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THE UNIVERSITY OF TORONTO FACULTY OF LAW ALUMNI MAGAZINE
SPRING/SUMMER 2013

Groundbreaking

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Jackman Law Building
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PLUS:

Advance on the Arctic
Raising the Ethical Bar
A Grand Crew



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DEAN'S MESSAGE



An innovative year, a boundless future

What an incredible year it has been. Our event calendar was bursting with activity in the second term, with a myriad of conferences, workshops and launches showcasing the great scholarship of our faculty, and the leadership of our outstanding alumni and student body.

I was privileged to host with my colleague Kent Roach a conference on the Indian Residential Schools Settlement Agreement, "Civil Action, Redress and Memory," reflecting on the progress of that historic agreement to date, lessons learned and future challenges. The David Asper Centre for Constitutional Rights also hosted an important conference commemorating the 25th anniversary of R. v Morgentaler, and our International Human Rights Program ran a timely symposium on the challenges of protecting victims of sexual violence in the recent conflicts in Libya and Syria.

These are just a few examples of how the Faculty is leading thought and discussion on the issues that matter to Canadians, at home and abroad. And in the pages that follow, you'll find more.

In "Advance on the Arctic," p. 8, for example, you'll meet alumni and students who are watching the developing legal framework in the Arctic and asking what Canada's leadership of the Arctic Council could mean for the region over the next two years. And in "Raising the Ethical Bar," p. 12, we profile a new think-tank and advocacy group on corporate responsibility based at the Faculty of Law: the Program on Ethics in Law and Business.

We're always interested to see where our alumni land, and what they are up to. We stopped by a trendy new wine shop in Manhattan run by U of T Law alumni ("A Grand Crew," p. 20), and caught up with a busy deal-maker in Singapore, (Q & A, p. 32). Convocation is always a very special moment and you can see photos of our newest alumni, the Class of 2013, on p. 34.

But I'm most excited to talk to you about our groundbreaking ceremony on June 4th, "Groundbreaking," p. 16. The Faculty of Law renewal is now a reality, thanks to all of the remarkable donors, at all levels, who supported our campaign. Our gratitude is boundless.

MAYO MORAN, SJD 1999
DEAN OF THE FACULTY OF LAW

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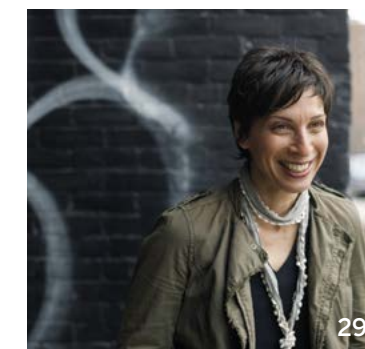
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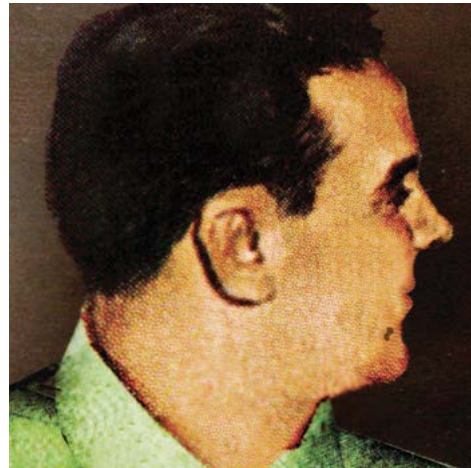
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KAREN GROSS,
WRITER, "ADVANCE ON THE ARCTIC," P. 8

Karen Gross worked for many years as a national CBC broadcast reporter. She was also co-host of CBC radio's "The World at Six", before moving to San Diego in 1998. Since then, she has worked at the local NPR station, and has written for several university publications. When she's not writing or chauffeuring her three rapidly growing children, she can often be found volunteering at the local SPCA. She's a regular contributor to *Nexus* magazine.



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Brian Stauffer is an American artist and illustrator. He's worked as an art director at *New Times* in Phoenix, the *Miami New Times* as well as for StarMedia. Brian has illustrated covers for *The New Yorker*, *The Nation*, *Worth Magazine* and many other publications. He gained wide recognition for his cover for *The Nation* in 2000, titled "Alfred E. Bush," which depicted President George W. Bush as Alfred E. Neuman, the fictitious mascot and cover boy of *Mad Magazine*.



