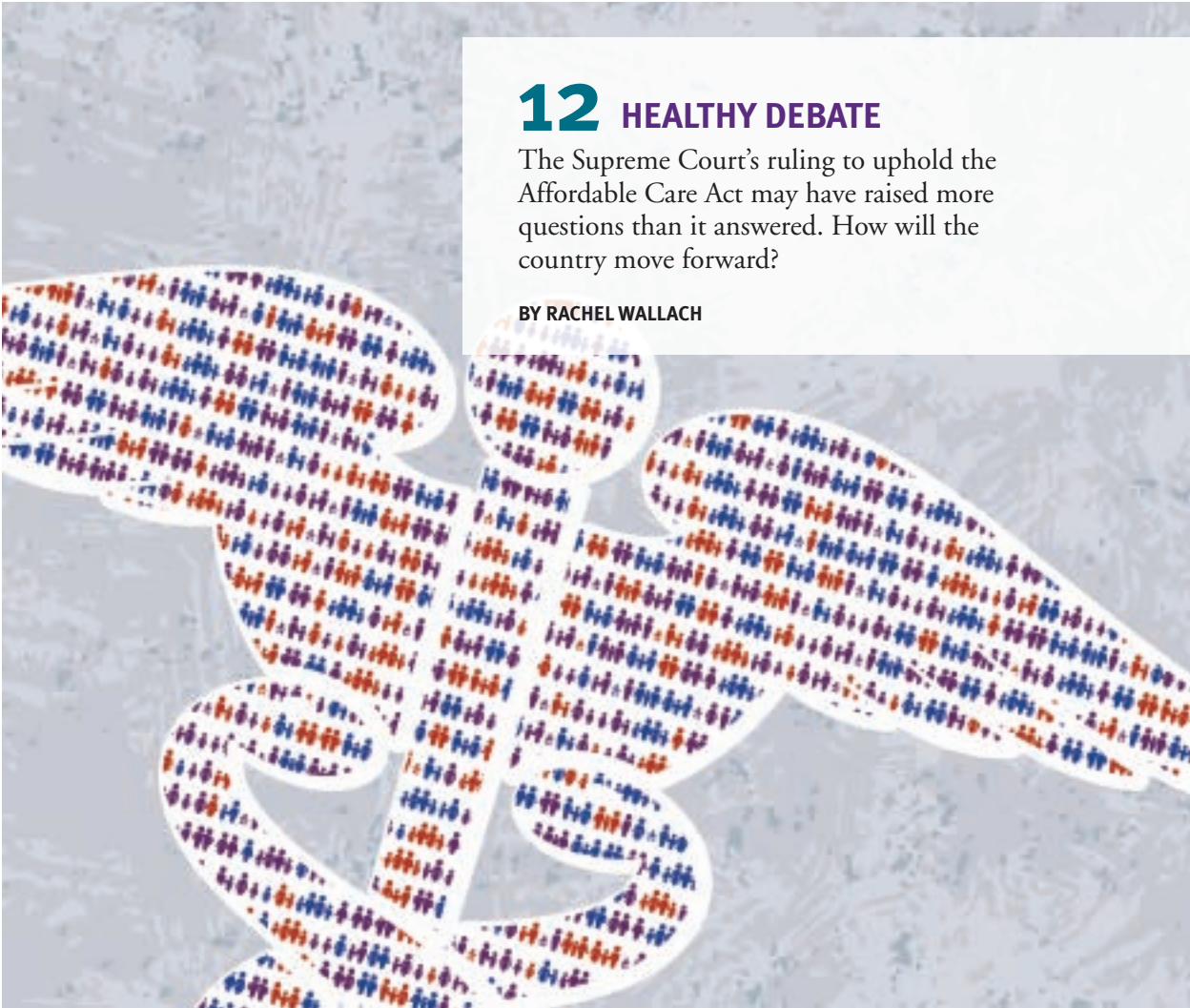


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Ten years ago, the law school moved into a new home where it has excelled as never before. Join us this year as we celebrate its growth and momentum. Learn more at www.law.umaryland.edu.

AN ESSENTIAL FOUNDATION. A REMARKABLE FUTURE.
CELEBRATING A DECADE OF ACHIEVEMENT IN THE NATHAN PATZ LAW CENTER

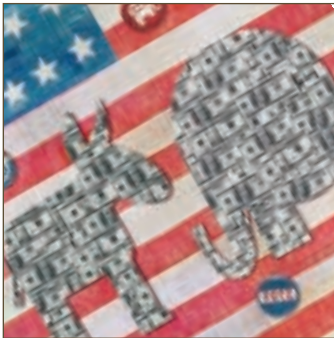
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Dear Graduates and Friends,

This issue of the magazine contains a first: a photo report of the first annual Dean's Convocation (p. 46), held last fall. If you were there, you know we hosted some very distinguished guests, including U.S. Supreme Court Justice Sonia Sotomayor and the late Wm. Polk Carey, our most generous benefactor, on hand for the school's naming ceremony.

This year's Convocation marks another milestone and transformative moment: the 10th anniversary of the law school's Nathan A. Patz Law Center. Since the historic move into our building in 2002, the law school has made great strides. We have:

- Expanded our clinical law program and sustained its preeminence as one of the nation's largest and best, earning recognition this year from the American Bar Association for our work in environmental law;
- Added four new academic programs and centers, including the Women, Leadership & Equality Program, unique among American law schools;
- Become a global intellectual hub, hosting justices from Argentina, South Africa, and our own Supreme Court; such senior diplomats as former Secretary of State Madeleine Albright and Harold Koh, the State Department's chief legal adviser; and hundreds of international scholars, including more than 250 from 30 countries who gathered this summer for the 10th Annual Colloquium of the IUCN Academy of International Law.

These are tremendous achievements made possible by the investments of donors to create the splendid physical space in which we reside. But the sustained, seven-year effort to create the Law Center produced another achievement that is equally remarkable: It brought into being an extraordinary philanthropic community of alumni and friends.

During the next year, we will celebrate all the many ways in which, working together, we, as a community, have delivered on the promise of our splendid "new" building. We hope you will join us. There will be discussions, seminars, and moot court competitions, plus a signature all-alumni reunion and anniversary celebration in the spring.

We have much to be proud of as well as substantial challenges to face in our nation, in our profession, in legal education, and in our law school. But I am confident that Maryland Carey Law will continue to flourish because our community of students, faculty, staff, alumni, and friends is talented, energetic, and, most of all, committed. With these assets and your continued support, we can do anything!

Best wishes,

Phoebe A. Haddon
Dean and Professor of Law

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DISTINGUISHED VISITORS AND CONFERENCES

It was a banner year for visitors and conferences at the School of Law. Distinguished academics, judges, and practitioners at every level presented lectures; conducted symposia, meetings, and roundtables; and worked with students and faculty in a variety of formal and informal settings.



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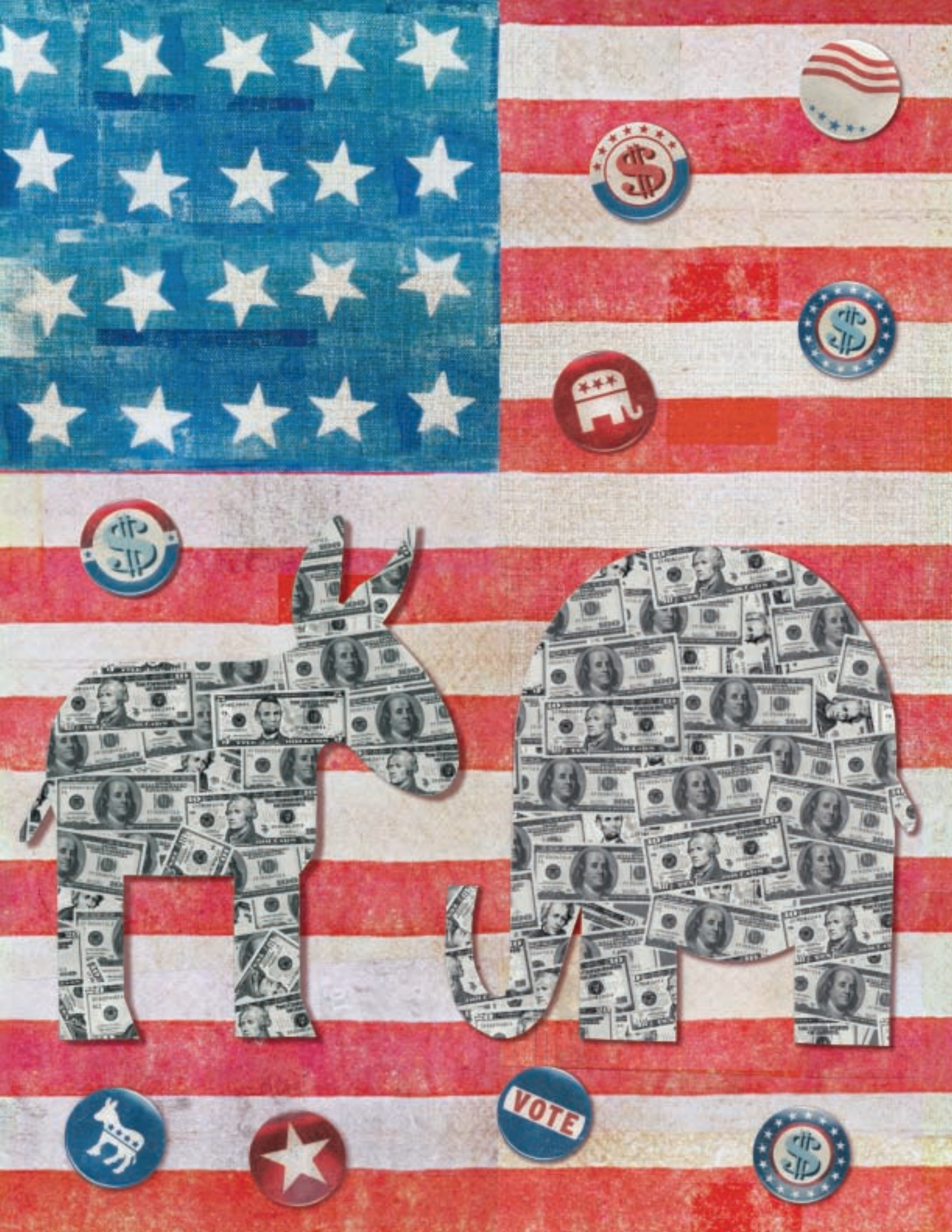


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1. Harold Hongju Koh, Legal Adviser for the U.S. Department of State, presented the Gerber Lecture, "International Law in a Post 9/11 World," supported by the Pearl, Laurence I. and Lloyd M. Gerber Memorial Lecture Fund.
- 2./3. Professor Jerome Cohen, New York University School of Law, and Dr. SU Chi, Former Secretary-General, National Security Council, Republic of China, spoke at the International & Comparative Law Symposium, "China, Taiwan, and International Law: A Symposium in Honor of Professor Hunadah Chiu."
4. Dikgang Moseneke, Deputy Chief Justice of the Republic of South Africa, discussed democratic will vs. constitutional supremacy during his Distinguished Visitor Lecture.
5. Professor Diane Hoffmann and other faculty, staff, and students of UM Carey Law participated in a live reading of "Murder Ink," the Baltimore *City Paper's* column that provides coverage and details of all homicides in the city. The reading was presented in cooperation with Single Carrot Theater.

6. Dean Phoebe Haddon greets U.S. Attorney General Eric Holder at the start of the National Task Force on Children Exposed to Violence.
7. Edith Brown Weiss, Francis Cabell Brown Professor of International Law at Georgetown Law, gave the keynote Fedder Lecture at the 10th Annual Colloquium of the IUCN Academy of Environmental Law, hosted by UM Carey Law, and supported by the Fedder Environmental Fund.
8. Task Force co-chairs Joe Torre and Robert Listenbee, Jr., along with Professor Sarah Deer, gather expert and community testimony.

9. Edwin Durso, Executive VP of Administration for ESPN, joined commentator and analyst Jay Bilas for the *Journal of Business & Technology Law's* fall symposium, "The Intersection of Sports and Business in Today's Legal Arena."
10. Distinguished Visitor Justice Edwin Cameron of the Constitutional Court of South Africa lectured on diversity and constitutional rights.
11. Daniel R. Levinson, Inspector General for the U.S. Department of Health and Human Services, presented the Rome Lecture "A New Era in Medical Oversight," supported by the Stuart Rome Lecture Fund.



LIFTING *the* Limits

DID *CITIZENS UNITED* STRIKE A POWERFUL BLOW FOR FREE SPEECH—OR OPEN THE FLOODGATES FOR CORPORATIONS, UNIONS, AND THE SUPER RICH TO UNDULY INFLUENCE ELECTIONS? OUR EXPERTS WEIGH IN.

By Barry Rascovar
Illustration by Martin O'Neill

TWO YEARS AGO, an unintended moment of high drama occurred on the floor of the U.S. House of Representatives—a stunning public exchange of differences between the nation's chief executive and a Supreme Court justice.

The issue: free speech versus restrictions on corporate campaign contributions.

It happened during President Barack Obama's 2010 State of the Union address—just a week after the Supreme Court's *Citizens United* decision allowing unlimited corporate and union giving to independent political advocacy groups.

That judicial ruling, the President predicted in his speech, “will open the floodgates for special interests, including foreign corporations, to spend without limit in our elections. I don't think American elections should be bankrolled by America's most powerful interests ...” As the President's supporters stood to applaud, television cameras captured Justice Samuel Alito mouthing the words, “Not true!”

Never before had an executive-judicial clash been presented to tens of millions of Americans so vividly.

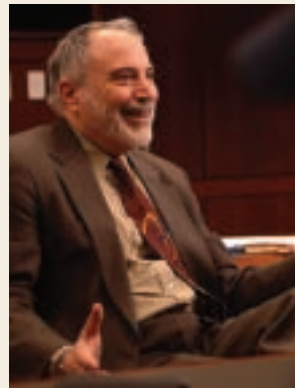
Did *Citizens United v. Federal Election Commission* strike a powerful blow for the First Amendment's free-speech doctrine, as supporters maintain? Or did it open the floodgates for billionaires and corporations to sway elections through gigantic contributions to “Super PACs”?

The high court's decision broke new legal ground, reversing a 1990 ruling (*Austin v. Michigan State Chamber of Commerce*) and partly overturning a 2003 case (*McConnell v. Federal Election Commission*), by removing restrictions on political expenditures by corporations and unions.

Citizens United also clarified a 1976 post-Watergate decision, *Buckley v. Valeo*, that had supported campaign donation limits and had classified campaign spending as constitutionally protected speech.

“ CUTTING OFF [CAMPAIGN] FUNDING HAS THE EFFECT OF SUPPRESSING SPEECH. SO GOVERNMENT MUST SHOW THAT ITS INTEREST IN SUCH A LAW IS DIRECTED AT FORMS OF CORRUPTION RATHER THAN AT REDUCING THE SPEECH OF THE RICH.”

—DAVID BOGEN, PROFESSOR EMERITUS



David Bogen, Professor Emeritus at UM Carey Law

The Roberts Court expanded on this line of thinking: “All speakers, including individuals and the media, use money amassed from the economic marketplace to fund their speech, and the First Amendment protects the resulting speech. ... [T]he rule that political speech cannot be limited based on a speaker’s wealth is a necessary consequence of the premise that the First Amendment generally prohibits the suppression of political speech based on the speaker’s identity.”

Two months after *Citizens United*, the U.S. Court of Appeals for the District of Columbia followed with a ruling in *SpeechNow.org v. Federal Election Commission* that gives Political Action Committees (PACs) the right to accept unlimited amounts from donors so long as none of the money is redirected to individual candidates.

These two decisions gave birth to Super PACs, formally known as “independent expenditure-only committees.”

David Bogen, Professor Emeritus at UM Carey Law, agrees with the underlying premise of the rulings that “government may not act with a goal of suppressing speech.”

Says Bogen, “Cutting off [campaign] funding has the effect of suppressing speech. So government must show that its

interest in such a law is directed at forms of corruption rather than at reducing the speech of the rich.”

Still, Bogen writes in an email that these rulings may have gone too far in allowing unrestricted corporate and union campaign donations. “I thought that the court trod the line in *Buckley* and probably erred in *Citizens United*.”

Courts traditionally have treated restrictions on the content of speech with great suspicion, says UM Carey Law Professor Peter Quint. “These laws or regulations are highly suspect and often found unconstitutional,” he says. But in cases related to the circumstances of speech—such as time, place, and manner (marches, sound trucks, etc.)—courts give the government “much greater discretion in applying reasonable regulations and I think campaign contributions should fall into this general category.”

In *Citizens United*, Quint thinks the Supreme Court applied “a distorted rationale. Spending by corporations is wildly disproportionate to most individual giving. In my opinion, it would be reasonable to restrict or prohibit contributions by corporations and certain other groups.”

Mark Graber, Associate Dean for Research and Faculty Development and Professor of Law and Government at UM Carey Law, points to another problem.

“There is no evidence the framers of the Constitution believed campaign financing was a form of free speech. And it is rather doubtful the framers felt corporations had special rights.

“Corporations don’t vote. Corporations are not citizens. Free speech is a right of citizenry, of the people, not of economic entities.”

The Court’s majority did not hold to this rationale. *Citizens United* is based on the premise the free-speech clause “protects speakers in the marketplace of

ideas from efforts by Congress to limit speech,” according to UM Carey Law Professor Richard Boldt. With this decision, “the court says you can promote truth by maintaining an unregulated marketplace of ideas.”

That is problematic, Boldt says, “because the marketplace of ideas is not free from impairment.” Candidates receiving huge advocacy support from Super PACs “have an advantage.” He agrees with the dissenting justices that corporations are not natural persons and should not receive preferential fundraising treatment. “This gives them a disproportionate voice in the market.”

Boldt fears that *Citizens United* could increase “the pervasive influence of money” on campaigns and encourage the promulgation of “cartoonish, distorted versions of each candidate’s views.” Massive donations supporting attack ads “turn productive discourse non-productive and drive away thoughtful discussion of issues.”

In the first congressional elections following the Supreme Court’s 2010 ruling, Super PACs emerged as a formidable force. Think of them as

IN CASES RELATED TO FREE SPEECH ... COURTS GIVE THE GOVERNMENT “MUCH GREATER DISCRETION IN APPLYING REASONABLE REGULATIONS AND I THINK CAMPAIGN CONTRIBUTIONS SHOULD FALL INTO THIS CATEGORY.” —PROFESSOR PETER QUINT

Political Action Committees on steroids, capable of raising gigantic sums for massive advocacy campaigns, usually negative, in support of a candidate.

Many Super PACs receive mega-donations from closely aligned 501(c) non-profit groups that under the IRS code do not have to identify the names of donors giving tens of millions of dollars to these nonprofits while remaining hidden from public view. This development “is disheartening and disturbing,” says Howard County Republican state Senator Allan Kittleman ’88, a strong supporter of *Citizens United* but also an advocate for



UM Carey Law Professor Richard Boldt

transparency and immediate disclosure of campaign contributions.

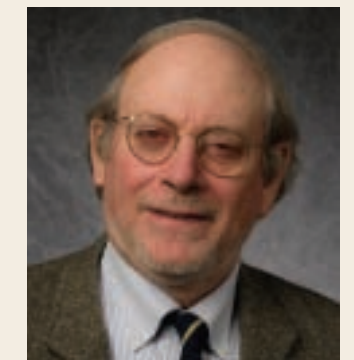
The vast majority of Super PAC expenditures in the 2010 congressional races helped elect Republicans, according to the Center for Responsive Politics.

Just a single conservative Super PAC, Karl Rove’s American Crossroads, raised and spent \$21.6 million to assist GOP candidates, a sum that eclipsed more than three-quarters of the total spent by all liberal-aligned PACs. Such a heavy dose of one-sided advocacy helped fuel that year’s Republican sweep.

In the 2012 GOP primaries, Super PACs again played important roles.

Casino mogul Sheldon Adelson funneled \$15 million into a Super PAC that indirectly propped up former House Speaker Newt Gingrich’s presidential efforts. Texas billionaire Harold Simmons donated \$18 million to conservative Super PACs in support of GOP presidential candidates he felt could defeat Obama.

The impact of such giant donations won’t be fully known until detailed analyses are made of the 2012 campaign. But Democrats express concern that mountains of money might lead to massive distortions of



UM Carey Law Professor Peter Quint





Carey Law Professor Sherrilyn Ifill

a candidate's positions and unduly influence elections.

Carey Law Professor Sherrilyn Ifill notes that in those states with judicial elections, *Citizens United* may have even more far-reaching effects. "Judicial elections—especially for state Supreme Courts—have become partisan battles in which millions of dollars are spent, largely to unseat incumbents in many states," says Ifill. The result can be a judiciary that lacks the appearance, and in some instances the reality, of the

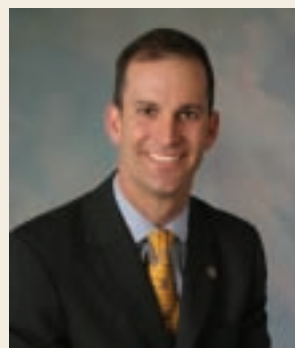
dumping of money by special interests" because it is having "an unequal influence on the whole process." The Baltimore County Democrat is particularly critical of the special treatment accorded Super PACs.

"It is becoming obvious that an 'independent expenditure-only committee' is only independent in name, not in deed." Super PACs cannot have direct contact with the candidate, but "it is a farce," Cardin maintains. "Super PACs are not really independent. It is a way to do an end-run around spending regulations and restrictions."

State Senator Bill Ferguson '10, who represents Baltimore City, calls unlimited donations "one of the single biggest threats to American democracy. With Super PACs, we often don't know who the contributors are. The whole concept of disclosure is circumvented."

Boldt believes *Citizens United* is a remarkable opinion in how aggressive the majority was in rejecting a decision made by Congress. "The majority decided the case more broadly than many court observers expected. It was aggressive in overturning prior court decisions on this issue."

“ THERE HAS TO BE A BALANCING ACT BETWEEN FREE SPEECH AND THIS INCREDIBLE DUMPING OF MONEY BY SPECIAL INTERESTS” BECAUSE IT IS HAVING “AN UNEQUAL INFLUENCE ON THE WHOLE PROCESS.” —JON CARDIN '01



State Delegate Jon Cardin '01

impartiality required by the Constitution. State courts are losing the confidence of the public, she says. The influx of large-scale contributions to judicial elections made possible by *Citizens United* can only serve to add to this problem.

State Delegate Jon Cardin '01 wants Congress to amend the Constitution "to fix this behemoth of a problem. I'm a strong advocate of free speech but it is clear the amount raised and spent has gone too far," he says.

Cardin, who chairs the Election Law Subcommittee in the House of Delegates, says, "There has to be a balancing act between free speech and this incredible

Former Republican Governor Bob Ehrlich disagrees. When he served in Congress, Ehrlich voted against the McCain-Feingold Act restricting corporate and union campaign spending because he felt it limited free speech. "I have come to the conclusion after many years in politics that it is really difficult to circumscribe the First Amendment and generate arbitrary lines regarding free speech. It is an incredibly difficult thing to do," says Ehrlich.

He isn't alarmed about massive donations because PACs on the left and right have been raising huge amounts of money for decades. "The remedy most people can agree on is full and immediate disclosure. That will cure a

“ WITH SUPER PACS, WE OFTEN DON'T KNOW WHO THE CONTRIBUTORS ARE. THE WHOLE CONCEPT OF DISCLOSURE IS CIRCUMVENTED.”

—STATE SENATOR BILL FERGUSON '10

lot of ills," says Ehrlich, now a senior counsel in King & Spalding's Washington office.

In Maryland, for instance, individual and corporate donations during the final 10 days of a campaign aren't revealed until three weeks after the election.

Kittleman, who is also of counsel in the Ellicott City office of Godwin Erlandson, MacLaughlin, Vernon & Daney, finds that a major loophole. "I would prefer immediate disclosure and then let's not have limits," he says. "Our reporting system is terrible," in part because controversial late contributions can be hidden from voters. "Let citizens see right away who is giving money," Kittleman says.

Ferguson points to a section near the end of the *Citizens United* ruling, supported by all but one justice, which strongly affirms the importance of transparency but does not mandate it: "With the advent of the Internet," Justice Anthony Kennedy wrote, rapid disclosure of a campaign's finances can give citizens "the information needed to hold ... elected officials accountable for their positions and supporters."

Disclosure of campaign donors, Kennedy concluded, lets citizens "react to the speech of corporate entities in a proper way. This transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages."

"Disclosure is critical," Ferguson maintains. "While the average citizen cannot go through all these financial reports, as long as they are publicly available, someone will do the analysis and the media will report on it."

Another often-suggested remedy, supported by Cardin and Ferguson, is public financing. New York City has implemented a cutting-edge program in which each dollar an individual contributes is matched six-fold by the city, up to \$175. That means a maximum of \$1,050 in public funds per donor.

The idea is to increase citizen involvement in paying for campaigns.

A study of the program by the Campaign Finance Institute concludes "multiple-matching funds can stimulate participation by small donors in a manner that is healthy for democracy."

Boldt thinks emerging media technologies may hold an answer. The Internet already gives citizens more chances to participate in campaigns. In the future, technological advances could diminish the importance of *Citizens United* by giving all candidates a broader range of fund-raising options as well as electronic access to far more voters.

"The political system may yet develop the hydraulics to offset the influence of Super PACs," he says.

In the meantime, will Super PACs turn into giant money machines that must be stamped out before they devour electoral democracy?

Graber has his doubts a clampdown on corporate donations would prove effective. The history of American elections, he says, indicates that regardless of efforts to loosen or restrict contribution laws, "money always find its way into politics." ■



State Senator Bill Ferguson '10



The Supreme Court's ruling to uphold the Affordable Care Act may have raised more questions than it answered. How will the country move forward?

By Rachel Wallach

HEALTHY DEBATE

Once upon a time, a farmer named Roscoe Filburn grew 23 acres of wheat to use on his Ohio farm. This was more than a Congressional act allowed him to grow during the Great Depression, so Filburn was fined \$117.11.

He challenged the penalty, saying his small farm stood outside of Congressional authority. The case went to the Supreme Court, which in 1942 ruled that under the Commerce Clause, Congress does indeed have the power to regulate the wheat production of individual farmers in the interest of preserving higher prices for wheat farmers across the country. The Commerce Clause, said the Court's *Wickard v. Filburn* decision, gives the federal government the power to regulate even local activity if it "exerts a substantial economic effect on interstate commerce."

"Little did Mr. Filburn know that the fine he paid for growing excess wheat would play a pivotal role in the present debate about the constitutionality of the Affordable Care Act," says UM Carey Law Associate Professor Leslie Meltzer Henry.

Henry, along with colleagues Diane Hoffmann and Ellen Weber, celebrated the day the Supreme Court announced its ruling on the Affordable Care Act last June, declaring the Act constitutional under the Congress's taxing power. It seemed like such good news—that more people would be covered by health insurance, and that the Court had, at first glance, declined to fall into a partisan trap.

"I'm thrilled with the opinion. It gets us a long way," says Hoffmann, a UM Carey Law professor.

But Henry's elation was short-lived. "The opinion may not bode well for progressive social welfare policies at the national level," she says. "After this decision, Congress simply does not have the Commerce Clause in its toolbox in the way it once did."



THE INDIVIDUAL MANDATE

Numerous elements are at play in our new health care law, and numerous issues were at stake in its challenge. But at the heart of the law's 2,700 pages lies the "individual mandate"—the idea that in order to finance health care reform on a large scale, Congress has the power to penalize anyone who does not buy insurance.

Historically, health insurance in the U.S. has been a private market affair. Those who want insurance and can mostly afford it buy in; those who don't want it or can't afford it, stay out; the very poor are covered by Medicaid, and the elderly are covered by Medicare.

For insurance companies, the traditional system means that people who need a lot of care tend to purchase coverage. Those who are healthier, and who would balance the costs of higher-needs individuals, elect not to. Costs rise for consumers. The individual mandate addresses this imbalance by bringing more healthy people into the risk pool.

"It's all an issue of access and financing," Hoffmann says. "How are we going to get access to everybody, and how are we going to pay for it?"

Because it was the Obama administration that passed the Affordable Care Act (ACA), we sometimes think of the mandate at its center as a Democratic proposition. But it was Republican Mitt Romney who first wrote the mandate into law, when as governor of Massachusetts in 2006 he required all residents to have insurance.

During the 2008 presidential race, both parties agreed that the U.S. health care system was broken and in urgent need of reform. Many leading Democrats saw a single government payer option as the solution. Many Republicans were skeptical, concerned about the high cost, and that a single payer option would limit personal choice. They preferred a private market solution.



UM Carey Law Associate Professor Leslie Meltzer Henry

“The opinion may not bode well for progressive social welfare policies at the national level. After this decision, Congress simply does not have the Commerce Clause in its toolbox in the way it once did.”

—Associate Professor Leslie Meltzer Henry

A debate ensued over whether the private market solution would work without an individual mandate. If there was no requirement to purchase insurance, but the highly popular requirement that insurers be required to cover pre-existing conditions remained in place, healthy people would stay out of the risk pool until they were sick, making the risk pool small and exorbitantly expensive to cover.

Candidate Obama initially said the mandate would not feature in his health care plan. In the end, it became a cornerstone. Leading Republicans called his plan too coercive, but Congress eventually passed the bill and it was signed into law. Twenty-six states, all with Republican governors, challenged the law through the federal courts to the Supreme Court, arguing the mandate was unconstitutional.

The ACA essentially seeks to accomplish many of the same goals in terms of expanded coverage as a wholly government-funded program, but with costs largely passed on to private parties, including employers, insurance companies, and individuals subject



to the individual mandate, says Max Stearns, UM Carey Professor of Law and Marbury Research Professor.

Had the individual mandate been struck down, the idea of universal coverage as an alternative likely would have survived as a constitutional matter, he says, but it would not have passed for political reasons.

“A MORE RATIONAL KIND OF COVERAGE”

As creator of the law school’s Drug Policy Clinic, Professor Ellen Weber was deeply relieved when the Court upheld the mandate, and thrilled about the improvement she expects to see in the health of real-life individuals.

“The debate in the Supreme Court didn’t really touch on what the lives of people who can’t get insurance are like,” she says.

The clinic works with low-income individuals who have addiction and/or mental health conditions, many of whom also have chronic health conditions. If they don’t have insurance and aren’t eligible for Medicaid, most can’t seek preventive care for these illnesses, and resort to emergency rooms when a condition becomes urgent.

By making possible broader coverage in both the public and private markets with access to primary care doctors, the mandate should greatly increase the amount of preventive care available, Weber says, allowing more comprehensive treatment of conditions like obesity, asthma, and diabetes. “Now you’ll have a much more rational kind of coverage,” she says.

Weber also believes that by requiring states to do the kind of outreach and education needed to enroll significant numbers of currently uninsured consumers, the mandate has the rare opportunity to change how people use health care.

“It doesn’t often just happen,” she says. “It requires a concerted effort, and the mandate is part of that push.”

One big unknown remains on the ground. The Supreme Court ruling eliminated the penalty that would have made it highly unlikely that any state would fail to comply with the proposed requirement for Medicaid expansion. Many states—Maryland included—are already poised to enact that expansion on their own, but what will happen to low-income individuals in those states that don’t?

“There’s still a gap,” Hoffmann says.

COMMERCE CLAUSE VS. TAXING POWER

Beginning with *Farmer Filburn* and his wheat farm, the Commerce Clause had long been interpreted as providing broad powers to Congress: After *Wickard*, the Court upheld every act that Congress passed under the Commerce Clause for 50 years, Henry says. But in recent years, its interpretation has been more mixed. In 1995 and 2000, the Rehnquist Court struck down two laws under the Commerce Clause. In 2005, a Commerce Clause-based act was again upheld.

Much of the speculation leading up to the Supreme Court decision focused on the question of whether the individual mandate was constitutional under the Commerce Clause, so many observers



Weber believes that by requiring states to do the kind of outreach and education needed to enroll significant numbers of currently uninsured consumers, the mandate has the rare opportunity to change how people use health care. “It requires a concerted effort, and the mandate is part of that push,” she says.

were surprised when the Roberts decision relied on Congress’ taxing power instead, especially because they believed the Court had signaled that consideration under the taxing power was unlikely [see sidebar on page 17].

Before the Court could reach the question of the mandate’s constitutionality under the Commerce Clause, it faced a threshold question about whether or not it could hear the case at all. The Anti-Injunction Act prevents the Court from hearing cases related to levying taxes until the tax has actually been collected. So if, as a threshold matter, the Court viewed the penalty for not purchasing insurance as a tax, it could have refused to hear the ACA challenge altogether. After the case was argued, most observers assumed



that the Court would focus its analysis of the law under the Commerce Clause.

“If a law is not a tax for the purposes of the Anti-Injunction Act, but is located in the Internal Revenue Code, as is the case with the individual mandate, that signals the mandate is not a revenue-raising measure but a regulatory measure,” Stearns says. “This suggests that if the individual mandate is going to be sustained, the more compelling basis for doing so is not on the tax clause but the Commerce Clause.”

“SHARED RESPONSIBILITY”

Under the ACA, the individual mandate adds healthy people to the risk pool, balancing the higher costs of care for the sick. Eligible individuals who don’t buy insurance are charged a penalty, called the “shared responsibility payment.” But shared responsibility, in the larger sense, does not always come easy to our multi-faceted nation.

Ours is one of just a few modern democracies without government laws or policies that provide access to health insurance or health care services to all citizens or residents, whether financed by government or a combination of government, employer payroll taxes, sales taxes, and optional additional private market coverage, Hoffmann points out—a legacy, perhaps, from our founders and their taste for individual freedom.

Many of us take pride in providing for ourselves and our families, she notes, while people in other nations tend to look out for one another more, taking greater responsibility for their neighbors. At the same time, some Americans also value this kind of interdependence.

“We’re divided,” Hoffmann says. “Are we a community, or a group of individuals standing on our own?”

From the beginning, Weber had high hopes for the mandate’s potential to boost our sense of shared responsibility, but believes it may be a slow road. Relying on the tax power instead of the Commerce Clause may reflect less of a commitment to a national, shared response to the health care crisis, she says. But she hopes it’s still a step in the right direction.

“I think the decision does promote a sense of shared responsibility for the health of our fellow travelers,” she says. “At the same time, we continue to hear a lot of public resistance to the notion that we’re all in this together to improve the health of everyone. Hopefully that sentiment will subside over time.”

The ACA essentially seeks to accomplish many of the same goals in terms of expanded coverage as a wholly government-funded program, but with costs largely passed on to private parties, including employers, insurance companies, and individuals subject to the individual mandate, says Professor Max Stearns.

Max Stearns, UM Carey Professor of Law and Marbury Research Professor



THE DEBATE IS NOT DONE

Regardless of the source of Congress’ power to enact it, we now have a law that intends to make coverage for everyone more possible and more affordable than ever before. Does it really matter which clause makes the mandate constitutional?

Henry is deeply troubled that the Court relied on Congress’ taxing power to uphold the mandate instead of the Commerce Clause, and by the strike against Congress’ spending power represented by the elimination of the Medicaid expansion requirement. These choices may set a disturbing precedent against progressive causes by weakening Congress’ ability to use federal powers to address the greater good, she says.

“The question is, how will the Court’s decision affect future federal solutions to social problems?” she asks. “Will it limit Congress’ ability to respond? One might ask, how far can Congress go in addressing national social welfare issues in the 21st century? Probably not as far as it used to.”

When the Civil Rights Act was passed in 1964, it was on the strength of the Commerce Clause; Southern businesses were not likely to integrate without being ordered to by the federal government, which viewed civil rights, like health care, as an issue affecting interstate commerce and one that individual states could not solve on their own, Henry says.

We won’t really know the full impact of the Court’s opinion until future rulings begin to clarify it by referring back to this one. But what seems likely is that we are nowhere near done debating what the Commerce Clause does and does not mean.

“The constant reinterpretation of the Commerce Clause since *Wickard* is the key to all of this,” Henry says. ■

“I think the decision does promote a sense of shared responsibility for the health of our fellow travelers. At the same time, we continue to hear a lot of public resistance to the notion that we’re all in this together to improve the health of everyone. Hopefully that sentiment will subside over time.”

—UM Carey Law Professor Ellen Weber



UM Carey Law Professor Ellen Weber

WHEN IS A TAX NOT A TAX?

Given all the initial focus on the Commerce Clause, Supreme Court watchers were perhaps most surprised by the Court’s decision to uphold the mandate under Congress’ taxing power. Many thought the case contained a “Catch-22” that made consideration of the taxing power unlikely. A threshold question to the case was whether the Anti-Injunction Act applied.

The Act prohibits lawsuits to prevent the collection of a tax before it has been paid. No one has yet paid a “shared responsibility payment,” as the ACA calls it. If that payment was construed as a tax, the Anti-Injunction Act would

have barred the ACA lawsuit, and the Court would not have reached the question of the mandate’s constitutionality.

But the Court’s one point of unanimity was that the Anti-Injunction Act does not apply. By a vote of 9 to 0, the Court held that for purposes of that Act, the “shared responsibility payment” is *not* a tax, and therefore its constitutionality *could* be considered.

So now comes the Catch-22: If the “shared responsibility payment” was not a tax, how could it be constitutional under the taxing power? Joined by Justices Kagan, Sotomayor, Ginsburg, and Breyer, Roberts wrote that even though the ACA calls the penalty paid for not purchasing insurance a “shared responsibility payment” rather than a tax, for purposes of constitutional analysis, the payment functioned as a tax.

How did the Majority reconcile these two seemingly contradictory views? When is a tax not a tax? The Court suggests the answer turns on the difference between interpreting a statute—an Act of Congress—and interpreting the Constitution. When interpreting the meaning of one statute under another, the Court looks to the exact language chosen as an indication of Congress’ precise intentions and what those intentions mean about the resulting relationship between two statutes. Interpreting the Constitution is a different task. The Constitution limits Congress’ power, and were the plain language all that mattered, Congress could easily circumvent those limits just by calling something by another name. Two different kinds of questions resulted in two different answers.



STATES OF DISTINCTION

There's plenty for citizens to find fascinating within state Constitutions, say experts Mark Graber and Dan Friedman. In a wide-ranging discussion, they talk candidly about hot-button issues now under debate from Maryland to Montana.

Edited transcript by Sue De Pasquale



Mark Graber (left) and Dan Friedman

MARK GRABER is Associate Dean for Research and Faculty and Professor of Law and Government at the University of Maryland Carey School of Law

DAN FRIEDMAN '94 serves as Counsel to the Maryland General Assembly in the Office of the Attorney General

Q CAREY LAW: Are there features of a state constitution, and in particular the Maryland State Constitution, that are particularly distinctive—and that citizens should care about?

FRIEDMAN: The state constitution is where you put compromises that you don't want the legislature to look at in the future. So for example, the one that I deal with most frequently is slots. For 10 years, we've considered how to do slots in the State of Maryland: VLTs, video lottery terminals. We couldn't figure out how to do it. By putting it in the State Constitution, we took the decision about whether to have slots out of the realm of the General Assembly.

Of course, we left all the details to be worked out by legislation, so we're back every year, fighting over what the details are. But that's an example.