BLAISE HAYWARD,
PHOTOGRAPHER, "A GRAND CREW," P. 20

Blaise Hayward was born in Canada and moved to New York in 1996 to pursue a career in photography. His advertising clients include UBS, Mastercard, Mercedes Benz, JP Morgan Chase, PBS and Verizon amongst others and he has shot for publications such as *Esquire*, the *New York Times Magazine*, *Glamour* and *US Magazine*.

square two

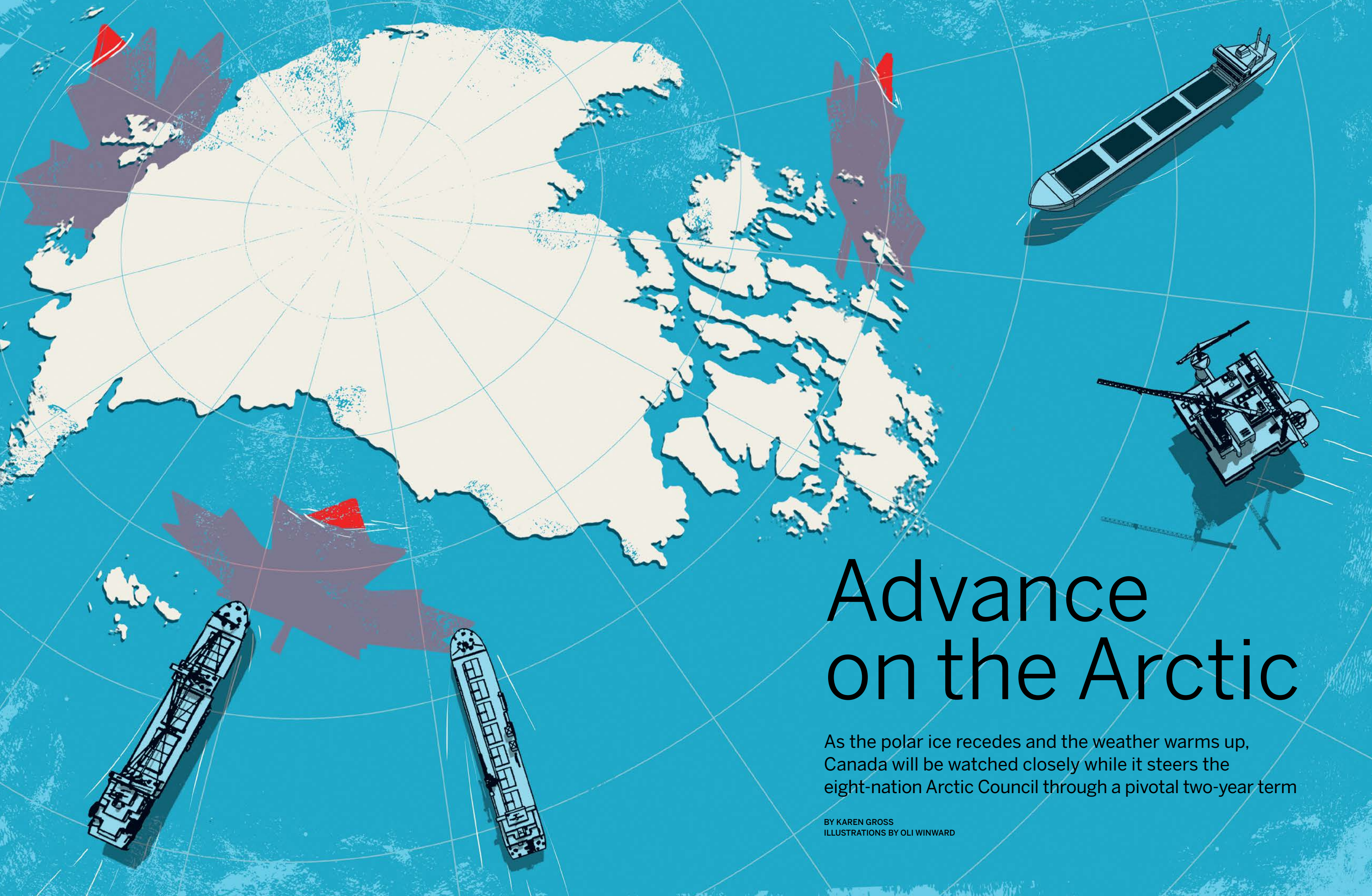
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Advance on the Arctic

As the polar ice recedes and the weather warms up, Canada will be watched closely while it steers the eight-nation Arctic Council through a pivotal two-year term

BY KAREN GROSS
ILLUSTRATIONS BY OLI WINWARD

It's been 17 years since Canada held the founding chair of the Arctic Council in 1996, and the environmental, political and business climates have changed drastically over that time. Once impassable waters are opening up as tempting shortcuts for shippers looking to save time and money. The energy and mining industries are eager to get in on the action, hoping to profit from the largely untouched, resource-rich region. And environmentalists and climate change experts worry Canada will use its clout to step up development at the expense of the fragile ecosystem and the people who call it home.