GRABER: State constitutions, I think, have different kinds of provisions that citizens might care about and be interested in. There are provisions distinctive to the state constitution—indeed probably distinctive to each state. For example, New York's Constitution has provisions about how wide the ski trails have to be and if you own a ski resort in New York, you really need to know about those provisions. If you live in Utah, who cares? And Maryland has a lot of those same, state-specific provisions, too.

It's also important for people to understand that states can add to the Federal constitutional rights of citizens, as long as those amendments don't diminish those rights. For example, the Maryland Equal Rights Amendment. There is federal law on the Equal Rights Amendment but Marylanders thought the Federal law insufficiently rights protective, so we have a state constitutional amendment that says we're going to protect more rights than the Federal government. So in effect, they can say: In this state you have a right to same-sex marriage. In this state, women will be treated equally. In this state, property will not be condemned under these conditions.

Finally, there are provisions that are identical to the Federal Constitution, but that are still open for different interpretation by the states—again as long as they don't violate Federal rights. So there's a lot in state constitutions that ought to be of interest to citizens.

FRIEDMAN: That's absolutely true.

GRABER: What are other hot state constitutional issues that readers ought to be really interested in? What about the right to bear arms in the Maryland Constitution?

FRIEDMAN: Good one. Where there was debate about whether the Federal

Second Amendment protected the individual right to bear arms, or whether it was a communal militia-based right, the Maryland Constitution—which pre-dated the Second Amendment, of course—was only a militia-based right, so none of those individual right-to-carry issues are going to arise under the Maryland Constitution.

GRABER: What about the special session of the Maryland General Assembly in May ... was there a constitutional issue involved with that?

FRIEDMAN: Absolutely. For the first 150 some-odd years of Maryland



Mark Graber

history, we had a legislative-dominated budget process. And in the early part of the 1900s we adopted what we called the executive budget system... The driver's seat is given to the Governor, among other powers given to the Governor of the State of Maryland—making him, I believe, the most powerful governor of any of the states.

The legislature's only mandatory function during the legislative session every year is to receive the budget from the Governor, adjust it in only limited ways, and approve it. Once that is done, however, it's done.

There are choices and contingencies in that budget that are made and now we are struggling with how you undo those if there is a special session—which can only be called under processes that are spelled out in the State Constitution. If you have a special session, any changes in that budget have to be made in a manner that is consistent with Article III, Section 52 of the State Constitution, which is the executive budget amendment.

The way the doomsday budget was designed, there were \$500 million in cuts, but those cuts would go away if the budget reconciliation act and the revenue act passed. Then the cuts would

be restored. But once the session ended and that doomsday budget was adopted, you can't just undo it because that's increasing the budget—which is not a function that the legislature is permitted to do. So we're spending a lot of time figuring out exactly how we can go back and restore the budget that the General Assembly initially intended.

“State constitutions [are] easier to amend ... It's easier to call a state constitutional convention.”

—MARK GRABER

GRABER: One of the differences between state constitutions and the Federal Constitution is state constitutions are easier to amend. It's easier to call a state constitutional convention. We've just had a very close vote in Maryland on calling a new state constitutional convention ... what are

the things about the Maryland Constitution that people are thinking of repairing?

FRIEDMAN: Let me talk about [an issue] that will be on people's ballots this year. In this past legislative session, we found something that was wrong about the State Constitution. If a state or local elected official is convicted of a crime, they are automatically removed from office. The problem is, there's a 1974 opinion of the Attorney General that says conviction for this provision of the State Constitution happens at sentencing. And so we had the unseemly situation where the then-sitting Mayor of Baltimore City had been found guilty by a jury but remained in office for two more months until the sentencing and interdiction became final.

A similar thing happened in Prince George's County, where a county councilwoman pled guilty but wasn't removed from office because her guilty plea hadn't hardened into a final conviction—so that the provision of the State Constitution that causes her automatic removal from office took place this year.

Because those were so unseemly, the General Assembly has proposed a constitutional amendment that will be on folks' ballots in November, to move that up so there isn't that awkward time after a guilty plea—or after a finding of guilt but before sentencing—where that person is allowed to stay in office and operate the machinery of government. So that was something we've learned in experience was bad and we get to fix it.

Remember that Maryland's Constitution was written in 1867, by a very conservative group that was trying to undo progress that had been made during the Civil War. That was its express purpose. In the 140-some-odd-years after that, we've taken out a lot of the most egregious provisions. We've smoothed over some, or by

judicial remedy, by judicial interpretation, taken the hard edges off of stuff. But the Maryland Constitution is incredibly hard to read. It's self-contradictory. It's not user-friendly in any way. And one of my aspirations is that at some point we would clean it up, whether we do that by a constitutional convention or, my favored way of doing it, similar to the way we do code revision. We take on a new article of the Constitution every two years. We work together to make non-substantive changes that will make it easier for citizens to understand their Constitution.

GRABER: Another potentially hot issue ... the Montana Supreme Court, in a campaign finance case, said maybe there's not evidence that corporations are affecting the national government, but here in Montana, they're ruining politics, so *Citizens United* [the campaign finance case], doesn't apply to us. Are there areas where you see the Court of Appeals trying to use the Maryland Constitution to resolve issues that they suspect the more conservative Supreme Court of the United States will not reach?

FRIEDMAN: I have seen almost none of that ... of the Court of Appeals using

Michigan vs. Long to insulate its decisions from the decisions of the more conservative U.S. Supreme Court.

GRABER: Yes, *Michigan v. Long* is a Supreme Court case that essentially says that if a state wishes to provide

“The Maryland Constitution is incredibly hard to read. It's not user-friendly in any way. One of my aspirations is that at some point we would clean it up ...”

—DAN FRIEDMAN

more protections than the Federal Constitution, it can do so but it must say explicitly that we are interpreting the State Constitution, not the Federal Constitution.



FRIEDMAN: Right. It's a plain statement of the adequate and independent state constitutional ruling ... [on a semi-related subject]... I think that this has been a year in which the Court of Appeals has told the Maryland General Assembly, you've gone too far in a number of places.

Along these lines, I think the lead paint decision of *Jackson v. Dackman* is a very interesting case. Seventeen or 18 years ago, the General Assembly enacted a statutory scheme that attempted to balance the rights of children poisoned by lead paint to protect the housing stock and to improve the housing stock so that in the future more kids aren't lead poisoned. What it says is, if you clean up the house and you keep it, and you improve the conditions, then the remedy for a child poisoned is capped and it's capped at a low figure. The General Assembly made that decision and for 17 years that's been the law of the land. Landlords haven't been buying insurance because they understood that their liability was capped in these ways.

The incidence of lead paint poisoning has dropped precipitously and this has been in many respects a very successful program in terms of maintaining housing stock, cleaning up apartments, and reduction in lead paint poisoning. This year the Court of Appeals held, however, that the statutory scheme, which caps the liability for the amount of money that the plaintiff can recover at about \$17,000, violated our constitutional right to a remedy. Unfortunately the decision is not clear about at what level that remedy would be preserved—and so my clients said well, okay, \$17,000 is too little. Is \$34,000 the right number? Is \$170,000 the right level? And I can't answer that question because the court gave us almost no direction. But that's another

Dan Friedman

time when the Court of Appeals said no, Legislature, you've gone too far.

The ground rent case is another one. The ground rent case is one called *Muskin v. State Department of Assessment and Taxation*. The *Baltimore Sun* published a series of reports saying, essentially, that owners of ground rents were using the collection system to repossess homes. For \$90 in failure of back ground rents, they were taking people's homes. One of the things the General Assembly wanted to do was make sure everybody had notice of the ground rents on their homes; it created a registry system and owners were given three years to register their ground rents, but if they didn't do it within three years, the ground rents would be terminated and would revert to the owner of the property. The U.S. Supreme Court, in a series of cases, mostly mineral extraction cases, said you can terminate somebody's property rights without violating those property rights if you gave them a notice period for these registries. Our Court of Appeals decided that that was unconstitutional and so this session the General Assembly developed a different statutory remedy for failure to register those ground rents.

Q CAREY LAW: How does the Maryland Constitution compare to other state constitutions? Are there unique elements to it?

DAN: We don't have the shortest ballot but we have among the shortest.

Q CAREY LAW: Could you explain the concept of the shortest ballot?

FRIEDMAN: There are only three other statewide elected officials who don't run with the Governor: the Attorney General, the Treasurer, and the Comptroller. In New Jersey, the Governor is the only executive branch official on the ballot. And that's strengthening because everybody in the

executive branch relies on him. Here, the Comptroller, the Treasurer, the Attorney General don't work for the Governor. They're elected by the people, and they are statewide executive branch officials who aren't dependent on the Governor. So I think that's a distinctive feature.

I think of studying the Maryland Constitution as really requiring an archaeologist's skill because you can find provisions that date to any of our four constitutions: 1776, 1851, 1864,

"I think of studying the Maryland Constitution as really requiring an archaeologist's skill because you can find provisions that date to any of our four constitutions: 1776, 1851, 1864, 1867."

—DAN FRIEDMAN

1867. But I think also really interesting is the role of our 1967 Constitutional Convention, where we thought about changing the Maryland Constitution. Though voters rejected that proposed constitution, by hook or by crook we've subsequently adopted most of the ideas that were proposed in 1967.

Q CAREY LAW: Mark, what is one of the things about the Maryland Constitution that most intrigues you?

GRABER: Maryland turns out to be a pioneer in special laws in the 19th century. There are just fascinating cases

about administrative discretion as special laws because, in fact, both states and the Federal Constitution had trouble with bureaucracy. Namely, rather than having Congress pass a law, or the state legislature pass a law that said a boiler could be no more than 200 degrees, and then all the inspector did is [evaluate whether is was] at 200 degrees or not, you increasingly got laws of the form that when the boiler has to be safe, the bureaucrat goes in and decides whether it's safe or not. Maryland was troubled by that. [There was] too much executive discretion. So the way Maryland understood these special law provisions was copied throughout the United States.

Maryland is also very interesting in the way the Equal Rights Amendment did not affect gay marriage in Maryland. One would have thought it might have, and it didn't.

Q CAREY LAW: Can you say more about that?

GRABER: Mainly, one of the standard arguments for gay marriage goes like this: If we agree that it's a violation of the 14th Amendment on race, that if I can marry a white woman then I can marry an African American woman, and if the standard of protection is the same for race and gender ... then shouldn't it be the case that that the gender of my marriage partner ought not to matter, just as my race doesn't? That is the argument. It would seem once you've had an ERA that argument followed.

But the Maryland Supreme Court disagreed with my airtight analysis. ■



The Real Thing

By Lisa Ohrin '94

At the end of the 2011-2012 academic year, Diane Hoffmann stepped down from her position as Associate Dean for Academic Programs. She served in that position for an unprecedented 15 years, during which she also oversaw the Law & Health Care Program's rise to national prominence. She will be returning to the faculty to teach and focus on her scholarly research.

She may be tiny, but she is mighty! Diane Hoffmann is a never-ending source of energy, ideas, and enthusiasm for the work she does. She commands a room, controls a meeting, and motivates a research assistant like no other. The breadth of her expertise boggles the mind.

Diane's vision for the Law & Health Care Program expanded on the groundwork set by Karen Rothenberg in the early 1990s and boosted the program into one of the most comprehensive and respected programs in the country. Students who earn certificates from the program enter the work force on the same level as third-year health law associates. What a wonderful gift to give a new graduate—the ability to perform his or her job confidently and competently!

There is a theme that runs through the highlight reel of Diane's career and life. She is genuine in a way that you recognize instantly. She is not interested in you because of what you can do for her. She cares

about your success. She motivates you to achieve so that you will know the feeling of accomplishment. She shines a spotlight on all that is special about you—whether you write a brilliant paper, design an innovative course as an adjunct professor, or are a thoughtful friend. Diane does all this by really getting to know you, which is rare these days, where the pressure to perform, get a job, or earn tenure are so great that we don't waste time making deep connections.

"DIANE HAS GROWN with the institution—and the law school has grown because of her. She has become one of the nation's premier authorities on the ethical and policy issues of health care law. The health care law program that Diane has built reflects those interests, as well as her high standards of excellence."

—Dean Phoebe A. Haddon

Lisa Ohrin has practiced health law for 14 years in a variety of settings and specialties. She is currently Deputy Director of the Division of Technical Payment Policy within the Center for Medicare Management at CMS.

"Through my years in both medical and legal training, Dean Hoffmann is the only person I have ever met who is extremely bright, yet down to earth and who can work efficiently on 10 projects at once, while keeping a welcoming open door to any student with an idea or interest.

She is truly an amazing person who helped make law school one of the best experiences of my life."

—Keith A. Shebairo, MD, Esq. '10

I am privileged and grateful to have called Diane, at various points in my life, my friend, colleague, mentor, cohort in mischief, idol, adventure travel buddy, support system, and the best audience (ever!) for my jokes (I told you—she really gets people). And that Diane—she makes a mean PowerPoint. Ask anyone. ■

New Faculty, Appointments & Promotions

The rise of outstanding scholars at the School of Law further strengthens programs and enhances the school's outstanding academic reputation.

NEW FACULTY



MICHAEL PAPPAS joins the UM Carey Law faculty from Tulane University Law School, where he was the Forrester Fellow and Instructor in Legal Writing, and an adjunct professor teaching environmental law. His current scholarship explores the balance between governmental responsibilities and private rights in managing natural resources such as energy sources, coastal environments, fresh water environments, fisheries, and food sources. He received his BA and MA in English Literature from Stanford University and his JD, with distinction, from Stanford Law School.

ANDREW BLAIR-STANEK comes to UM Carey Law from the Washington, D.C., office of McDermott Will & Emery LLP, where he focused his practice on corporate and international tax matters for U.S. and foreign multinationals. He received his JD from Yale Law School and his AB, *summa cum laude*, in mathematics from Princeton University. While in law school, Blair-Stanek was a member of THE YALE LAW JOURNAL, and clerked for the Honorable Paul V. Niemeyer of the U.S. Court of Appeals for the Fourth Circuit. Prior to law school, he was a software design engineer for an international software company. He is admitted to practice in the District of Columbia as well as before the U.S. Court of Appeals for the Fourth and Fifth Circuits and the U.S. District Court for the District of Maryland.



ACADEMIC APPOINTMENTS



PROFESSOR MICHELLE HARNER has been appointed to serve as Associate Dean for Academic Programs for the 2012-2013 and 2013-2014 academic years. Also serving as Co-Director of the Business Law Program, Harner's current research interests include shareholder and creditor activism and its impact on corporate value; legislative responses to serial business failures and related implications for discrete industries; and the ethical implications of insolvency for directors, officers, and other fiduciaries.

Her most recent publications appear or are forthcoming in the VANDERBILT LAW REVIEW, NOTRE DAME LAW REVIEW, WASHINGTON UNIVERSITY LAW REVIEW, MINNESOTA LAW REVIEW, FORDHAM LAW REVIEW (reprinted in *Corporate Practice Commentator*), ARIZONA LAW REVIEW, MARYLAND LAW REVIEW, SETON HALL LAW REVIEW, and SEATTLE UNIVERSITY LAW REVIEW. Several courts have cited her scholarship, including the U.S. Courts of Appeal for the First, Third, and Ninth Circuits and the U.S. District Court for the District of Nevada.

Harner currently is serving as the Reporter to the American Bankruptcy Institute's Commission to Study the Reform of Chapter 11. In addition, in March 2009 and April 2012, she received research grants from the American Bankruptcy Institute Endowment Fund to study the role of creditors' committees in Chapter 11 business bankruptcies and potential reforms to Chapter 11, respectively.

Harner previously was in private practice in the business restructuring, insolvency, bankruptcy, and related transactional fields, most recently as a partner at the Chicago office of the international law firm Jones Day. Before joining that firm in 1996, she served as law clerk to Judge William T. Bodoh of the U.S. Bankruptcy Court for the Northern District of Ohio. Harner attended 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 her undergraduate degree at Boston College, and she is admitted to practice law in Illinois and Ohio.

Harner is a member of a number of professional organizations, including the American Law Institute, American Bankruptcy Institute, the American Bar Association, and the International Association of Restructuring, Insolvency & Bankruptcy Professionals.

FACULTY PROMOTIONS



Promoted to Associate Professor of Law, **LESLIE MELTZER HENRY's** scholarly interests include constitutional theory and interpretation, health policy and social justice, bioethics, reproductive justice, and research ethics. She is also an associate faculty member at the Johns Hopkins Berman Institute of Bioethics. Prior to joining the law school faculty, Henry completed a post-doctoral fellowship in

bioethics and health policy at Johns Hopkins School of Public Health and Georgetown Law Center; clerked for the Honorable Judith Rogers of the U.S. Court of Appeals for the District of Columbia Circuit; was a fellow in the National Institutes of Health's Office of Human Subjects Research; and was founder and Editor-in-Chief of the YALE JOURNAL OF HEALTH POLICY, LAW, AND ETHICS. She has served as a bioethics consultant to the Department of Defense, and is an Associate of CETMONS: Consortium for Emerging Technologies, Military Operations, and National Security.

Promoted to Law School Professor, **KATHLEEN HOKE DACHILLE '92** also serves as Director of the Network for Public Health Law, Eastern Region and the Center for Tobacco Regulation at the School of Law. She teaches the Public Health Law Clinic, through which she engages law students in the work of the Network and the Center. She joined the faculty in 2002 after serving for eight years with the Office of the Attorney General of Maryland. During her tenure as an Assistant Attorney General, Dachille served in the Civil Litigation Division and the Opinions and Advice Division. As a Special Assistant Attorney General, Dachille worked on a variety of public health initiatives, including an evaluation of the proposed conversion of CareFirst BlueCross/BlueShield, with focus on whether the non-profit health insurer was fulfilling its public obligations.



Promoted to Associate Professor of Law, **AMANDA PUSTILNIK** is currently conducting research on mind models in criminal law, evidentiary issues presented by neuroscientific work on memory, and the role of pain in different legal domains. Prior to joining the faculty, she was a Climenko fellow and lecturer on law at Harvard Law School, and practiced litigation with Covington & Burling and with Sullivan & Cromwell, where she focused on white collar criminal matters. She also clerked for the Hon. Jose A. Cabranes on the U.S. Court of Appeals for the Second Circuit. She has been a visiting scholar at the University of Cambridge, Emmanuel College, in the History and Philosophy of Science department. Pustilnik has also worked at McKinsey & Company as a management consultant and is a member of the board of directors of the John Harvard Scholarships.



ADMINISTRATIVE APPOINTMENTS

CONNIE BEALS '02 has been named the Assistant Dean of Admissions, after serving as Executive Director of Admissions since 2005. In her expanded role she oversees all functions of the Office of Admissions and partners with deans and directors to set strategic goals that have resulted in increased School standing nationally.

After graduating from UM Carey Law with a Certification in Health Law, Beals spent two years as the Deputy Director of the Center for Dispute Resolution at the University of Maryland (C-DRUM). Combining her interest in medicine and law and previous experience as a Health Advocacy Specialist in the Consumer Protection Division of the Office of the Attorney General, she helped to organize and administer a collaborative Medical Malpractice Roundtable. Prior to law school, Beals worked extensively in clinical medicine, primarily diagnostic imaging, as a clinician, manager, and liaison. She has served on the LSAC Misconduct and Irregularities Subcommittee and is a member of the Maryland State Bar Association.

TRISHANA BOWDEN rejoined UM Carey Law in November 2011 as Associate Dean for Development and Alumni Relations. With more than 20 years of experience in the advancement field, including her previous service as Director of Development here at the



law school, Bowden brings a tremendous wealth of knowledge and institutional history to her new role at UM Carey Law. During her earlier tenure, she was deeply involved in successfully securing major gifts for the capital campaign that resulted in the law school's impressive facility. *For Trishana Bowden's full bio, please see page 41.*

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 its members complete each year. The entries on the following pages represent only a sampling of the diverse scholarly activities of our academic community from the 2011-2012 academic year. For a more complete listing and actual links to articles, visit www.law.umaryland.edu/scholarship.

Taunya Lovell Banks published the article "Funding Race as Biology: The Relevance of 'Race' in Medical Research," 12 MINNESOTA JOURNAL OF LAW, SCIENCE AND TECHNOLOGY 571 (2011), and contributed the book chapter "Black Pluralism in Post-Loving America" in *Loving v. Virginia In A Post-Racial World: Rethinking Race, Sex, And Marriage* (K. Maillard and R. Villazor, eds.) (Cambridge University Press, 2012). She participated in a panel discussion entitled "Beyond the Realists and the Critics: Is the Supreme Court Even a Court?" at the June 2012 Law & Society Annual Meeting, and participated in a panel discussion on ethics in medical education, research, treatment, and practice at the Enoch Pratt Free Library.

Jane F. Barrett published the article "When Business Conduct Turns Violent: Bringing BP, Massey, and Other Scofflaws to Justice," 48 AMERICAN CRIMINAL LAW REVIEW 287 (2011).

Barbara Bezdek co-authored the book *Housing & Community Development: Cases and Materials* (4th ed.), and published the article "Dreaming in Chinese: Accountable Development," 27 MARYLAND JOURNAL OF INTERNATIONAL LAW 48 (2012).

Brenda Bratton Blom contributed the book chapters "Mentoring and Professional

Responsibility" (with Dorcas Gilmore) and "Charting a New Course: New Methods for Teaching Professional Responsibility in a Post-Carnegie World" (with others) in *Reflections on Law and Leadership: Integrating Leadership into the Law School Curriculum* (P. Monopoli and G. Sorenson, eds.) (Ashgate Press, forthcoming), and "Legal Resource Networks" (with Philip Robinson) in *Reinventing the Practice of Law: Innovations for Lawyers Representing People* (L. Herrera, ed.) (American Bar Association, 2011).

David Bogen published the articles "Memories of Professor Chiu," 27 MARYLAND JOURNAL OF INTERNATIONAL LAW 3 (2012), and "From Racial Discrimination to Separate but Equal: The Common Law Impact of the Thirteenth Amendment," 38 OHIO NORTHERN UNIVERSITY LAW REVIEW 117 (2011). He also presented "CRES Programs for Legal Education" at the AALS Workshop "Teaching Innovations," Marriott Hotel, Washington, DC.

Richard Boldt published the articles "Decisional Minimalism and the Judicial Evaluation of Gun Regulations," 71 MARYLAND LAW REVIEW 1177 (2012); "Adolescent Decision Making: Legal Issues with Respect to Treatment for Substance Misuse and Mental Illness," 15 JOURNAL OF HEALTH CARE LAW & POLICY 75 (2012); and "Drug Policy in Context: Rhetoric and Practice in the United

States and the United Kingdom," 62 SOUTH CAROLINA LAW REVIEW 261 (2011). He also presented "Mental Illness and the Criminal Justice System, Greenwall Fellowship Program in Bioethics and Health Policy," at the Johns Hopkins University Berman Institute of Bioethics (Spring 2012).

Danielle Citron published the articles "Intermediaries and Hate Speech: Fostering Digital Citizenship for the Information Age," 91 BOSTON UNIVERSITY LAW REVIEW 1435 (2011) (with Helen Norton), "Network Accountability for the Domestic Intelligence Apparatus," 62 HASTINGS LAW JOURNAL 1441 (2011) (with Frank Pasquale), and "Mainstreaming Privacy Torts," 99 CALIFORNIA LAW REVIEW 1805 (2011). She also contributed the book chapter "Civil Rights in the Information Age," in *The Offensive Internet: Speech, Privacy and Reputation* (M. Nussbaum & S. Levmore eds., 2011). She was an invited speaker to New York University's Power and Technology Roundtable discussion, and the Congressional Internet Caucus Committee's State of the Net Conference. She was also called to testify before the Inter-Parliamentary Committee on Anti-Semitism for the Task Force on Online Hate in the United Kingdom's House of Commons, and gave written testimony before Hawaii's State Senate.

Doug Colbert published the articles "Prosecution Without Representation," 59 BUFFALO LAW REVIEW 333 (2011) and "Clinical Professors' Professional Responsibility: Preparing Law Students to Embrace Pro Bono," 18 GEORGETOWN JOURNAL OF POVERTY LAW & POLICY 309 (2011).

Robert Condlin published the article "Bargaining Without Law," 56 NEW YORK LAW SCHOOL LAW REVIEW 213 (2012); presented an article, "The Curious Case of

Transformative Dispute Resolution: An Unfortunate Marriage of Intransigence, Exclusivity, and Hype," at the New York Law School Clinical Theory Workshop; and is presently working on an article about the Supreme Court's treatment of the Rules Enabling Act, entitled "Disabling the Enabling Act: Just Another Bad Opera?"

Karen Czapanskiy published the article "Disabled Kids and Their Moms: Caregivers and Horizontal Equity," 19 GEORGETOWN JOURNAL ON POVERTY LAW AND POLICY 43 (2012).

Kathleen Dachille published the articles "U.S. Health Policy Related to Hookah Smoking," 50 JOURNAL OF ADOLESCENT HEALTH S12 (2012) (with others), and "Using Law to Improve Public Health: The Tobacco Example," NEW YORK STATE BAR ASSOCIATION HEALTH LAW JOURNAL SPECIAL ISSUE: PUBLIC HEALTH LAW AND ETHICS (2012). She presented "Hydraulic Fracturing: State and Federal Regulation," at the Physicians, Scientists and Engineers for Healthy Energy (PSE) and the Mid-Atlantic Center for Children's Health and the

Environment (MACCHE) Conference: "Epidemiologic and Public Health Considerations of Shale Gas Production: The Missing Link," Arlington, VA. She also served as a panelist for "How to Build a Model Local Public Health Program" at the UMB/DHMH Summit on Childhood Obesity, in Baltimore, presenting "Locals Taking Lead: Tobacco Control in Maryland," and served as a panelist for "Health Law Special Interest Group Environmental Law" at the APHA Annual Meeting, presenting "Hydraulic Fracturing: Potential Health Impacts and Public Health Response."

Peter Danchin published the article "Islam in the Secular Nomos of the European Court of Human Rights," 32 MICHIGAN JOURNAL OF INTERNATIONAL LAW 663 (2011), and will publish "The Tangled Politics of Religious Freedom," 10 SANTA CLARA JOURNAL OF INTERNATIONAL LAW (forthcoming 2012), and "The Puzzle of Offense: Reflections on the Danish Cartoon and Park51 Mosque Controversies," 4 BERKELEY JOURNAL OF MIDDLE EASTERN AND ISLAMIC LAW (forthcoming 2012).

Jerome Deise published the article "The Heavy Thumb on the Scale: The Effect of Victim Impact Evidence on Capital Decision Making," 49 CRIMINOLOGY 129 (2011) (with Raymond Paternoster).


Deborah Thompson Eisenberg published the articles "*Wal-Mart Stores v. Dukes*: Lessons for the Legal Quest for Equal Pay," 46 NEW ENGLAND LAW REVIEW 229 (2012) and "Money, Sex and Sunshine: A Market-Based Approach to Pay Discrimination," 43 ARIZONA STATE LAW JOURNAL 951 (2011). She was invited to testify about pay discrimination and mediation as part of the national Strategic Enforcement Plan of the Equal Employment Opportunity Commission, Washington, D.C. She presented "Chevron and the Agency Amicus Strategy" at the Sixth Annual Employment & Labor Law Scholars' Forum at Seton Hall Law School, Newark, NJ, and "The Overuse of Summary Judgment in Equal Pay Cases" at the symposium "Trial by Jury or Trial by Motion?" at New York Law School, New York, NY.



PROFESSOR JANE F. BARRETT (back row, far right) and the Environmental Law Clinic received the American Bar Association's 2012 Award for Distinguished Achievement in Environmental Law and Policy. The Award is given annually by the ABA Section of Environment, Energy and Resources to an individual or organization for contributing significant leadership in improving the substance, process, or understanding of environmental protection and sustainable development.





 **LARRY GIBSON** (center) received an honorary Doctor of Laws degree from Morgan State University, in recognition of his achievements as “a guardian of public law, a champion of human rights and a major shaper of the next generation of America’s legal minds.” MSU President David Wilson bestowed the honor May 19 at the university’s 136th annual commencement ceremony in Baltimore.

Martha Ertman contributed the book chapters “The Productive Tension between Official and Unofficial Stories of Fault in Contract Law,” in *Fault in American Contract Law* (O. Ben-Shahar & A. Porot eds., 2011) and “Love & Contracts in Don Quixote,” in *Don Quixote: A Modern Hero* (Juan de la Cuesta-Hispanic monographs, forthcoming 2012), and will publish the article “Exchange as a Cornerstone of Families,” 34 *WESTERN NEW ENGLAND LAW REVIEW* (forthcoming 2012). She presented “Love and Cohabitation Contracts,” for a Marriage, Family & Theology class at the University of Portland, Portland, OR; “Contracting in and out of Fatherhood,” at Thomas Jefferson Law School’s Annual Women & the Law Conference, Thomas Jefferson Law School, San Diego, CA; “Freedom of Contract in Parenthood” as a part of a speaker series on freedom at The College of New Jersey, and “Plan B Baby-making: The Big Business of Reproductive Technologies,” at the University of Chicago’s The State, Gender and Family workshop.

Don Gifford will publish two separate articles, “The Constitutional Bounding of

Adjudication: A Fuller(ian) Explanation for the Supreme Court’s Mass Tort Jurisprudence,” 44 *ARIZONA STATE LAW JOURNAL* (forthcoming 2012) and “What’s on First? Organizing the Casebook and Molding the Mind” (the second article with J. Kroart, B. Jones and C. Cortemegila), 44 *ARIZONA STATE LAW JOURNAL* (forthcoming 2012), and published the article “Climate Change and the Public Law Model of Torts: Reinvigorating Judicial Restraint Doctrines,” 92 *SOUTH CAROLINA LAW REVIEW* 201 (2011). He presented “Cracking the Code—A Model Industry Response to the Plaintiff Bar’s State Attorneys General (Parens Patriae) Products Liability Casebook,” Blank Rome Annual Conference on Significant Legal Developments Affecting the Chemical, Oil and Gas Industries, Philadelphia, PA, and “Governing through Tort Litigation: Global Warming, Tobacco, and Lead,” University of Maryland School of Public Policy, Tuesday Policy Forum, College Park, MD.

Mark Graber co-authored the book *American Constitutionalism: Volume 1, Structures of Government* (with H. Gillman and K. Whittington) (Oxford University

Press, 2012); published “Hollow Hopes and Exaggerated Fears: The Canon/Anticanon in Context,” 125 *HARVARD LAW REVIEW FORUM* 33 (2011), and “Constitutional Democracy, Human Dignity, and Entrenched Evil,” 38 *PEPPERDINE LAW REVIEW* 889 (2011); and will publish the article “Redeeming and Living with Evil,” *MARYLAND LAW REVIEW* (forthcoming 2012), and will co-edit the book *American Constitutionalism: Volume II, Rights and Liberties* (with H. Gillman and K. Whittington) (Oxford University Press, forthcoming 2012). He also presented “The Judicial Allocation of Constitutional Authority” at Florida State University School of Law.

David Gray published the article “Beyond Experience: Getting Retributive Justice Right,” 99 *CALIFORNIA LAW REVIEW* 101 (2011) (with others), and will contribute the book chapters “Transitional Disclosures: What Transitional Justice Reveals About ‘Law,’” in *Transitions: Legal Change, Legal Meanings* (A. Sarat ed., forthcoming 2012) and “Feminist Perspectives on Extraordinary Justice,” in *Conflict and Transitional Justice: Feminist Approaches* (M. Fineman & E. Zinsstag, eds., forthcoming 2012) (with Benjamin Levin). He also presented “A Spectacular Non-Sequitur” at Georgetown Law School, the Ohio State Moritz College of Law, the University of Utah S.J. Quinney College of Law, Case Western Reserve School of Law, and at the Law and Society Association Annual Meeting.

Oscar Gray published 2011 *Supplement No. 2* and 2012 *Supplement No. 1* to *Harper, James and Gray on Torts*, which comprise cumulative supplements to vols. 1-5 of the parent volumes, and revisions and updates to vol. 6 (index and other endpapers). 2012 *Supplement No. 2* is forthcoming.

Michael Greenberger published “Overwhelming a Financial Regulatory Black Hole with Legislative Sunlight: Dodd-Frank’s Attack on Systemic Economic Destabilization Caused by an Unregulated Multi-Trillion Dollar Derivatives Market,” 6 *JOURNAL OF BUSINESS & TECHNOLOGY LAW* 127 (2011). He will publish

“Diversifying Clearinghouse Ownership in Order to Safeguard Free and Open Access to the Derivatives Clearing Market,” 17 *FORDHAM JOURNAL OF CORPORATE & FINANCIAL LAW* (forthcoming 2012); and “The Extraterritorial Application of the Dodd-Frank Act Protects U.S. Taxpayers from Worldwide Bailouts,” 80 *UMKC LAW REVIEW* (forthcoming 2012). He testified on Wall Street’s role in excessive speculation in crude oil markets before the Democratic Steering and Policy Committee of the U.S. House of Representatives, the Small Business Committee of the U.S. House of Representatives, and the Democratic Caucus of the U.S. House of Representatives. He also participated on a panel entitled “Regulation of Over-the-Counter Derivatives” at a conference sponsored by the *FORDHAM JOURNAL OF CORPORATE & FINANCIAL LAW*, a panel entitled “Socio-Economic Approaches to Economic Recovery” at the Association of American Law Schools Annual Meeting in Washington, DC, and a panel entitled “Central Bank Independence, Financial Reform and Financial Stability at the 21st Annual Hyman P. Minsky Conference on the State of the U.S. and World Economics in New York, NY. He organized a symposium, “Ten Years After 9/11: Building a Prepared and Resilient Maryland” for Maryland Governor Martin O’Malley.

Phoebe Haddon will publish the article “The Challenges of Providing Access and Diversity in Difficult Economic Times” in the *JOURNAL OF CIVIL RIGHTS AND ECONOMIC DEVELOPMENT* (forthcoming 2012), and has contributed a chapter to “Leadership Studies for Lawyers of the Future” in *Law and Leadership: Integrating Leadership Studies into the Law School Curriculum* (P. Monopoli and S. McCarty, eds.) (Ashgate Publishing Ltd., forthcoming 2012). She participated in several panel discussions, including the plenary session “A Vision for Maximizing Academic Support Programs,” and “Fostering Diversity and Excellence During Challenging Economic Times,” at the Association of American Law Schools annual meeting, Washington, DC; “Goals and Significant Proposals,” a plenary discussion of proposed changes to the

American Bar Association’s accreditation standards, at the ABA Deans Workshop, San Diego, CA; and “A Dean’s Perspective: Service and Institutional Citizenship,” the keynote address to the Association of American Law Schools 2012 Workshop for New Law School Teachers in Washington, DC. She also participated in the “Still Waiting for that Major Donor? Creative Financing in Challenging Times” panel at the American Bar Association’s Bricks, Bytes and Continuous Renovation 2012, San Diego, CA; and delivered “The Secret of Success: Mentors and Excellence,” a speech given to Baltimore high school students and their families at WBFF-Fox 45’s Champions of Courage Award Ceremony; the Baltimore Leadership School for Young Women; and St. Paul’s School for Girls’ Academic Awards Assembly.

Susan Hankin published the article “Bridging Gaps and Blurring Lines: Integrating Analysis, Writing, Doctrine, and Theory,” 17 *LEGAL WRITING: JOURNAL OF THE LEGAL WRITING INSTITUTE* 325 (2011), and presented “Teaching Courses That Integrate Analysis, Writing, Doctrine and Theory” (with Sherri Lee Keene), at the Second Annual Capital Area Legal Writing Conference, Georgetown University Law Center, Washington, DC.

Michelle Harner published the articles “Activist Distressed Debtholders: The New Barbarians at the Gate?,” 89 *WASHINGTON UNIVERSITY LAW REVIEW* 155 (2011); “Committee Capture? An Empirical Analysis of the Role of Creditors’ Committees in Business Reorganizations,” 64 *VANDERBILT LAW REVIEW* 749 (2011) (with Jamie Marincic); “Mitigating Financial Risk for Small Business Entrepreneurs,” 6 *OHIO STATE ENTREPRENEURIAL BUSINESS LAW JOURNAL* 471 (2011) (symposium piece); “Behind Closed Doors: The Influence of Creditors in Business Reorganizations,” 34 *SEATTLE UNIVERSITY LAW REVIEW* 1155

(2011) (with Jamie Marincic) (symposium piece); “The Search for an Unbiased Fiduciary in Corporate Reorganizations,” 86 *NOTRE DAME LAW REVIEW* 469 (2011); and “The Value of ‘Thinking Like a Lawyer,’” 70 *MARYLAND LAW REVIEW* 390 (2011) (symposium piece). She will be publishing “The Naked Fiduciary,” 54 *ARIZONA LAW REVIEW* (forthcoming 2012) (with Jamie Marincic); and “Gender and Securities Law in the Supreme Court,” 33 *WOMEN’S RIGHTS LAW REPORTER* (forthcoming 2012) (with Lyman Johnson and Jason Cantone). She presented “Investor Disclosures: Is More Really Better?,” at the 2012 Southeastern Association of Law Schools Annual Meeting; “Facilitating Successful Failures,” at the 2012 Law & Society Annual Meeting; “The Naked Fiduciary,” at the 2012 Law & Entrepreneurship Retreat, hosted by the Mauer School of Law, Indiana University, Bloomington, Indiana; and “Gender in the Supreme Court: Securities Decisions,” at the AALS Workshop for Women in Legal Education: Women Rethinking Equality.

Leslie Meltzer Henry published the articles “Commerce Games and the Individual Mandate,” 100 *GEORGETOWN LAW JOURNAL* 1117 (2012) (with Max Stearns), “Adolescent Decision-Making and the Law of the Horse,” 15 *JOURNAL OF HEALTH CARE LAW AND POLICY* (2012) (with Amanda Pustilnik), and “The Jurisprudence of Dignity,” 160 *UNIVERSITY OF PENNSYLVANIA LAW REVIEW* 169 (2011). She also served as Guest Editor of the *FORUM FOR HEALTH ECONOMICS AND POLICY* symposium issue on “Health Care Cost-Containment Strategies” (2012), and was interviewed on ABC News: “Local Bioethicist Weighs in on Health Care Battle.”

Renée Hutchins published a book review of “The New Jim Crow by Michelle Alexander,” 47 *CRIMINAL LAW BULLETIN* 522 (2011), and the Op-Ed, “A Step Back for



MICHELLE HARNER was elected to the American Law Institute and was selected as a reporter for the American Bankruptcy Institute’s Commission to Study the Reform of Chapter 11.

Rights,” *Baltimore Sun* (January 29, 2012). She presented her work, “You Can’t Handle the Truth! Credibility and Appellate Courts,” at the Criminal Law Research Collective, held at George Washington University School of Law, Washington, D.C. and at the Clinical Theory Workshop held at New York Law School, New York, NY. In addition to other presentations, she was a panelist on “Careers in Clinical Law Teaching” at Yale Law School, New Haven, CT, and “Maryland Law Information Session” at Spelman College, Atlanta, GA. She also successfully briefed and argued a consolidated appeal before Maryland’s highest appellate court, *Ellis Richard Douglas, Jr. v. State of Maryland* and *Lamont Curtis v. State of Maryland*, Nos. 146 and 147, Court of Appeals of Maryland.

Lee Kovarsky published the articles “Original Habeas Redux,” 97 *VIRGINIA LAW REVIEW* 61 (2011) and “Habeas Verite,” 46 *TULSA LAW REVIEW* 13 (2011) (book review), and will publish “A Constitutional Theory of Habeas Power,” 98 *VIRGINIA LAW REVIEW* (forthcoming 2012). He will also co-author the book *Federal Habeas Corpus:*

Executive Detention and Post Conviction Litigation (forthcoming 2013) (with Brandon Garrett).