"The main issue is not to forget the Arctic Council's mandate," says H el ene Mayrand, law professor at the University of Sherbrooke and a doctoral candidate at the Faculty of Law. That mandate, she stresses, calls for the Council to promote cooperation among the member states in pursuit of sustainable development and environmental protection. Mayrand worries Canada will pull the other seven member states—Russia, Denmark, Norway, the U.S., Finland, Iceland and Sweden—in the opposite direction. "It wants to advance its own interests, and it wants to focus on sovereignty and promoting economic development. You can see the focus is not on environmental protection, and you can see that through what Canada has done in the past."

Citing Canada's withdrawal from the Kyoto Agreement and its reduction in requirements for environmental impact assessments for exploratory oil wells, Mayrand notes its track record on climate change are shared by Travis Allan, JD 2008, whose Toronto firm Zizzo Allan advises on climate change and environmental law and policy.

"As a country we are rapidly developing what will be a huge contributor to greenhouse gas emissions and climate change with the oil sands," he says. "This is all part of a broader conversation about resource development in Canada."

Indeed, Canada has already pushed a position that stresses increasing investment and development in the northern resource sector. While that has environmentalists concerned, mining and energy companies, along with China, Japan and the European Union, have already begun exploring the seemingly endless opportunities in the North.

Earlier this year, the Centre for the North, an initiative of the Conference Board of Canada, released a far-reaching report predicting that the region's metal and non-metallic mineral output would grow by 91 percent by 2020, with a compound annual growth of 7.5 percent. The economic forecast calls for a doubling in the mining sector, to \$8.5 billion in 2020. That's based on a constant 2002 dollar.

"I do think it will be a critical two year term," says Mark Convery, LLB 1983, a senior partner with the international firm Norton Rose Fulbright and a member of its recently formed Canadian North and Arctic team. "We're reaching a tipping point in terms of development in the North so Canada's chairmanship comes at an opportune time in that regard."

Convery's firm is already involved in the Baffin Island Iron Ore project at Mary River in Nunavut. The mine is expected to produce 3.5 million tonnes of iron ore per year. In fact, Norton Rose Fulbright created its special Arctic/North team in response to clients who began clamoring for expertise in the issues of the region. "This area is now opening up in ways that couldn't have been imagined five or 10 years ago," he says. Still, Convery believes concerns that Canada will move ahead in an irresponsible manner are unrealistic.

"I think everybody recognizes that it's an extremely fragile and unique ecosystem there," he says, "and that everybody has to do whatever's reasonably possible to protect the environment."

Increased business opportunities and warming waters have already brought more ships into the frigid region, along with a host of potential issues and problems connected to them. Who will respond in case of a collision or an environmental emergency? Whose regulations will ship operators adhere to, and what laws will protect the delicate marine balance with the increase in traffic and possible consequent pollution? While the International Maritime Organization has issued a set of guidelines, it is not legally binding internationally. Canadian observers expect the country to lead on that front, as it already enforces its own Arctic Waters Pollution Prevention Act within 200 nautical miles of its shores and is keen on pressing its polar neighbours to enforce those recommendations. Those rules forbid discharging oil, oily waste, or any kind of garbage into Arctic waters. And the IMO is working on a Polar Code, which would ideally cover everything from propulsion standards and hull constructions for ships to crew training and fire protection.

That code should be at the very top of Canada's to-do list, says Nigel Frawley, JD 1972, a maritime lawyer and Secretary General of the Comit e Maritime International. "I would expect the Canadian Chair to push for an early resolution and get the Polar Code in place," he says. "It keeps getting pushed into the future. We even heard of 2018 as a deadline, which would be disastrous."

Two years ago, the Arctic Council did succeed in negotiating its first binding treaty—an agreement covering the search and rescue responsibilities of each Arctic Council member. And just recently, the forum struck its second binding deal, which aims to coordinate cleanup in case of an oil spill anywhere in the Arctic region. Among other things, the agreement sets out guidelines for communication and management of personnel. It also requires member nations to notify each other if there is an environmental oil emergency.

But while they're a big step in the right direction, agreements on paper need to be backed by financial and material commitments, Frawley argues. He's concerned that with cash-strapped governments looking to save money rather than spend it, adequate infrastructure, training, and shipping safety may still take a back seat to growing pressure from business interests.