Diane Hoffmann published the article “Legal Impediments to the Diffusion of Telemedicine,” 14 *JOURNAL OF HEALTH CARE LAW AND POLICY* 1 (2011) (with Virginia Rowthorn) and will contribute the book chapter “An Argument for Leadership Education in Law Schools” in *Law and Leadership: Integrating Leadership Studies into the Law School Curriculum* (P. Monopoli and S. McCarty eds.) (Ashgate Publishing Ltd., forthcoming 2012). She presented “Human Subjects Research Regulations: Proposals for Reform—Research on the Human Microbiome” at the 35th Annual Health Law Professors Conference, Sandra Day O’Connor College of Law, Arizona State University, Tempe, AZ; “The Ethics of Health Claims and a Comparison of Health Claim Regulation in the U.S. and EU,” at the 3rd TNO Beneficial Microbes Conference: International Conference on the Health Impact and Future Potential of Beneficial Microbes, Noordwijkerhout, The Netherlands; “Legal and Regulatory

Implications of the Human Microbiome Project,” at the Human Microbiome Project ELSI (Ethical, Legal and Social Issues) Meeting, Baylor College of Medicine, Houston, TX; and “Are Federal Actions Regarding the Operation of Medical Marijuana Dispensaries at Odds with Public Health and Safety Goals?” Annual Meeting of the American Public Health Association, Washington, DC.

Paula Monopoli co-authored the book *Contemporary Approaches to Trusts and Estates* (Aspen Publishing, 2011)(with others), will publish the article “Toward Equality: Nonmarital Children and the Uniform Probate Code,” 45 *UNIVERSITY OF MICHIGAN JOURNAL OF LAW REFORM* (forthcoming 2012), and contributed the book chapter “Women and the Gendered State,” in *Feminist Constitutionalism* (B. Baines et al. eds.) (Cambridge University Press, 2011) (with E. McDonagh). She presented “Toward Equality: Nonmarital Children and the Uniform Probate Code” at the Symposium on the Remaking of American Succession Law, University of Michigan School of Law; “Gender, the University and Legal Academia” at the Symposium “Gender and the Legal Profession’s Pipeline to Power,” Michigan State University College of Law; and “Women as Scholars: Promoting Your Work in the Legal Academy” at the University of Texas School of Law.

Michael Pappas published the article “Unnatural Resource Law: Situating Desalination in Coastal Resource and Water Law Doctrines,” 86 *TULANE LAW REVIEW* 81 (2011) and will publish “Anti-Waste Principles for Management of Limited Resources,” 72 *LOUISIANA LAW REVIEW* (forthcoming 2012).

Robert Percival published the articles “Who’s in Charge? Does the President Have Directive Authority over Agency Regulatory Decisions?” 79 *FORDHAM LAW REVIEW* 2487 (2011), and “Global Law and the Environment,” 86 *WASHINGTON LAW REVIEW* 579 (2011), and contributed the book chapter “Law, Society and the Environment,” in *Law, Society and History: Themes in the Legal Sociology and Legal History of Lawrence M.*

Friedman (R. Gordon & M. Horowitz, eds.) (Cambridge University Press, 2011), and co-authored the article “CERCLA in a Global Context,” 41 *SOUTHWESTERN UNIVERSITY LAW REVIEW* 727 (2012) (with Katherine H. Cooper and Matthew Gravens). He made 34 presentations at 14 academic institutions in the U.S., China, and Canada and at other agencies and organizations including the World Bank, the Supreme Court of Rio de Janeiro, two sections of the American Bar Association, the All China Environment Federation, the Environmental Law Institute, and the Association of California Water Administrators. He also testified before a subcommittee of the House Committee on Oversight and Government Reform of the U.S. Congress.

Michael Pinard served as a panelist for “Criminal Records and Civil Benefits: An Intersection that Collides,” at the 14th Annual Maryland Partners for Justice Conference, “Ripples of Injustice: The Impact of Criminal Justice Policies on Minority Communities,” at New York Law School, and “The Way to Carnegie: A Conversation about Pedagogy, Social Justice and Cost in Experiential Legal Education,” at Boston College Law School. He served as a moderator for “Overcoming Barriers,” at the First Annual Statewide Community Re-Entry Symposium, Annapolis, MD; presented “The Potential Impact of *Padilla v. Kentucky* on Legal Representation and the Academy,” at a Hofstra University School of Law Faculty Workshop; and was a participant in the American Bar Association’s Standing Committee on Legal Aid & Indigent Defendants and the National Association of Criminal Defense Lawyers Focus Group, *National Indigent Defense Reform: The Solution is Multifaceted* (Focus Group conducted for the Department of Justice, Bureau of Justice Assistance).

Garrett Power was a Lord Baltimore Research Fellow at the Maryland Historical Society during 2011-2012. His research resulted in the electronic publication of “Baltimore After the War of 1812: Where Robert Mills met his Waterloo and James A. Buchanan broke the Bank,” *University of Maryland Legal Studies Research Paper No.*

2012-25. He presented a talk entitled, “Property Rights, the ‘Gang of Four’ & the Fifth Vote,” at the Judicial Takings Symposium, Widener Law School, Harrisburg, PA, based on his article of the same name (28 *WIDENER LAW JOURNAL* 627 (2012)). He also presented “Wallace-McHarg’s Design with Nature: Ecology or Exclusion?” to the Sixth International Conference of the International Academic Association on Planning, Law, and Property, Belfast, Northern Ireland.

Amanda Pustilnik published the article “Pain as Fact and Heuristic: How Pain Neuroimaging Illuminates Moral Dimensions of Law,” 97 *CORNELL LAW REVIEW* 801 (2012).

Peter Quint contributed the book chapter “German Unification and the Federal Constitutional Court: A Retrospective View after Twenty Years,” in *German Unification: Expectations and Outcomes* (P. Caldwell and R. Shandley eds.) (Palgrave Macmillan, 2011). He also presented “From the General Will to ‘Le Gouvernement des juges’ in France: History and Implications” at an interdisciplinary conference on “The Idea of France,” University of Pittsburgh, Pittsburgh, PA; and “The Global Constitutional Canon: Some Preliminary Thoughts” at the Maryland Constitutional Schmooze, University of Maryland Francis King Carey School of Law, Baltimore, MD.

Shruti Rana published the articles “Touched by Greatness,” 73 *MONTANA LAW REVIEW* 21 (2012) and “The Emergence of the New Chinese Banking System: Implications for Global Politics and the Future of Financial Reform,” 27 *MARYLAND JOURNAL OF INTERNATIONAL LAW* 215 (2012), and will publish “Chevron Without the Courts? The Supreme Court’s Chevron Revision Project through an Immigration Lens,” 26 *GEORGETOWN IMMIGRATION LAW JOURNAL* (forthcoming 2012), and “Philanthropic Innovation and Creative Capitalism,” 64 *ALABAMA LAW REVIEW* (forthcoming 2013). She presented the lecture “Microcredit: Money, Morality, and Myth,” for the Comparative Corporate Governance Distinguished Lecture Series

at the Fordham Corporate Law Center, Fordham Law School, New York, NY; presented “The Development of the New Chinese Banking System: Domestic Modernization or Global Financial Manipulation?” at the New Perspectives on Comparative Law Conference, American Society of Comparative Law, George Washington Law School, Washington, DC. (selected from a call-for-papers); served as a panelist for “The New State Capitalism: Will China’s Evolving Financial System Serve as an Example for Reforms in the Western World?” at the University of N.C. Law School Symposium on “Anticipating Dissension: When Legal Frameworks, U.S. Commerce and Foreign Markets Intersect,” Chapel Hill, NC; and served as a commentator for “Rubber Hits the Road: Implementing Dodd-Frank Amid Reform Fatigue,” AALS Financial Institutions Section, AALS Conference, Washington, DC.

William Reynolds published the article “Back to the Future in Law Schools,” 70 *MARYLAND LAW REVIEW* 101 (2011), and will publish “From Lord Coke to Internet Privacy: The Past, Present, and Future of Electronic Contracting,” 71 *MARYLAND LAW REVIEW* (forthcoming 2012) (with Juliet Moringiello), *Injustice on Appeal* (with William Richman) (Oxford University Press, forthcoming 2012), and the 4th edition of *Understanding Conflict of Laws* (with William Richman) (forthcoming 2012). He also presented “Choice of Law” and “Ethics” at the ERICSA Annual Meeting, and “Where We Are in Electronic Contracting” at the 5th International Conference on Contracts in Gulfport, FL.

Robert Rhee published the articles “The Law School Firm,” 63 *SOUTH CAROLINA LAW REVIEW* 1 (2011) (with Bradley Borden), “On Legal Education and Reform: One View Formed from Diverse Perspective,” 70 *MARYLAND LAW REVIEW* 310 (2011), and will publish “A Financial Economic Theory of Punitive Damages,” 111 *MICHIGAN LAW REVIEW* (forthcoming 2012), and “The Tort Foundation of Duty of Care and Business Judgment,” 88 *NOTRE DAME LAW REVIEW* (forthcoming 2013).



MICHAEL PINARD, Professor and Director of the UM Carey Law Clinical Law Program, has been recognized by the White House as a Champion of Change, an honor given to individuals for their outstanding public service. On October 13, 2011, he participated in a national online conversation among law students and faculty, lawyers, and social service professionals on what can be done to close the justice gap. The conversation, hosted at the White House, included Attorney General Eric Holder and 15 other honorees.



He has also published the book *Essential Concepts of Business for Lawyers* (Aspen Publishers, 2012), and co-authored a multi-volume practice guide series *Limited Liability Entities: State by State Guide to LLCs, LLPs and LPs* (Wolters Kluwer, 2012). He presented “Ethical Issues in Business and the Lawyer’s Role” at Emory University School of Law; “Preliminary Thoughts on Causation and Risk Classification,” at the Annual AALS Conference, Section on Insurance Law, Washington, DC; “A Financial Economic Analysis of Punitive Damages,” at the Italian Society of Law & Economics Conference, the Canadian Law & Economics Association Conference, and the Midwest Law & Economics Association Conference; and “On Duopoly and Compensation Games in Credit Ratings,” at the Law & Society Conference. Additionally, he presented academic papers at the University of Florida Frederic G. Levin College of Law, Florida State University College of Law, and Arizona State Sandra Day O’Connor College of Law.

Karen Rothenberg published the articles “Teaching Law Students to Be Policymakers: The Health and Science Policy Workshop on Genomic Research,” 40 *JOURNAL OF LAW, MEDICINE & ETHICS* 147 (2012) (with B. Berkman), and “Genes and Plays: Bringing ELSI Issues to Life,” 14 *GENETICS IN MEDICINE* 274 (with L. Bush). Her work on genomic policy issues and the use of theatre to identify and enhance dialogue on the ethical, legal, and social implications posed by emerging genomic technologies has been presented worldwide, including at the University of Sydney and the Centre for Law and Genetics in Tasmania, Australia.

Jana Singer presented “Gender and Parenting: Should Mothers and Fathers Be Treated the Same?” at the International Center for Health, Law, and Ethics, Tel Aviv University, Tel Aviv, Israel.

Max Stearns published the articles “Commerce Games and the Individual Mandate,” 100 *GEORGETOWN LAW JOURNAL* 1117 (2012) (with Leslie Meltzer Henry), and “Direct (Anti-) Democracy,” 80 *GEORGE WASHINGTON LAW REVIEW* 311 (2012).

He also contributed the Op-Eds “No Fiction Pulitzer: The Problem Wasn’t the Books,” *Baltimore Sun* (April 23, 2012), and “Individual Mandate is Constitutional,” *Baltimore Sun* (March 22, 2012) (with Leslie Meltzer Henry).

Rena Steinzor published the articles “The Case for Abolishing Centralized White House Regulatory Review,” 1 *MICHIGAN JOURNAL OF ENVIRONMENTAL AND ADMINISTRATIVE LAW* 209 (2012); “Evaluating Rules and How We Measure Their Effects,” 29 *ENVIRONMENTAL FORUM* 36 (2012) (with Michael Patoka); “Lessons from the North Sea: Should ‘Safety Cases’ Come to America?” 38 *BOSTON COLLEGE ENVIRONMENTAL AFFAIRS LAW REVIEW* 417 (2011); “The Truth About Regulation in America,” 5 *HARVARD LAW & POLICY REVIEW* 323 (2011); and “Too Big to Obey: Why BP Should be Debarred,” 36 *WILLIAM & MARY ENVIRONMENTAL LAW & POLICY REVIEW* 81 (2011) (with Anne Havemann). She also gave the testimony “Evaluating the Science and Process behind Chemical Risk Assessment,” before the U.S. House Committee on Science, Space, and Technology, Subcommittee on Investigations and Oversight; and “The American Energy Initiative Transparency in Regulatory Analysis of Impacts on the Nation Act of 2011,” before the U.S. House Committee on Energy & Commerce, Subcommittee on Energy & Power.

Lawrence Sung published the *2011-2012 Patent Law Handbook* (Thomson/West, 2012), and “Medical Alert: Alarming Challenges Facing Medical Technology Innovation,” 6 *JOURNAL OF BUSINESS & TECHNOLOGY LAW* 35 (2011). He also presented “Protecting Diagnostic Method Claims post-*Bilski*: Lessons for Prosecutors and Litigators to Comply with Increasingly Strict Standards of Patentability,” at the American Conference Institute Conference on Medical Device Patents, Boston, MA; “Patenting Biologics in Times of Change,” BioWorld Webinar, Washington, DC; and “Ethical Patenting” at the Manzo Scholar Series, DePaul University Law School, Chicago, IL.

Michael Van Alstine co-authored *International Business Transactions:*

A Problem-Oriented Coursebook (11th ed. 2012) (with others), and contributed the book chapter “Treaties in the Supreme Court, 1901-1945, in *The U.S. Supreme Court and International Law: Continuity or Change?* (D. Sloss, M. Ramsey, and W. Dodge, eds.) (Cambridge University Press, 2011). He also published the article “*Stare Decisis* and Foreign Affairs,” 61 *DUKE LAW JOURNAL* 941 (2012), and presented “A Comparative Analysis of the Enforcement of International Law in Domestic Legal Systems,” at the Asia-Pacific International Law Association meeting in Taipei, Taiwan.

Urska Velikonja published the article “Leverage, Sanctions, and Deterrence of Accounting Fraud,” 44 *U.C. DAVIS LAW REVIEW* 1281 (2011), and presented “The Social Cost of Financial Misrepresentations,” at the George Washington University C-LEAF Junior Faculty Business and Financial Law Workshop, Washington, DC, where she received the Junior Faculty Scholarship Award.

Ellen Weber presented “Health Care Reform Implementation in Maryland: Ensuring Access To Substance Use Disorder and Mental Health Care,” at the Baltimore Substance Abuse Systems 2012 Legislative Breakfast, Baltimore, MD; “Health Care Reform: Will We Build a More Comprehensive Care System for Persons with Addiction Problems?” at the Johns Hopkins Bloomberg School of Public Health, Baltimore, MD; “Health Reform Moves to the States: Maryland and the ACA: How Far In Front?” at the ASLME Health Law Professors Conference, Tempe, AZ; and “Implementation and Enforcement of the Mental Health Parity and Addiction Equity Act,” Congressional Forum, Chevy Chase, MD. An excerpt of her article, “Failure of Physicians to Prescribe Pharmacotherapies for Addiction,” will be reprinted in *Controlled Substances: Crime, Regulation, and Policy*, (Alex Kreit) (Carolina Academic Press, forthcoming 2012).

Gordon Young will publish “*United States v. Klein*: Then and Now,” 44 *Loyola University CHICAGO LAW JOURNAL* (forthcoming 2013).



CLASSROOM ENCOUNTERS

Legal Reform in the Global Arena

By Joe Sugarman

It’s the final day of the Comparative Public Policy and Law Reform seminar, team-taught by Dean Phoebe A. Haddon and Crystal Edwards, Director of Graduate Legal Studies and Academic Administration. Students are presenting talks about their final papers, the capstone project for the class.

They sound like seasoned experts on international court decisions as they discuss topics ranging from lawsuits involving pollution by oil companies in Ecuador, to comparative nuclear power policies in Germany and Saudi Arabia, to water disputes between Turkey, Syria, and Iraq along the Euphrates River. As PowerPoint slides flash on a screen at the head of the class, they outline the disagreements and present possible “normative conclusions” and potential reforms before fielding critiques and questions from their classmates.

“Is Texaco essentially getting two bites of the apple by arguing against due process violations?” asks one student about the oil company lawsuit. “Have you considered the irony that Germany buys energy from France, which produces 75 percent of its power through nuclear production?” asks another in reference to a decision by Germany to eliminate nuclear power production by 2022.

“The idea of the course is to get students to think about how different legal systems work,” says Haddon, who is teaching the course with Edwards for the second time. “Hopefully, they’ll gain a better appreciation for our legal system, but also an understanding that there may be better ways of resolving problems and addressing reforms that we don’t necessarily buy into.”

Students read papers and spend time talking about common law versus civil law systems as well as the role in other countries of law reform commissions, an independent body set up by a government to consider the state of laws in a jurisdiction and make recommendations or proposals for legal changes or restructuring. To help the class understand the types of work law reform that commissions undertake, the professors beamed in, via Skype, two law commissioners—one from the United Kingdom and one from Canada—to interact with the students.

It was the highlight of the course for first-year student Lisa Piccinini. “I thought that was awesome to see on the ground how law commissions actually work,” she says. “To see how countries are actually making reforms through these commissions, specifically in the U.K. and Canada.”

Both faculty bring their own areas of expertise to the seminar. In practice, Edwards worked in corporate law with an international affairs specialty and Haddon is a Constitutional law expert. “I teach Constitutional law, so I like to talk about the values behind the Constitution,” Haddon says. “Why is it that other constitutions are framed differently? What affects talking about constitutions as changing documents versus static documents? Whether you’re in a civil law or

common law context, there is a need for change, but how does government respond to that? What are the systems or other factors that promote or deny change?”

Students consider these questions as they frame their final papers—which, combined with class participation, are the lone

basis for their grades. Edwards and Haddon work extensively with each student on crafting the papers, which are also circulated to every student before the in-class presentations. “That way, they’ll be able to engage in the presentation, ask really good questions, and give their peers good feedback,” says Edwards, who notes the seminar is a prerequisite for summer externships at law reform commissions around the world.

“This collaborative feedback model also helps them improve their own writing. After this seminar, I’m very confident to send our students off very well prepared, with good strong research skills and good strong writing skills.”

After the final presentation is given, Haddon thanks the students for their participation. “Your papers were very good,” she says. “They’re a great testimony to your hard work.” ■

“WHY IS IT that other constitutions are framed differently? What are the systems or other factors that promote or deny change?”

—Dean Phoebe Haddon

OFF THE BEATEN PATH

Meet four students whose roads to the School of Law have been less than conventional. Their unique passions, they say, will undoubtedly go on to shape their approach to lawyering.

By Laurie Legum
Photography by Justin Tsucalas



CHEERS!

Ryan Cianci grew up in Las Vegas, so it's no surprise that his foray into the service industry began early. He started waiting tables in high school and by college worked his way up to become a sommelier at Delmonico's Steak House in Las Vegas.

"My enthusiasm with wine began with a German Riesling," he recalls. "Before tasting the Riesling, I thought all wines were the same." From there, his interests broadened to include different varietals and styles. "The type of wine I drink is largely dictated by what I'm doing," he says. "If I'm by the pool, I usually go for a Sauvignon Blanc. If I'm dining at a steakhouse, then I'd order an Italian Barolo. Overall, wine is really about drinking what you like."

Now about to enter his third year of law school, Cianci hopes to use his newly gained legal acumen to push for reform of Maryland's liquor laws. "My goal is to combine my knowledge of wine and spirits with my degree and then lobby to get Maryland's outdated liquor laws modernized," says Cianci.

There has been some recent progress, he notes. Maryland residents can now have wines shipped directly to their residences from properly licensed wineries. And as of July 1,

patrons of some restaurants with liquor licenses will be allowed to carry in their own bottles of wine (with restaurant owners charging a "corkage" fee).

Says Cianci, "These are steps in the right direction, but more must be done in order to make wine more accessible to people in Maryland."

SPEAKING THE RIGHT LANGUAGE

Though Juliana Neelbauer studied ancient Greek and Spanish during college at University of Pennsylvania, it's the high-tech language of computers that became her passion.

In 2007, she and her husband, Robert, launched staffmagnet, LLC, a consulting company in Washington, D.C., that provides recruitment and operations services to software companies along the East Coast. A year later, they rolled out Social Matchbox, a launch event series for tech start-ups. Their aim: to raise the profile of the Mid-Atlantic start-up scene and to give start-up founders the opportunity to network with potential investors.

Before long, Neelbauer saw another opportunity to serve the needs of technology businesses. "I observed how small and mid-sized companies struggle to find legal counselors who understand [their] unique and rapidly-evolving legal needs," she says. "I decided to earn a law degree in order to serve those needs myself."

"I consider myself amid a career pivot rather than a career change," says Neelbauer. "Practicing law is a natural extension of providing operations consulting services, because the practice of law makes me a better contract drafter, negotiator, and business analyst. The complex issues of patents, copyrights, capital management, M&A, and technology converge for companies that sell technology products and services. As an attorney, I will speak all of those languages, share the fruits of my established network, and provide truly holistic advice."



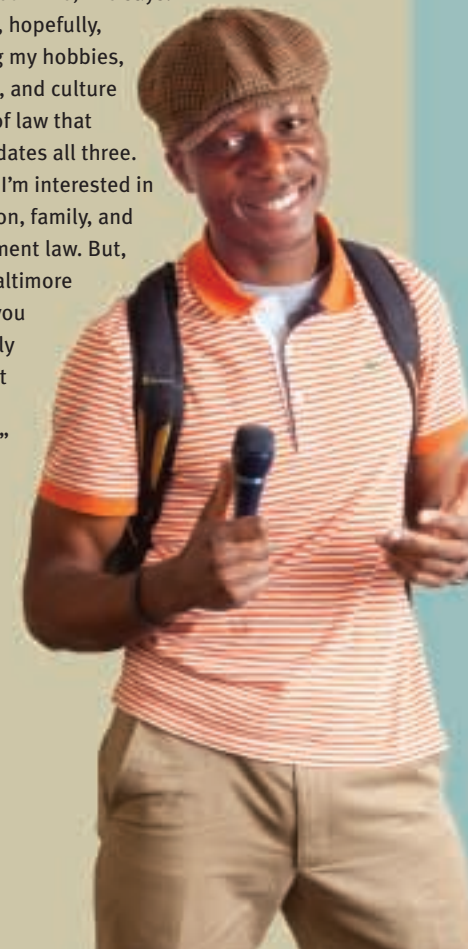
A SONG IN HIS HEART

Eddie Emokpae, a second-year law student, originally hails from Edo State, Nigeria. He moved to Maryland in 1996 when his family was granted political asylum in the United States after his father was framed for a coup and sentenced to death by firing squad.

Emokpae was an avid soccer player while in college at Goucher and UMBC, where he also pursued his passion for music. "I'm a singer-songwriter. I play the acoustic guitar, write songs, and, once in a while, I add some covers to the mix," he says. "After graduating from college I was approached [by representatives] from a couple of labels and was on the verge of signing a record deal. However, my decision to come to law school put my music career on hold."

Emokpae's decision to study law was motivated in part by his family's experience. "I want to use my degree as a tool to help people; to positively affect lives in the same way that international and immigration law has affected mine," he says.

"I plan on, hopefully, combining my hobbies, education, and culture in a field of law that accommodates all three. Currently, I'm interested in immigration, family, and entertainment law. But, like the Baltimore weather, you never really know what tomorrow will bring."



SEEING GREEN

Justine Moreau grew up in a large family of agricultural entrepreneurs in Albany, N.Y. To offset the cost of college at Cornell, she paired her working knowledge of plants and business to start her own garden design business. At Cornell, Moreau majored in international agriculture and rural development while also continuing to build her seasonal business. "I enjoyed the work because it provided a creative outlet with the autonomy that comes with entrepreneurship," she says.

During her three years at UM Carey Law, Moreau managed to keep the business running. "Before law school, we did full-scale residential and commercial design as well as floral design for formal events. Now, since I am in another state and have to manage long distance, I have scaled back and only continue residential design work at a limited number of homes," she says.

Moreau initially planned to pursue a career in environmental law ("I came to Maryland because of Professor Percival's work in international environmental law and the reputable program," she says), but now is leaning more toward transactional law — business, corporate, or real estate. "At this point," she says, "I am not sure if I will continue my business, but I would like to continue working in a business-related capacity." ■



Only part of the story...

Ryan, Juliana, Eddie and Justine are only four of our extraordinary students. Each year, more than 800 students call UM Carey Law their academic home. For more stories about our students, please visit www.law.umaryland.edu

Clockwise: Runner-up Chelsea Jones.

Former Myerowitz competitor Jason M. St. John '00 watches the competition.

Judge Motz (center) gives feedback to the competitors.

Myerowitz winner David McAloon.

(From left to right) – The Hon. Eric Washington, Chief Judge, D.C. Court of Appeals; Daniel Flanagan; The Hon. Diana Gribbon Motz, U.S. Court of Appeals for the Fourth Circuit; David McAloon; The Hon. Susan Gauvey, U.S. District Court for the District of Maryland; Sarah David; and Chelsea Jones.



Myerowitz Competition

ON MARCH 7, the final round of the Annual Morris Brown Myerowitz Moot Court Competition took place in the Ceremonial Court Room, with David McAloon earning the nod for best oral argument from judges Eric Washington, Chief Judge, D.C. Court of Appeals; Diana Gribbon Motz, U.S. Court of Appeals for the Fourth Circuit; and Susan Gauvey, U.S. District Court for the District of Maryland. McAloon also earned the prize for best brief, and Chelsea Jones was named runner-up for best argument.

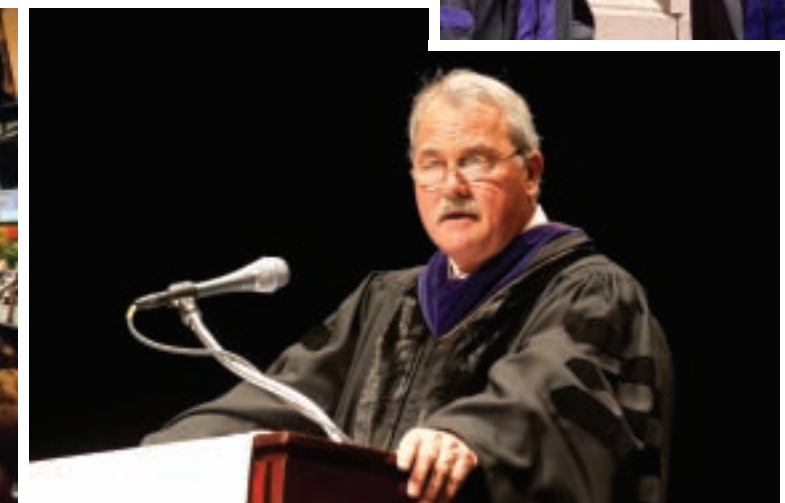
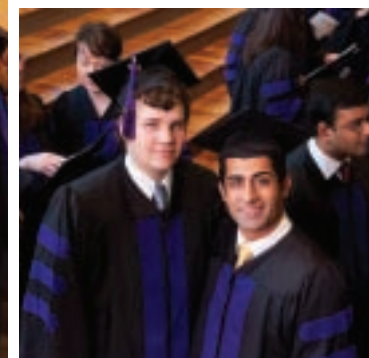


2012 Commencement

FAMILY, FRIENDS, AND THE 275 GRADUATES of the Class of 2012 gathered at the Hippodrome Theatre in downtown Baltimore for the UM Carey Law Hooding Ceremony on Friday, May 18.

The graduates, who come from 18 states and seven countries, listened to remarks from Elizabeth Bayly, president of the evening class; Anwar Graves, president of the day class; and Thomas L. Sager, senior vice president and general counsel of DuPont and the event's keynote speaker. Sager is nationally recognized for his efforts to increase the hiring and retention of women and minorities throughout the legal profession.

"Leading by example," he told the graduates, "should be in the forefront of your minds." He urged them to "reset the bar within the bar because justice matters."





LITERARY Lawyers

By Mary K. Zajac



It doesn't matter if it's the *New York Times*, Amazon.com, or *Publisher's Weekly*. Check the top of any bestsellers' list and you're apt to find an author who is, or was once, a lawyer. A contemporary list of lawyers-turned-mystery-writers staggers: witness John Grisham, Scott Turow, Lisa Scottoline, Linda Fairstein, David Baldacci, Alexander McCall Smith, to scratch only the surface. But the history of great lawyers being great writers runs deep. Think John Knox and Robert Louis Stevenson, Gandhi, Clarence Darrow, and our current (and many former) president(s).

Alumni of the University of Maryland Carey School of Law are no exception to the lawyerly writing tradition. The following alumni have engaged in explorations ranging from poetry to military history and the deeply personal to the historical and political. They are motivated, they say, by a need to understand the past and a desire to affect future generations.



A personal mission to set history straight prompted **Richard L. Dunn '69** to undertake the investigation that forms the core of his book, *Exploding Fuel Tanks: The Saga of Technology That Changed the Course of the Pacific Air War* (2011). "It's not hard to find books asserting that most Japanese aircraft in the Pacific war were of flimsy construction," asserts Dunn, an independent consultant and former General Counsel of the Defense Advanced Research Projects Agency (DARPA), in the book's introduction. But was this really

"DISCOVERING there were multiple sources was key. Some of the insights available in these documents aren't available elsewhere."

—Richard L. Dunn '69

the case? Could the Japanese have had more vulnerable aircraft than the Allies, he asks. Eleven chapters of close analysis, detailed diagrams, and abundant photos of aircraft, crashes, and crash sites provide the affirmative answer.

One of the biggest coups in Dunn's research came early. "Despite my particular interest in the Pacific air war in World War II, I neither speak nor write Japanese," Dunn explains. "I knew there were radio intercepts, though, and I figured there had to be a repository of these things." Dunn found a cache of intercepts—some translated, some still in Japanese—at the Naval Service Warfare Center – Crane Division in Indiana. This led to further research via the U.S. Air Force Historical Research Center,

the U.S. Naval Academy's Nimitz Library, and the U.S. National Archives. "Discovering there were multiple sources was key," says Dunn. "Some of the insights available in these documents aren't available elsewhere."

Dunn likes to joke that the book took 40 years to write because of the decades he spent engaged with what he considered more or less a hobby. But once he decided to follow his late wife's recommendation and write a book, the process, he says, took a little over a year of both "fits and starts" and writing like "a monk in a cloistered room for days on end."

Dunn's next project is an investigation into the disappearance of Brigadier General Kenneth Walker, the highest-ranking military officer still listed as missing in action.

Parenthood was the motivator for attorney **Craig Thompson's** foray into authorship. The arrival of their first child sent Thompson '95, a litigator with Venable LLP, and his wife into a frenzy of purchasing, he explains, especially for "items of some cognitive value to stimulate the brain." What they didn't find, he says, were books with a cultural sensitivity. So, says Thompson, "with the boldness of being a new parent, I decided 'I'm going to write [a book].'"

Thompson's first book, *The ABC's of Black History* (Thompson Communication Books), was published in 2005, just after the birth of his daughter, Delaney, and featured mostly recognizable African-Americans, with Martin Luther King Jr. for "M," Stevie Wonder for "S," and Oprah for "O." Thompson's second book, *The ABC's of Black Inventors*, was prompted not only by the birth of his second daughter, Dana, but by

public response to his first book and Thompson's desire to spotlight the less well known African-Americans who made contributions to industry and science.

"There's a lot of black history, and only 26 letters of the alphabet," jokes Thompson. "I wanted to dig a little deeper to find the unfamiliar." *Inventors* introduces readers to Thomas Elkins, who invented the quilting frame, and Thomas Jennings, the first African-American to receive a patent (for a way to mass dry-clean clothes); Jennings used the money earned from his patent to buy his freedom. "My hope is that when parents are reading to kids this sparks a desire to learn more about that person," says Thompson.

Predictably, Thompson's biggest fans are his two daughters, now 8 and 6, who have attended book signings and read the books themselves to school age groups.



"Some nights, they say, 'Daddy, can you read my book?'" says Thompson. "They've taken ownership of the them."

Now a father of three, Thompson has yet to decide what sort of literary gift to give his new son—but he knows there are easily 26 more African-American role models that readers could benefit from knowing more about.



"I look behind," reads the first line of "Ebbing," the poem that opens **Thomas Janke's** *Sojourner: The Love Songs of Everyman* (Outskirts Press, 2012). It is an

apt beginning for a collection that addresses a full life, from childhood to the Vietnam War, through the birth of children and the vicissitudes of marriages. "Everyman" may be something of a misnomer, however, as Janke '76, director of the Greater Orlando campuses and Central Florida Regional Director for Webster University, holds graduate degrees in nuclear science and health care administration as well as a JD in law—evidence of the "restless genius" moniker a friend once gave him.

"Most of my ideas for poems come pretty well formed, and I revise along the way,"

Janke explains, noting that poetry "is a very different kind of writing" than the management writing he does in his professional life.

Janke's poetry is rooted in experience (the poems for "Sojourner" were written over the span of 50 years), and he's drawn to the sound of words. "I love creating little phrases that provide such pleasure," he says, like "hammers cocking soft as rats" to describe the way a tank sounds or "the gallow snap of static lines" in parachuting. He also concedes: "a fair amount of my poetry is still, [after many years], about girls."

Pamela Conley Ulich '93 has been Deputy Assistant General Counsel for the Screen Actors Guild, an adjunct professor at Pepperdine University, and has served as an eight-year member of the Malibu City Council (including as mayor and mayor pro tem). But it was the birth of her daughter that prompted Conley to write *The Hood* (Harcourt, 2012), her initiation into what she calls "the Motherhood gang."

In a tone both arch and laced with comedy, Ulich's first chapter chronicles the laws of being in this gang, from the lingo ("goo goo ga ga") to the identifying tattoos: a.k.a., stretch marks. "Some Hoods are demarcated either by signs welcoming you or by walls or barbed wire fences warning

"SOME Hoods are demarcated either by signs welcoming you or by walls or barbed wire fences warning you to keep away, but Motherhood has no boundaries."

—Pamela Conley Ulich '93

you to keep away, but Motherhood has no boundaries," writes Ulich.

Now the mother of three, Ulich characterizes her book primarily as a love letter to her first child, but also an indictment of the issues facing working mothers. "I worry about choices for her and wanted to highlight the choices or lack thereof when career women decide to have children," says Ulich. "There's no safety net."

Ulich set aside an hour each morning and made writing a routine ("like brushing your teeth," she says), sometimes getting up at 4:30 a.m. if she got a surge of inspiration. "If it weren't for that, I wouldn't be able to do it."

With her City Council tenure now over, Ulich is concentrating on her next book. The tentative title? *Mommy Mayor*.

Kerry T. Cooperman's foray into authorship came at the request of New York University law professor James B. Jacobs.

Prior to accepting a position as an associate in the Litigation Department of Stroock Stroock & Lavan LLP, Cooperman '09 spent a year as a Fellow at the NYU School of Law's Center for Research in Crime and Justice and was invited by Jacobs, the Center's director, to collaborate on *Breaking the Devil's Pact: The Battle to Free the Teamsters from the Mob* (NYU Press, 2011). The book, which spans the intersections of criminal law, labor studies, union democracy studies, and urban studies, focuses on what Cooperman characterizes as "the most important labor case in the last

half century"—when Rudy Giuliani, then a U.S. Attorney, brought a civil racketeering lawsuit against the International Brotherhood of Teamsters' leadership and the leaders of Cosa Nostra.

Cooperman was the primary researcher for the book. He sifted through court documents, pleadings, and old news articles and traveled to the Teamster's Democratic Union headquarters in Detroit to examine Teamsters documents and conduct interviews. Cooperman and Jacobs worked closely to draft and revise chapters. "We wrote 10 to 20 drafts of each chapter, and the chapters we ended up with were unrecognizable from where we started out," says Cooperman, who



concedes that writing is "a challenge when you have a full-time law firm job, but you have to make time and have to be motivated. I'm always trying to write about something that interests me," he says. ■



An Upward Trajectory

size, and scope. But what did not change is the incredible commitment and dedication of our alumni and friends.

Our law school is on an upward trajectory because of the generosity of people like you. We have been able to provide scholarships for talented incoming and current students, assisted students participating in national trial team competitions, increased awards for academic excellence, provided funding for experiential learning in our Clinical Law Program, and hosted programs and conferences that discuss contemporary legal issues and strengthen the law school's connection with alumni, faculty, and practitioners around the world.

To build on this level of excellence in the areas of curriculum development, academic programming, student financial aid, and faculty scholarship, we will need your continued involvement and support. Thank you for creating impact and considering the law school among your philanthropic priorities!

The University of Maryland Francis King Carey School of Law is an exceptional place to receive a legal education. I invite you to continue to play a part in creating opportunities to enrich the experience of our future alumni and the future leaders of the next generation.

Best Regards,
Trishana E. Bowden
Associate Dean, Development and Alumni Relations

For the last nine years, Bowden has served as Associate Dean for Institutional Advancement at American University Washington College of Law. In that role, she had leadership responsibility for all areas of advancement, including events, development, alumni relations, and communications, in support of the college's \$15 million fundraising campaign.

Bowden developed her substantial institutional advancement expertise at some of Maryland's finest and most well respected organizations, including the Johns Hopkins Oncology Center, the American Lung Association, and the Johns Hopkins Department of Surgery. She is a former chair and member of the ABA Section on Legal Education and Admissions, Development Subcommittee. She has also been a frequent participant on AALS Institutional Advancement panels.

DEAR ALUMNI AND FRIENDS,

As we welcome another entering class, and another academic year begins, I want to thank all of you who have supported the University of Maryland Francis King Carey School of Law. Without your steadfast loyalty and unwavering support, we simply cannot accomplish our goals.

As many of you know, I spent six wonderful years at the law school working with alumni, faculty, and donors raising critical funds for the construction of a new law school building. I left for a number of years and in November 2011, I returned to a law school community that has grown in reputation, recognition,

Alumni Board Focuses On Volunteering

“Being good is commendable, but only when it is combined with doing good is it useful.”
—Unknown

The Alumni Board has fully committed itself to expanding the law school’s network of alumni volunteers during the 2012-2013 school year, with a particular emphasis on helping students and recent graduates gain practical “lawyering” skills as they prepare for today’s workforce.

More than 500 alumni participated in various programs and activities this past academic year, and the number of alumni volunteers needed continues to increase in order to meet the needs of our growing law school programs. Here are a few examples of how Alumni Board members are getting involved, as well as other volunteer opportunities for graduates:

- Programs such as the **Alumni Board Lunch Series** allow graduates to meet with groups of 10 to 15 students to offer career perspectives on practice areas such as litigation, business law, environmental law, health law, etc.
- This year, Alumni Board members will participate in a **Meet and Greet with First-Year Students** during orientation, helping to build connections with students from the moment they arrive at UM Carey Law.
- Last year, the Alumni Board tested a pilot concept of **Mentor Groups**—matching several second- or third-year students with two or three practicing attorneys. Board



J. Manuel “Manny” Ocasio ’02

members tested different pairings of students and alumni, such as D.C. and Baltimore groups, evening program, and minority students/alumni. Following a successful pilot year, the Alumni Board, together with the Career Development Office, is expanding this program to add mentor groups.