"If climate change continues and the window for ice-free navigation becomes wider, ship owners and operators will see a commercial advantage," warns William Sharpe, LLB 1980, a maritime lawyer in private practice. "Existing operators are very responsible, but those with less experience may not have sufficient training to safely operate."

All of this is unfolding with the region's various Indigenous groups at the Council table as permanent participants, but without the right to vote. Significantly, the Harper government's representative is Canada's Minister of Health, Leona Aglukkaq, an Inuk from Nunavut. Breaking from the Council's traditional focus on sustainability and the environment, Aglukkaq has said she'd like to increase industry's involvement and spark a better exchange of ideas with business leaders. At the same time, Aglukkaq says she wants to ensure the people most affected by any development decisions will benefit financially and have their voices heard.

Climate lawyer Travis Allan contends the lives of Arctic peoples have already been disrupted by climate change, and their hunting and fishing traditions risk further damage if resource extraction is allowed to run rampant.

"The process of adapting to climate change is extremely expensive," says Allan. "There is a huge amount of work to be done to identify what needs to be accomplished and then to actually implement measures that will allow people to continue their traditional ways of life."

Aggressive commercial fishers pose yet another threat to the region, its people and its wildlife, now that climate change has melted much of the ice in the central Arctic Ocean. More than 2,000 scientists around the world are urging the five coastal nations, including Canada, to develop an accord that would regulate fishing in the Arctic Ocean, where the open water has become accessible to distant foreign trawler fleets. The agreement's ultimate goal would not be to permanently block harvesting of the fish that used to live under the ice as well as other fish that may migrate northward as the ocean warms up. Rather, its aim would be to declare a commercial fishing moratorium until the fish stocks can be studied, and then later manage them for commercial exploitation. The accord would regulate what is known as the ocean's "doughnut hole," an area of international water north of the Bering Strait that some estimate to be the size of the Mediterranean Sea.

"As soon as the ice starts to leave and there is sufficient time for fishing," warns maritime lawyer Nigel Frawley, "you're going to see Korean, Japanese and Chinese fishing vessels moving into the Arctic and overfishing. There's a real danger in that."

So Canada takes over the Arctic Council with its plate full of tempting business opportunities and potentially disastrous pitfalls. Keenly interested parties will be watching every move. And nations with no Arctic claims, including India and China, have succeeded in snagging status as observers in order to monitor every step the Council takes. Further complicating Canada's task, Iceland's president recently launched a new



circumpolar forum called the Arctic Circle, which promises to be "an open tent" that will include Big Oil and organizations ranging from Greenpeace to Google. Iceland also recently became the first western country to sign a free-trade pact with China, a country already building ships in anticipation of taking a drastic northern shortcut to European and American markets.

"Membership is something of a hot-button issue at the moment," says the Hon. Bill Graham, LLB 1964, who chaired the House standing committee on foreign affairs during the time the Council was established, and later served as the minister of foreign affairs. But he adds that while Canada does hold a measure of moral suasion as chair, ultimately member nations can still do what they want within their own territories. "It's not a parliament," Graham says. "It's not there to lay down the law."

The Arctic region needs strong leadership now more than ever, argues SJD candidate H el ene Mayrand, an approach that protects the area, its people and its resources instead of risking its future to take reckless advantage of the already tragic effects of climate change. An Arctic Treaty like the one already covering the Antarctic (though extremely unlikely) would be a step in the right direction, Mayrand says. But in order to save it, nations and businesses need to study the region responsibly, and stop hungering after its riches as though it's the pot of gold at the end of the rainbow.

"It's really the way we see the Arctic that needs to change," she says. "The Arctic states need to stop looking at it as an opportunity to be exploited, but rather as a natural treasure—a piece of heritage that needs to be preserved."

Supporters of local development and resource extraction insist that they can find ways to achieve both goals simultaneously. The next two years, under Canada's leadership, may well determine whether that's true. ↵

RAISING THE ETHICAL BAR

The Program on Ethics in Law and Business challenges Bay Street to reach beyond what is legal—for what is right

BY RANDI CHAPNIK MYERS
ILLUSTRATION BY SÉBASTIEN THIBAUT



Let's face it: Lawyers tend to get a bad rap in today's society – especially down on Bay Street where ethical issues sometimes arise in business transactions. But now, legal leaders in the corporate world, including a former justice of the Supreme Court of Canada, are hard at work helping to change that fact.

The Hon. Frank Iacobucci, whose career spans lawyer, law professor, dean, judge, and now senior counsel at Torys LLP, is no stranger to the ethical challenges corporate lawyers face every day. That's why he's the ideal candidate to chair the advisory board of the University of Toronto Faculty of Law's new think tank and advocacy group, launched earlier this year by the law school's Centre for the Legal Profession (CLP).