- It was decided that the traditional **Alumni Mentor Program**, which pairs a single student with an attorney, will continue and focus on first-year students; Mentor Groups will focus on second- and third-year students.

Board member Stan Rohd ’66 has been working closely with UM Carey Law’s clinical faculty to identify ways alumni can get

involved in the various clinics. The following needs were identified:

- **Mediation Clinic**—Volunteers who will allow students to observe mediations.
- **HIV Clinic**—Volunteers who will moot students to help prepare for their assigned cases.
- **Immigration Clinic**—Developing a program designed to educate criminal law practitioners about the consequences of guilty pleas and other criminal dispositions on immigration status ... or immigration practitioners volunteering to talk with students.
- **Community Justice Clinic**—Participating in a “skills training” project to help students gain practical skills.
- **JustAdvice**—Working with current students to provide low cost, legal consultation to low-income Baltimore residents.

Helping students and recent graduates gain practical and networking skills will lead to productive members of the bar. I encourage you to get involved—volunteer to meet with a student(s), participate in a clinic project, join a mentor group, attend law school receptions, and do your part to give back to the UM Carey Law community. Pay it forward and you will be rewarded in return.

J. Manuel “Manny” Ocasio ’02
President, Alumni Board;
Vice President for Human Resources,
Holy Cross Hospital

OTHER OPPORTUNITIES TO VOLUNTEER:

Mentor a First-Year—Help shape the professional foundation of a future member of the bar by mentoring a student during his/her first year of law school.

Host an Alumni & Admissions Reception in Your City—The Office of Development and Alumni Relations, in collaboration with the Offices of Admissions and Career Development, are planning receptions all over the country

to help recruit prospective students and connect alumni. Host a reception in your area.

Shadow for a Day in the Business Law Mentoring Initiative—Spend a half- or full-day with a law student to show him/her “a day on the job.” The job shadow takes place during the spring semester to help students see the range of opportunities available with a law degree.

EMAIL alumni@law.umaryland.edu to volunteer.

Upcoming Alumni Events

South Florida Alumni Reception
Monday, October 25
6:00 PM
Ft. Lauderdale, FL

Annapolis Alumni Reception
Wednesday, January 23
5:30 PM

Dallas Alumni Dinner
Wednesday, February 6
6:00 PM

San Francisco Alumni Reception
Thursday, November 1
5:30 PM

Miami Alumni Reception
Wednesday, January 30
6:00 PM

Los Angeles Alumni Reception
Wednesday, February 12
6:00 PM

Boston Alumni Reception
Wednesday, November 14
6:00 PM

Atlanta Alumni Reception
Thursday, January 31
5:30 PM

San Diego Alumni Reception
Thursday, February 13
6:00 PM

Crab Creole Party in New Orleans
Friday, January 4
5:30 PM
Hilton New Orleans Riverside

Houston Alumni Dinner
Tuesday, February 5
6:00 PM

Watch your email for more information, or contact the Office of Development and Alumni Relations at alumni@law.umaryland.edu.



Thank You!

THE ALUMNI BOARD would like to thank the following retired Board members for their service:

- **Arielle A. Harry-Bess ’04**, Counsel at *Monumental Life Insurance Company*
- **Martin “Marty” H. Schreiber, II ’92**, at *Law Offices of Martin H. Schreiber, II LLC*
- **Christopher M. Steer ’01**, Chief Strategy Officer, *PA & Associates, Inc.*; Director, *20 North Online, Inc.*; Partner/Owner at *Marcodi Musical Products; and Board Member, Taharka Brothers*
- **William C. Stifler, III ’67**, retired, *Baltimore City Law Department*

Alumni Board Welcomes New Members

Nina Basu ’08, Associate at *McGuireWoods LLP*

Joey Tsu-Yi Chen ’10, Associate, *Saul Ewing LLP*

Karen Federman-Henry ’84, Division Chief, *Division of Finance and Procurement at the Office of the County Attorney for Montgomery County*

Rachel M. Kamins ’92, Principal, *Offit Kurman*

Sebastian E. Kurian ’08, Assistant General Counsel, *Clark Construction Group*

Board Updates

James R. Benjamin, Jr. ’01 has been elected Vice President of the Board. He is a Member at *Hodes, Pessin & Katz, P.A.*

Message from the Board of Visitors Chair

BIG IDEAS. We all have them, but most of us don't ever get the chance to act on them. This past year, the law school's Board of Visitors undertook the task of developing and acting upon our "big ideas" to help the law school with its future growth.

Our "big ideas" revolve around several themes, among them—students, faculty, reputation building, and fundraising.

Students: We as a Board know that students need mentors. We have acted as mentors for students who need guidance, networking tips, and support during their legal education. Students need the skills necessary to hit the ground running. They need internships, externships, and other placement opportunities. We are working with leaders in law firms, in business, in the courts, in the government, and beyond to broaden the job opportunities available to our students.

Faculty: We want to assist in recruiting and retaining the best faculty. We, as a Board, are working to ensure we can provide faculty with the resources needed to succeed in the classroom and in their scholarly work. We are volunteering our time to work with faculty members to act as guest lecturers and panelists, and provide real-world perspective and support in the classroom. We are working to position our faculty on a national stage, as recognized experts in a wide range of subject areas.

Reputation Building: Many of the law school's programs are recognized in the top 10 nationally. We, as a Board, are working to promote this to prospective students. Our law school has one of the oldest and most successful clinical programs in the country, and we are also promoting this to prospective students as well as to employers who are interested in hiring students with experiential training. We are working to ensure our law school continues on its upward trajectory and remains in the top tier of law schools in the country.

Fundraising: The law school has identified its top priorities, among them, scholarships, faculty and programmatic support, and discretionary funding.



Christine Edwards '83

The law school must raise \$15 million as part of the *Carey Challenge*. Individual Board members have stepped forward with new gift commitments to further important initiatives, and have asked others to consider the law school among their top philanthropic priorities.

We invite you to help the Board as we continue to act upon our "big ideas." If you can be a mentor or provide job placement assistance, let us know. If you can lecture in a class or work with our students in the clinic, let us know. If you can engage our faculty as presenters and media spokespeople, let us know. And if you can provide financial support to bolster the law school's important priorities, let us know.

It has been a productive year for the Board of Visitors, and we look forward to a successful future.

Christine A. Edwards '83
Chair, UM Carey Law Board of Visitors
Partner, Winston & Straun LLC

To learn more about the Board of Visitors' "big ideas" and to get involved, please contact:

Office of Development & Alumni Relations
University of Maryland Francis King Carey School of Law
(410) 706-2070
alumni@law.umaryland.edu

Celebrating Golden Graduates

ON MAY 24, Dean Phoebe Haddon welcomed members of the Class of 1962 to a lunch celebrating the golden anniversary of their graduation, as well as others who had already celebrated their 50th reunions. Joseph R. Hardiman '62 and Anwar L. Graves '12 gave remarks at the lunch.



Above:
Members
of the Class
of 1962





A Day of Celebration

By Gynene Sullivan

ON SEPTEMBER 16, 2011, THE LAW SCHOOL CELEBRATED ITS NEW NAME—THE UNIVERSITY OF MARYLAND FRANCIS KING CAREY SCHOOL OF LAW—DURING THE DEAN’S CONVOCATION, WHICH FEATURED ALUMNI AWARDS AND A CONVERSATION WITH U.S. SUPREME COURT JUSTICE SONIA SOTOMAYOR.



SOTOMAYOR, the first Hispanic member of the court, was appointed by President Obama in 2009 to replace retiring Justice David Souter. She addressed questions from students on a wide range of legal issues (and gave life advice) for more than an hour to a packed house of more than 400 students, graduates, and faculty.

The celebration also marked the official addition of “Francis King Carey” to the name of the law school. The renaming was

prompted by a \$30 million gift, announced in April 2011, from the W.P. Carey Foundation. Carey, an 1880 graduate of the law school who became a prominent attorney and civic leader in Maryland, was the grandfather of Carey Foundation founder Wm. Polk Carey.

“This is a joyous, transformational moment for the law school,” said Dean Phoebe A. Haddon, JD, LL.M. “We are honored that Justice Sotomayor and so many

other distinguished guests were able to join us for the first of what we hope will be many fall convocations at the University of Maryland Francis King Carey School of Law.”

The Convocation included an alumni awards celebration at which Maryland Governor Martin O’Malley ’88 was honored with the Distinguished Graduate Award. The Benjamin L. Cardin Public Service Award was given to Monique L. Dixon ’96, who is deputy director of Open Society Institute (OSI)—Baltimore. Mark Paul Lehman ’01, vice president and senior counsel of Colfax Corporation, was honored with the Rising Star Award for his work with Moveable Feast.

This was only one event in a day that was completely reserved for celebration. Before the Convocation, the members of

the W. P. Carey Foundation Board attended a luncheon with Dean Haddon and invited guests. After the Convocation, University System of Maryland Chancellor William “Brit” Kirwan hosted a dinner at his residence, where a portrait of Francis King Carey was unveiled, and third-year law student Derrick Wang serenaded Wm. Polk Carey with song especially written for the occasion.

“Doing good while doing well” means that when we are financing properties for companies we are also helping the communities those companies serve,” said Wm. Polk Carey, chairman of W.P. Carey & Co. LLC and of the W.P. Carey

Foundation. “It is important to always ask, ‘What is the impact of what we are doing? What is good for society? What is good for the country?’” ■



1. On September 16, banners were unfurled both outside and inside the building, marking the official renaming of the School of Law.

2. Dean Phoebe Haddon, Wm. Polk Carey, and Frank Carey.

3/4. Special guest U.S. Supreme Court Associate Justice Sonia Sotomayor answered questions from students.

5. Third-year law student Derrick Wang serenades attendees at a dinner hosted by USM Chancellor William “Brit” Kirwan.

6. Board of Visitors Chair Christine Edwards ’83 and Making an Impact campaign co-chair Joanne Pollack ’76.

7. A favorite gift of Wm. Polk Carey to new friends was a coin. UM Carey Law had some coins specially minted for Convocation guests.

8. Monique Dixon ’96, Benjamin R. Cardin Public Service Award Winner (right) with Sen., Benjamin Cardin ’67 and 2011 Alumni Board President Heather Doherty Clark ’98.

9. University System of Maryland Chancellor William “Brit” Kirwan.

10. Maryland Governor Martin O’Malley ’88 (center), the 2011 Distinguished Graduate Award Winner, with 2011 Alumni Board President Heather Doherty Clark ’98, and Dean Phoebe Haddon.

Meeting the Legal Needs of Homeless Youth

By Mary K. Zajac

As a law student and now in her professional life, **Ingrid Lofgren '10** is a passionate advocate for at-risk individuals and communities.

Lofgren advocated for access to medical care for detainees at the Baltimore City Detention Center as an Albert Schweitzer Fellow at the Public Justice Center. And as a student attorney in the Community Justice Clinic, she crafted policy recommendations to support the development of green affordable housing in Baltimore. But it was her experience as the inaugural Linda Kennedy Advocacy Fellow at the Homeless Persons Representation Project (HPRP) that planted the seeds for broader advocacy, when Lofgren realized that there is no one place in Baltimore where homeless youth can access the range of legal services they need.

This September, in conjunction with HPRP, Lofgren will launch the Homeless Youth Law Project, a program that builds on HPRP's mission by offering homeless young people (ages 13 to 25) comprehensive legal counsel in areas including

housing, education, family law, and public benefits. Currently a judicial law clerk for the Honorable Andre M. Davis of the U.S. Court of Appeals for the 4th Circuit, Lofgren received funding for the project as a result of a Skadden Fellowship. She is one of just 28 law school students/alumni nationwide to receive the award in 2012, and the only one from UM Carey Law.

"The unfortunate reality in this economic climate is that it is difficult for non-profit organizations to expand into new areas and take on new staff, even as the need for legal services is growing," says Lofgren. The Skadden Fellowship, she says, allows both HPRP and Lofgren the critical opportunity to fill an unmet legal need by providing direct representation to a homeless population that is growing and that has unique reasons behind its homelessness—including abuse, rejection because of sexual orientation, gender identity or pregnancy, or "aging out" of the foster care system.

The two-year fellowship, which has been described as a "legal Peace Corps," provides participants a salary and benefits commensurate with an entry-level staff attorney position in the non-profit sector.

"[The Homeless Youth Law Project] is a perfect fit for my background," explains Lofgren, who holds an undergraduate degree in family studies and a master's in social work from the University of Maryland, the latter, she says, a boon in helping her understand the bigger picture. "[This work] resonates with me," she says. "Providing critical support to a young person in crisis can be transformative—it can help them achieve lasting stability and prevent future episodes of homelessness or other problems."

"I've always enjoyed working with young people," Lofgren adds. "They're always energizing and they keep that creative part of your brain active ... and your heart, too."

Lofgren expects to be hands-on in all aspects of the project, including connecting with youth at drop-in centers and shelters. She's also looking for ways to involve pro bono attorneys to represent homeless youth on certain issues and plans collaborations with local organizations and advocacy groups like Health Care for the Homeless, Public Justice Center, Baltimore Homeless Youth Initiative, and Y.E.S. (Youth Empowered Society).

Once the Skadden Fellowship funding ends, Lofgren hopes to establish a program that will be permanent, though with one codicil. "In social work, we're always trying to work ourselves out of a job," she explains. "The ultimate goal is to end homelessness, understanding that it might not happen for a long time but believing that it can and *will* happen." ■

Ingrid Lofgren '10



Karen Friedman '97

Her Opinion Counts

By Barbara Pash

The first Orthodox Jewish woman to be appointed as a District Court Judge in Maryland, **Karen Friedman '97** is also one of the youngest members of the University of Maryland Law Alumni Board. Moreover, she has a Presidential appointment to the Executive Advisory Council of the United States Holocaust Memorial Museum in Washington, D.C.

Friedman, a native of Brooklyn, N.Y., wanted to be a lawyer from an early age. She participated in a program that combined her senior year at University of Maryland Baltimore County and her first year at UM Law school.

During her second year of law school, Friedman took a six-month hiatus for motherhood. "The school was wonderfully accommodating. It was difficult to go back but I knew, the longer I waited, the more difficult it would be," says Friedman, who has two sets of twins, one set born during, and the other after, law school.

"I sit alone. It's all bench trials, no juries."

After a stint in a general law firm, Friedman was appointed in 2001 by then-Governor Parris Glendening to fill the unexpired term of a judge on the Baltimore City Orphans' Court. Friedman finished out the term, and then was elected twice to the position.

In 2010, Gov. Martin O'Malley appointed Friedman as an Associate Judge on the District Court of Maryland, Baltimore City, a position for which she applied and went through a long process that involved an extensive application and multiple interviews.

"Basically, it's the court the majority of citizens have any contact with," she says of District Court.

Her cases run the gamut from bail reviews and contract disputes to domestic violence and traffic tickets. "I sit alone. It's all bench trials, no juries," says Friedman, who rotates among five different locations and averages 50 to 60 cases per day.

In addition to her law school involvement as an Alumni Board member, Friedman has served since 2007 as an adjunct professor, teaching a first-year required course on written and oral advocacy.

As a judge, "I write opinions and advocate for my position," says Friedman, whose goal is to teach her students those skills. "Identifying issues, making a critical analysis and legal writing—that's the course I teach." ■



Charles Tatelbaum '66

Clowning Around

By Mary K. Zajac

Throughout his professional life, **Charles Tatelbaum '66** has worn many hats. The attorney for Hinshaw & Culbertson LLP, has appeared on television and radio as a bankruptcy expert, chaired the boards of the local PBS and NPR stations in his adopted home of Fort Lauderdale, and written a wine column for the Fort Lauderdale Tower Club newsletter. He is also the personal representative and trustee of the estate of Baltimore Colts legend Johnny Unitas.

But on November 24, 2011, Tatelbaum donned a new chapeau—this one shaped like a pat of butter—and added professional clowning to his resume as he strolled down the Macy's Thanksgiving Day parade route wearing a red-and-white checked suit resembling a picnic cloth and carrying a five-foot-wide piece of toast. Tatelbaum's spot in the parade was just behind the Pillsbury Doughboy. Throughout the parade route, he and the other breakfast clowns (including his wife, Kitty, who was dressed as a stick of butter) performed three dance routines for parade onlookers.

"You don't expect that from your lawyer," concedes Tatelbaum. "But it doesn't take away from my professionalism to throw in a little humor."

Tatelbaum's opportunity to learn professional clowning came after he won a substantial case for Macy's, and the

department store offered to send him and his wife to the Big Apple Circus Clown U. Tatelbaum jumped at this chance, not surprising for someone who changes his voice-mail every day to include not only his whereabouts, but a quirky "on this day in history" fun fact (the day we spoke commemorates the date when Vaseline was trademarked, he pointed out).

Tatelbaum has "always loved clowning around," he says, but at Clown U he learned the essentials of good clowning: making faces and strange noises, how to dress and do make-up, how to act silly, and how to approach a reluctant child or anyone who might be frightened of clowns ("Big smiles, and put your hands up in the air, sort of like high fives," he explains).

Since Thanksgiving, Tatelbaum has performed in several charity events for children, but he's also taken some of what he learned at Clown U back to the courtroom. Clown training, says Tatelbaum, has taught him another level of sensitivity, and in jury trials, for instance, he says, his clown training, "helps me relate to jurors more. It taught me how to read faces better."

Mostly, though, clowning allows Tatelbaum the particular sensation of bringing joy to people. "With what I do for a living, I never meet happy people," he says. "I represent creditors, people who have lost money. If I do my job, I bring them back to even, and they still have to pay me."

"At the parade or at an event," he continues, "people are already happy, and it's my job to make them happier. When you walk by 3.5 million people cheering you and calling out, 'You look like whole wheat toast!' or 'You look pretty rye!' there's no way to describe the high you get from it."

Tatelbaum and his wife are already planning for this year's parade when they'll go to New York a week early to prepare themselves by walking 10 miles a day (the 3½-mile parade route can stretch to five miles with all the crisscrossing across streets) and getting acclimated to the cooler weather.

"I love my work and I want to practice law for another 10 to 15 years," says Tatelbaum, who is 69. "But lawyering is my job; it's not my life. Clowning lets you know that an appropriate sense of humor at an appropriate time is good. It helps me stay away from being too serious." ■

Tatelbaum at the Macy's Thanksgiving Day Parade.



Philanthropy Spotlight

By Christine Stutz



Black Shares her 'Secrets to Success'

In the nearly 25 years since she graduated cum laude from the University of Maryland Carey School of Law, **Laura Black '88** seems to have been in perpetual motion. And she shows no signs of slowing down anytime soon.

After working as an associate in a large Baltimore law firm, Black—along with partner Mark Neumann, also Class of '88—launched one of the nation's first temporary legal staffing companies, Attorneys Per Diem (now called Special Counsel). After the firm was acquired by a public company in 1995, she served as CEO of the legal staffing division. The work she did to drive business helped propel the company to become one of the nation's largest providers of legal counsel.

In 2000, Black moved away from the legal profession to assume lay leadership roles in several nonprofits, including Network 2000 and The Associated: Jewish Community Federation of Baltimore. She now channels her considerable energies into a website, realwomenwin.com, aimed at empowering career women.

While Black highly values her legal education, she says, "There's a business part of me that I needed to actualize." This summer, she will embark on the business of publishing with her first book, *Big Butts, Fat Thighs and Other Secrets to Success: Empowering Women to Be Real in Business and in Life*.