The first of its kind at any law school in North America, the Program on Ethics in Law and Business (PELB) homes in on a subject that has always intrigued Iacobucci: The controversial field of business law and ethics, and the conflict of interests that arise when the two worlds intersect.

"I have looked at the area of conflict of interest in a number of settings and it's a subject I find very, very important," Iacobucci says. "In the everyday world, it raises questions of integrity, principle, trust and confidence in relationships."

And in business, in particular, there is quite often a lack of attention paid to ethical considerations and best practices, he explains. As a result, lawyers, who advise not only on what's legal but also on what's right and fair in corporate transactions, need clearer ethical guidelines.

Enter U of T law professor Anita Anand, the program's academic director, who researches corporate and securities law, including the value of good governance. She says the need for a program that raises awareness—and the moral consciousness of corporate lawyers—is long overdue.

"The idea is to further discussion among stakeholders in the legal profession about the concept of ethics in law as it relates to business," Anand says. "In a nutshell, when you're engaged in business law, what ethical obligations arise and what should you do about them? What principles and tools should lawyers use when confronted with ethical issues?"

When lawyers advise clients, it's not just a matter of legality, Anand says. Their advice should consider moral components. For instance, at what point should in-house counsel blow the whistle in the corporation when something is wrong?

Just look around to see examples of what can happen when ethics slip off the corporate radar.

"Capital market scandals such as the fall of Enron and, more recently, the global financial crisis have given rise to examination into lawyers' behaviour on behalf of their corporate clients," Anand explains. "There is a growing conversation in the policymaking sphere, and in the financial markets, about the ethical role of lawyers in corporate transactions."

There are so many legal-moral conundrums. For example, what happens when a corporate client asks its legal counsel to sit on its board of directors, giving rise to conflict of interest

concerns? Or in-house counsel realizes a course of action being adopted by the board is illegal, leading to a possible duty to report? Or in advising a client on a transaction that is technically legal, a lawyer wonders whether to advise that ethically it may be questionable?

The new program exposes these questions, as well as other issues of substantive corporate law, and in doing so, will ultimately help shape policies and practices in business law. These rules are so important because they affect not just the legal profession but also society as a whole, Anand says. "High standards in ethics go to the heart of what we as a society aspire to—learning to stop and consider right and wrong before we make decisions is crucial."

To spark the ethical discussion, Anand's first step was getting the stakeholders to the table. Mission accomplished. Thanks to Anand and the support of Dean Mayo Moran, the PELB advisory board (see sidebar) is composed of legal leaders. Anand is delighted "these icons in Canadian law and business" are stepping up and speaking up. "I believe they are here because they are committed to our values," she says, "and we are grateful."

Advisory board member and Ontario Securities Commission chair Howard Wetston looks forward to the program making a real difference in business transactions. He says it's easy to see why ethical values sometimes get lost in the corporate world and lawyers get blamed.

"When we are focusing on economic goals, we can lose sight of the important issues of morality, ethics and trust," he says. In his view, setting up lawyers as "gatekeepers" in the discharge of their responsibilities would help. "Just like directors, bankers, auditors and accountants, lawyers have a pivotal role to play in securities transactions when providing advice and support, so they have to be part of the conversation about what's ethical."

On March 5, that conversation got started at a packed (and waitlisted) launch of the new program at the U of T's Munk Centre. For those quick enough to have snagged a seat, PELB hosted a panel discussion using fact-based scenarios centred on Canadian business catastrophes Nortel and YBM Magnex.

The lively panel of judges, lawyers, businesspeople and scholars included Anand, Ontario Superior Court Justice Michael Code, LLB 1976, LLM 1991; Lawrence Ritchie, executive vice president and senior policy adviser at the Canadian Securities Transition Office; Torys LLP counsel Julia Holland; Osler, Hoskin & Harcourt LLP partner Jeremy Fraiberg, LLB 1998; and Alexander Dyck, a professor at the Rotman School of Management.

Participants had many substantive questions to ponder. Among them: legal ethics in the corporate context; ethical challenges for a lawyer joining the board of a corporate client; obligations of an advocacy lawyer required to make full disclosure to a regulator; law reform initiatives to protect whistle-blowers; the concept of withdrawal; and self-regulation in the legal profession.

“Just like directors, bankers, auditors and accountants, lawyers have a pivotal role to play in securities transactions when providing advice and support, so they have to be part of the conversation about what’s ethical.”

“We created scenarios modelled after real world business problems and panelists commented on the issues they gave rise to, which led to healthy discussion with audience members,” says panellist Julia Holland, LLB 1990. During the discussion, participants considered not just the ethical choices of individual lawyers but also the power and influence of law firms and CEO suites.

“At the end of the day, the most important question is this: If the client wants to do something that’s legal but maybe not moral, what is our responsibility as lawyers, and how do we handle that, and does this program give us a framework for addressing the problem?”

But isn’t morality subjective?

“Sure, but there’s always room for interpretation in law, even in statutes,” Holland says. “What people need is a framework to think about the issues and just asking the questions in the first place, that’s really productive.”

“You start with the Rules of Professional Conduct,” she explains. “Look at what has recently gone on in business—whether reporting has changed or there are more lapses in morality like insider trading scandals, for instance. Then, if there’s a concern, you go on to talk about how to educate lawyers and other professionals by asking questions: Why is this happening? Is it that people don’t have tools to analyze the situation or don’t recognize problems? How can we change that?”

The Conflict of Interest Commissioner for the Province of Ontario, Sidney Linden, LLB 1964, found the panel’s questions and resulting discourse fascinating. He notes that while in the public sector ethical rules are coded, that’s not always the case in the private sector. Not all private companies or firms have internal codes of conduct, and if they do, there is often the question of how to apply them.

Still, there is a common denominator across both sectors, he says. “The basic principles of fairness are the same. Those of us responsible for advocating for a deepening of core values have a great deal to share with and learn from each other,” Linden says. “That’s what this program does and I look forward to it playing an important role on this subject going forward.”

As the program gains momentum, there are some exciting PELB events being planned, including a possible fall conference on the theme of the boundaries between ethical and legal

obligations in the practice of corporate law. The Centre will also continue its popular bi-monthly lunchtime Speaker Series during the academic year, engaging law students as it focuses on the PELB mission.

The Law Society is also a part of the conversation about ethics. The PELB launch event webcast is accredited for 1.5 professionalism hours. Wetston says that as a self-regulatory organization, the Society has a responsibility to ensure the standards of the profession are met.

“We are at a low ebb in confidence and trust in the financial market, and since 2008, it has been challenging for the industry to rebuild public confidence. When there’s fraud, misrepresentation or inaccurate disclosure, you have to talk about it and that’s what this program does—spur discussion,” he says.

Iacobucci agrees. “It’s incumbent on all of us in business and law and in the thinking world generally to try to do something to hold up the values of trust, confidence and integrity.”

Says Wetston: “It’s not about pointing fingers. It’s about realizing that there is shared responsibility between law and business for the public trust in those entities, and that’s what this program seeks to achieve. We are off to a great start.”

PROGRAM ON ETHICS IN LAW AND BUSINESS ADVISORY BOARD:

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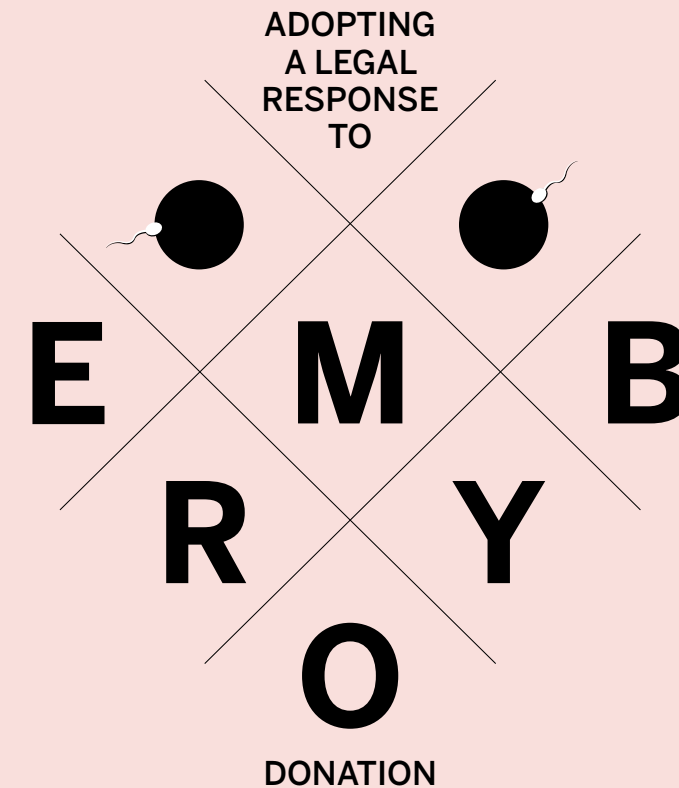
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BY MARK WITTEN



After completing IVF (in vitro fertilization) treatment, couples face the dilemma of what to do with the leftover frozen embryos. One option is to donate the unused embryos to another woman or couple for their reproductive use. Embryo donations have often been compared to adoptions because the children born through donations don’t have a genetic connection to their social parents.