The paperback, available in print and electronically, urges women to seek advancement by being exactly who they are, instead of trying to be someone they imagine others expect them to be. "I find that often, women can sabotage our own success," she says. Sometimes women hold themselves back with self-defeating thoughts about their own abilities, she says, and don't do a good job of promoting their abilities and accomplishments. The "big butts" in the book's title are a metaphor, says Black, for the insecurities that can prevent women from fulfilling their potential.

While her passion and entrepreneurial drive have taken Black from venture to venture, her commitment to the School of Law has never been stronger. An active alumna, Black has been a longtime donor and member of the Board of Visitors, and she returns to campus each year to speak to students as part of the school's Women, Leadership & Equality Program.

"I love speaking with the students in the Program. I feel such pride in witnessing the high caliber of our students. Their passion, energy, intelligence, and motivation are inspiring," says Black.

"I LOVE speaking with the students in the [Women, Leadership & Equality] Program. Their passion, energy, intelligence, and motivation are inspiring."

—Laura Black '88

"This year, I am especially honored to match the Class of 2012's gift to the law school. By participating in this gift, our students experience firsthand the importance of philanthropy. It is my hope that throughout their lives, they continue to support this institution that provided them with the skills to build their own careers." ■



THE CAREY CHALLENGE

THE W. P. CAREY FOUNDATION'S magnificent \$30 million gift was intended by the law school's late benefactor, Wm. Polk Carey, to sustain our world class academic programs and superlative faculty. But with this gift came a challenge: Accelerate UM Carey Law's forward momentum by inviting others to invest in its future. The Carey gift is enabling the law school to strengthen its programs. It is providing support for faculty. And it is bolstering the law school's endowment.



It was Bill Carey's vision, through this gift, to inspire alumni and friends to make their own gift commitments to support the law school's pressing priorities—and his challenge to all lives on. "Doing good while doing well" was his motto, and our law school can accomplish great things if we rise to Bill's challenge.

We hope that you will choose to support the *Carey Challenge* with an investment in UM Carey Law. We invite you to consider making a gift toward scholarships for incoming or current students; stipends for students taking public interest summer jobs; or loan repayment funding for graduating law students, judicial law clerks, and practicing alumni choosing to work in public interest law.

Please join with alumni and friends and participate in the *Carey Challenge*, as we endeavor to secure \$15M in new gift commitments over the next three years. Together, we can prepare a generation of extraordinary lawyers and leaders who will shape the future.

An investment in UM Carey Law is an investment in the next generation of leaders ... with a handsome return.

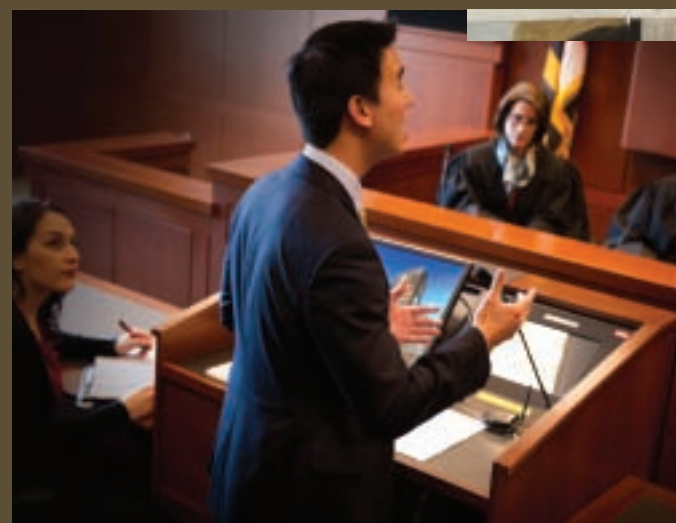


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UNIVERSITY OF MARYLAND FRANCIS KING CAREY SCHOOL OF LAW CAREY CHALLENGE

"IT WAS BILL CAREY'S VISION to inspire alumni and friends to make their own gift commitments to support the law school's pressing priorities—and his challenge to all lives on."



UM CAREY LAW ANNUAL REPORT OF GIVING

MARYLAND LAW SCHOOL CLUB

Members of the Maryland Law School Club 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 in the club. The School of Law thanks each of those donors not only for their loyalty and generosity, but also for the role they play in helping the School of Law to educate future leaders and increase access to justice.



IN APPRECIATION: Wm. Polk Carey

By Phoebe Haddon

In January 2012, the UM Carey Law community mourned the passing of Wm. Polk Carey, one of the country's leading philanthropists in education. At an April memorial service at the Church of the Redeemer in Baltimore, Dean Haddon was asked to speak on behalf of the law school. This is an excerpt of her comments.

Sometimes you meet a person and you know right away you will be great friends. That's just how it was with Bill. From the moment we met, there was no question he would be a great friend to me.

I know that all of us in one way or another were touched by Bill Carey. And, like many of you here, I could stand up here for hours and tell you all the wonderful things I remember about Bill. But one thing I think everyone who ever met him recalls is his impish, spontaneous sense of humor.

After he and Frank made their transformative gift to the School of Law, we called the entire community together to celebrate. Nothing like this had ever happened before in the history of the school, and we were delighted—in fact, I was shocked though extraordinarily pleased to have secured the gift last spring.

To celebrate the initial announcement, we filled the atrium of the law school with balloons and we welcomed not just our faculty, staff, and students, but the Careys, the president of the university, the chancellor of the University System of Maryland, the Mayor of Baltimore, the Governor of Maryland, and many other alumni and friends of the law school.

I got up and gave a speech about how much the gift meant to us, how it would transform not just the school, but the university, the city, the state, the nation—and then all of a sudden Bill leapt up out of his seat, threw his hands in the air, and exclaimed, “And the world!”

That one action, so indicative of the vibrant, indomitable spirit of Bill Carey, brought down the house.

Everyone knows of Bill's generosity. His motto was “doing good while doing well,” and as a businessman and philanthropist, he lived by those words. His generosity was accompanied by his vision—his giving to make others' visions a reality.

Bill had an unparalleled understanding of the effects of education, and he was deeply committed to helping modern universities adapt to our rapidly changing world. He understood how important it is that students acquire a global perspective on the subject matter they choose to study. He was committed to interdisciplinary learning, and his giving fostered connections—like the work we do in business and law. Perhaps most importantly, Bill believed in education that had an ethic of public service at its core. These shared values cemented our friendship.

Our school is now the University of Maryland Francis King Carey School of Law, named for Bill and Frank's grandfather. “Papa,” as Bill called him, had been very important to Bill, and Bill said to me that he imagined Papa looking down to make sure that UM Carey Law became the best law school in the state, the nation—and the world.

I made a promise to Bill that I would make sure his grandfather's legacy lived on and that his dreams for the school were realized. I like to think of Bill along with his Papa watching over us, and seeing that their legacies live on, just as Bill does in our hearts. ■

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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 continued success of the School of Law, which thanks these individuals for their ongoing commitment.

All listed graduates have made an annual gift to the School of Law between July 1, 2011 and June 30, 2012.

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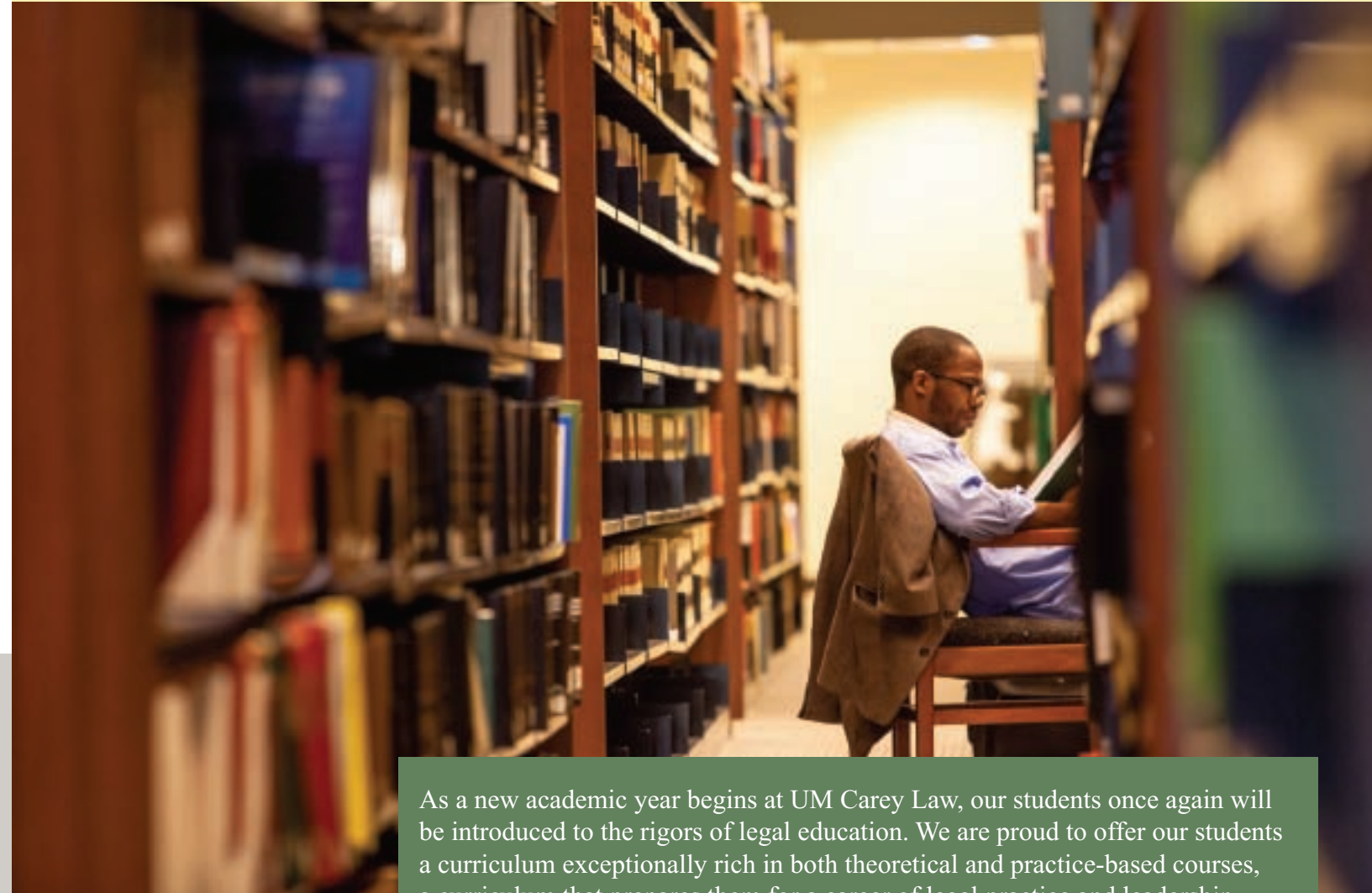
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Conflict Resolution Day Event

The Honorable Susan K. Gauvey, US District Court of Maryland	The Honorable Dorothy Jean Wilson, US District Court of Maryland	The Honorable Diane O. Leasure, Circuit Administrative Judge, 5th Judicial Circuit (ret.)
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Guest Speaker: Environmental Law Program

Amalia Pleake Tamm '12	Andrew Gohn '09	Joey Tsu-Yi Chen '10	Karyn Marsh '03	Andrea Silvia '06
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Guest Speaker: Career Development

Jason St. John '00	Lindsay Goldberg '10	Dina Billian '93	Shara Boonshaft '02	Laura Bouyea '03	Heather Pruger '09	Jodie Buchman '99
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Navy JAG Informational Session

Lt. Tashinda Richardson '08	Joseph W. Hovermill '93	Patricia McGowan '95	Kevin Sullivan '03	Monique Dixon '96	Luciene Parsley '02	Kevin Wiggins '99	Justin Browne '08	Dan Goodman '09	Emily Jaskot '11	Rajiv Goel '98	James Benjamin '01	Michael Siri '01	Tiffany Harvey '06	LaKeecia Allen '04	The Honorable Toni Clarke '86	Dina Billian '93
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2012 Career Exploration Fair

Fabian D. Walters, Jr., McKennon Shelton & Henn LLP	Michael W. Siri '01, Bowie & Jensen LLC	Ellen Smith '08, DLA Piper
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Amber Mohr, U.S. Department of Housing and Urban Development, Office of General Counsel
 Earl Cox, U.S. Department of Housing and Urban Development, Office of General Counsel
 Cara Conlin '05, U.S. Department of the Navy, Office of General Counsel
 Greg Lennon '05, U.S. Department of the Navy, Office of General Counsel
 Lt. Cmdr. Gopi Nadella '04, U.S. Navy Judge Advocate General's Corps
 Lt. Tom Brown '09, U.S. Navy Judge Advocate General's Corps
 Lt. Candace Holmes '09, U.S. Navy Judge Advocate General's Corps
 Lt. Tashinda Richardson '08, U.S. Navy Judge Advocate General's Corps
 Marcia Simon '07, U.S. Nuclear Regulatory Commission (NRC), Office of the General Counsel
 Patricia McGowan '95, Venable LLP
 Merrick J. Benn, Womble Carlyle Sandridge & Rice, LLP

OCI – Fall 2011
 Ryan Stottmann '08
 Benjamin Haley '05
 Charles Scheeler '52
 Evynn Overton '04
 Lila Shapiro Cyr '99
 Anna Mahaney '04
 Valerie Webb '03
 Patricia McGowan '95
 Alissa Sagri '08
 John Knight '94
 Jonathan Kucskar '08
 Darah Okeke '07
 Indira Sharma '06
 Geoffrey Gamble '08
 Michelle Albert '10
 Brian Southard '03
 Surinder Sachar '92
 Bryan Saxton '09
 Joel Ogden '98
 Christopher Lonegro '05
 Carla Murphy '00
 Jason Downs '07
 John Lennon '05
 Katharine Porwick '03
 Stacey Moffet '94

Health Care Delivery and Child Welfare Clinic
 Julie A. Belt, Law Office of Fred S. London, P.C.

Women, Leadership & Equality Workshop
 Scott E. Ray, U.S. Attorney's Office for the District of Columbia

Deborah Jennings, DLA Piper
 Laura Black '88

"Miss Representation" Screening and Discussion
 Erika Falk, Program Director, Aspen Institute
 Jayne Miller, Reporter, WBAL-TV

Pro Bono Immigration Consultations Project
 Ana Zigel
 Ubong Akpan, Law Offices of Emmanuel Akpan
 Amy Grupp '09, Grupp Immigration
 Erica Morgan, Immigrants First
 Jay J. Wu, Puyang & Associates
 Marco Rodriguez '05
 Naima Said, Naima Said & Associates, PC
 Barbara P. Smith
 Mary Ann Berlin, Berlin & Associates, P.A.
 Adam Crandell '10, Berlin & Associates
 Michelle Mendez '08, Catholic Charities
 Patricia Chiriboga-Roby '94
 Julia Toro
 Linette Tobin
 Sandra Grossman, Grossman Law, LLC
 Maria Manon, Grossman Law, LLC
 Jay Marks

Himedes Chicas '10, Berlin & Associates
 Dree Collopy, Maggio Kattar
 Gina Takemori

Classroom Guest Lecturers
 The Honorable Benson E. Legg
 Amer Ahmed, Williams & Connolly LLP
 Mr. Matt Boris, U.S. State Department
 Michael F. Smith '01, Fragomen, Del Rey, Bernsen & Loewy
 Adam Crandell '10, Berlin & Associates, P.A.
 Himedes Chicas '10, Berlin & Associates, P.A.
 Greg Mack '90 U.S. Department of Justice, Office of Immigration
 The Honorable John F. Gossart, Jr., Baltimore Immigration Court
 Larry Nathans
 Diane Glauber '02, Lawyers Committee for Civil Rights Under Law, Washington D.C.
 Kristine Dunkerton, Executive Director, Community Law Center, Baltimore
 Philip Robinson
 Jack Machen, City Solicitor's Office, Baltimore
 Van Doan, Law Office of Van T. Doan, LLC

Naima Said, Naima Said & Associates, PC
 Deepa Bijpuria, '03, The Women's Law Center of Maryland
 Kristianne Schotzinger, Arlington Asylum Office, US Citizenship and Immigration Service
 The Honorable Elizabeth Kessler, Baltimore Immigration Court
 Melody Brukiewa '98, Baltimore Chief Counsel, Immigration and Customs Enforcement
 Frances Taylor, Taylor & Ryan, LLC
 Dr. Hannah Ong and Dr. Khalid El-Sayed, U of MD Forensic Psychiatry Fellows program
 Barry Gogel '97, Law Offices of Arnold M. Weiner
 David Eberhardt '85, Miles & Stockbridge
 Ron Shapiro '78
 David Abrahamson '78, SDA Ventures
 Erik Orlinsky '92, Saul Ewing
 Jim Hanks '67, Venable LLP
 Lawrence Copple, Gordon Feinblatt
 Rich Goldberg '98, Shapiro Sher
 Irv Walker '78, Cole Schotz

MAKING AN IMPACT

Every effort has been made to ensure the accuracy and completeness of the information in this publication. Names are listed according to the preference of contributors. Gifts to the School of Law received between July 1, 2011 and June 30, 2012 are recorded with the heartfelt thanks of the entire Law School community. Should you find an error or omission, please contact:

Zavin Smith | Director for Annual Giving | 410-706-0258 | zsmith@law.umaryland.edu



UNIVERSITY of MARYLAND
 FRANCIS KING CAREY
 SCHOOL OF LAW
 The Center for Dispute Resolution

and

PEPPERDINE UNIVERSITY
 School of Law
 The Straus Institute for Dispute Resolution

Present



PROFESSIONAL SKILLS PROGRAM BALTIMORE, MARYLAND

March 14-16, 2013

Course offerings and faculty:

- **Advanced Mediation** *Nina Meierding & Bruce Edwards*
- **STAR: A Systematic Approach to Mediation Strategies** *Peter Robinson & Randy Lowry*
- **Tools of Mindful Awareness** *Len Riskin & Rachel Wohl*
- **Advanced Family Collaborative Law** *Pauline Tesler & David Fink*
- **ADR Programs in the Public Sector** *Toby Guerin & Howard Gadlin*
- **Winning at Mediation in the Complex Case** *Honorable Diane Leasure & Deborah Eisenberg*
- **Strategic Negotiation Skills** *Don Gifford & Barry Gogel*
- **Dissecting the Complexities of Our Practice: Uncovering Unreflective Decisions** *Marvin E. Johnson & Homer C. La Rue*

FALL/WINTER 2012-2013 CAMPUS HAPPENINGS

October 4-6

2012 SALT Teaching Conference: "Teaching Social Justice, Expanding Access to Justice: The Role of Legal Education & the Legal Profession"

November 1

2012 Stuart Rome Lecture, "Reproductive Justice: The New Constitutional Battlefield," presented by Michele Goodwin, Everett Fraser Professor of Law, University of Minnesota Law School

November 2

Business Law Fall Symposium, "Business Arbitration: Redefining the Landscape of Efficient Business Practices," sponsored by the *Journal of Business & Technology Law*

November 7

"Women in the Profession," presented by the Maryland Chapter of the Federal Bar Association

November 10-11

ABA Law Student Division Negotiation Competition

November 15-16

International and Comparative Law Symposium "Extraterritoriality Post *Kiobel*: International and Comparative Legal Perspectives," sponsored by the International and Comparative Law Program with the *Maryland Journal of International Law*.

November 16

Annual Environmental Law Wine Tasting

February 9-10

2013 American Mock Trial Association Opening Round

February 22-23

"Executive Power," Maryland Carey Law/Princeton University Constitutional Law "Schmooze"

March 1

"Health Care Reform: the State of the States Roundtable," sponsored by the Law and Health Care Program with the *Journal of Health Care Law & Policy*

March 14-16

The Center for Dispute Resolution (C-DRUM) presents Professional Skills Program in Dispute Resolution, in cooperation with the Straus Institute for Dispute Resolution at Pepperdine University School of Law

March 28-29

Symposium: "Race, Sexuality & Social Justice" presented by the Woman, Leadership & Equality Program