In a thought-provoking presentation at the 11th Annual Graduate Colloquium, hosted May 9-10, 2013 by the CIHR Training Program in Health Law, Ethics and Policy, Stefanie Carsley questioned the comparison between embryo donation and adoption—and looked at the potential consequences of applying adoption laws to embryo donations.

Carsley, a LLM candidate, said there are major differences in how embryo donation and adoption are treated under the law, and argued most of the existing legal differences are justified. She gave the example of laws relating to consent and revocation to show the perils of applying adoption law to embryo donation.

Under Ontario’s adoption laws, for instance, the birth parents can only give consent to the adoption seven days after birth and they have 21 days to revoke their consent. The timing of revocation is critical. What would it mean for the gestational mother if the embryo donors were legally allowed to change their minds during her pregnancy, or after birth, using the adoption model?

“This would have problematic implications for women’s reproductive autonomy. It would be completely at odds with Canadian law and public policy to allow the donors to revoke their consent after embryo implantation, and thus to potentially demand that the embryo recipient terminate her pregnancy, or relinquish the child to them following birth,” said Carsley, a CIHR Health Law, Ethics and Policy Fellow who is focusing on legal issues related to embryo donation for third-party reproduction in her thesis.

Carsley is opposed to applying adoption laws to embryo donation, but she argued that comparisons to adoption offer the promise of potential solutions to improve or fill gaps in embryo donation laws and practices.

Consider, for example, the issue of when the birth parents can revoke consent. Provincial adoption laws give the birth parents a specific period of time after the birth—21 days in Ontario and 30 in B.C. The

revocation period in embryo donation happens before the recipients acknowledge in writing that the embryos have been designated for their reproductive use, but the law doesn’t specify how long that period of time should be.

Carsley recommended that provincial regulations define a specific period of time in which donors can revoke their consent to ensure that they are truly providing free and informed consent to donate.

It is common practice for fertility clinics in Canada to ask couples who intend to undergo IVF to sign consent forms—prior to treatment—indicating that they consent to IVF, asking whether they would like remaining embryos to be frozen, and asking what should happen to any surplus frozen embryos in the event of disagreement between the spouses, divorce or death. Quebec’s regulations require that couples express their intentions in writing regarding their surplus embryos.

Now suppose the couple stipulates in writing that their embryos will be donated to a third party if they disagree and then they do disagree. In effect, the woman has been asked to provide consent to donate the embryos before undergoing IVF and before giving birth.

Compare this with adoption, where the birth mother cannot consent to the adoption before giving birth. Carsley maintained that, like a birth mother, a woman may not be able to make a truly informed decision about relinquishing embryos for donation before undergoing IVF or giving birth.

The problem is further underscored by empirical research on embryo donation, which shows that many women who undergo IVF, and especially those women who successfully conceived, start to see their embryos differently than they did before.

“Many accord more value to their embryos or start to see them as potential siblings for their children. While a substantial number of prospective embryo donors indicated before undergoing IVF that they would donate surplus embryos to a third party, the vast majority changed their minds after they had their own children,” said Carsley.

This article has been edited and condensed.

Read the full version here: <http://uoft.me/embryo>



GROUNDBREAKING

CONSTRUCTION OF THE
JACKMAN LAW BUILDING IS SET TO BEGIN

BY LUCIANNA CICCOCIOPPO
PHOTOGRAPHY BY MICHELLE YEE



“This is a great day in the history of the law school,” said Dean Mayo Moran. “The new building will create a future for the Faculty of Law that is even brighter than our illustrious past.”

Blue skies, baseball caps and a picture-perfect setting by the Bennett Gates greeted the more than 170 guests who attended the June 4th groundbreaking of the Jackman Law Building. And with the official turning of the sod, the Faculty of Law expansion was set in motion.

“This is a great day in the history of the law school,” said Dean Mayo Moran. “The new building will create a future for the Faculty of Law that is even brighter than our illustrious past. We are so grateful to all of our benefactors who believed in the importance of this project and came forward to make it a reality.”

This spectacular new facility—named after the law school’s lead donor, the Hon. Henry N.R. Jackman, LLB 1956, a former lieutenant-governor of Ontario, U of T chancellor and long-time benefactor to Canada’s largest university—will house spacious, modern, environmentally friendly classrooms, offices and collaborative areas for Canada’s pre-eminent law school.

Praising lead donor Hal Jackman for his investment in the Faculty of Law, U of T President David Naylor said: “The Honourable Henry N.R. Jackman has been a remarkably generous supporter of higher education, and his passion for U of T has spanned our various faculties and colleges. With this latest benefaction, Hal Jackman again demonstrates unusual long-term vision. This ground-breaking represents not simply a new building, but a new era for legal education and scholarship at Canada’s only world-class law school.”

The Jackman Law Building, a multi-storey wing on Queen’s Park Crescent, increases teaching and learning space by 50 per cent, to 66,000 square feet. The expansion also includes an extensive interior renovation to the Bora Laskin Law Library and an update to historic Flavelle House.

“My classmates and I look forward to watching the construction project unfold and to one day soon setting foot in

our new home,” said Brendan Stevens, Students’ Law Society president. “This new space will symbolize the intersection of our great history with our exciting future.”

The expansion enhances the law school’s success in drawing top law students and world-renowned faculty. The new facilities add much-needed contemporary teaching, learning, research and collaborative space not only for JD and graduate programs, but also for professional and continuing education courses, and unique initiatives such as the Global Professional LLM, and the Internationally Trained Lawyers Program.

The alumni and law firm communities have provided unprecedented support for the Faculty of Law building campaign. In addition to Mr. Jackman’s generous \$11 million gift, law firms Osler, Hoskin and Harcourt LLP and Torys LLP, with donations of more than \$2 million each, have set new benchmarks for firm giving in Canada. The campaign has also received several individual gifts of \$1 million or more, and achieved remarkable alumni participation.

The building is designed by Toronto firms Hariri Pontarini Architects and B+H Architects. It is a welcome addition to the cultural and architectural renaissance on Philosopher’s Walk, placing Canada’s best law school alongside iconic neighbours such as the ROM’s Michael Lee-Chin Crystal and the Royal Conservatory’s Telus Centre for Performance and Learning.

Before an enthusiastic crowd of alumni, students, faculty, staff, friends and donors, the celebration also included remarks from the Hon. Michael Wilson, chancellor of the University of Toronto, Judy Goldring, Governing Council vice-chair, alumnus Tom Rahilly, campaign co-chair, and the Hon. Hal Jackman. ↙

View the groundbreaking ceremony on our YouTube channel: [UTorontoLaw](#).



DIGGING IN: CAMPAIGN CO-CHAIR TOM RAHILLY, CHANCELLOR MICHAEL WILSON, PRESIDENT DAVID NAYLOR, STUDENTS’ LAW SOCIETY PRESIDENT BRENDAN STEVENS, DEAN MAYO MORAN, THE HON. HAL JACKMAN, GOVERNING COUNCIL VICE-CHAIR JUDY GOLDRING.





OWNERSHIP HAS ITS PERKS:
JOSH AND STEPHANIE COHEN, AND JEFF PATTEN

A GRAND CREW

Alumni export their legal background to the world of wines

BY ALEC SCOTT, LLB 1994
PHOTOGRAPHY BY BLAISE HAYWARD

"It's something of a ... weird white. Do you want to try it?" Josh Cohen says in a diffident voice, holding up a bottle of French wine to show the label to a customer who's come into the shop. His expression says no pressure, just as you wish.

She looks dubious, her Burberry trench darkened by the April shower outside, but she ventures a sip. Some pleasure hits her face. "Nice," she says. "Minerally. Nice. But, yes, weird."

It's late afternoon in the backroom of Flatiron Wines & Spirits, the brainchild of four people, two couples: Cohen, his wife Stephanie, his great friend Jeff Patten (all three graduates of the Faculty of Law) and Patten's wife Natasha. The new shop just south of Midtown is named for the iconic building a block away, and has bottles of some of the more than 2000 wines it stocks in front of exposed brick walls. It is one of several food-and-drink shops to transform a formerly derelict part of Manhattan into a gastronome's destination—a branch of Eataly, the gourmet food store associated

with chef Mario Batali, has just opened nearby, as has another of the couples' joint ventures: one of their two branches of the *ne plus ultra* of kitchenware shops, Whisk.

After graduating at the Faculty in 2000, the three law grads all worked for blue-chip New York firms: Jeff for Sidley Austin LLP, Josh for Sullivan & Cromwell LLP, Stephanie for White & Case (after articling, in Toronto, at Fasken Martineau). While providing strategic advice on the fledgling businesses, Stephanie has remained, as she says, in the "law game"—recently going out on her own as an international commercial arbitrator. But Josh and Jeff, friends from Nepean High School who then went to McGill University (where Jeff met Natasha) and U of T Law (where Josh met Stephanie) have both left the practice behind.

"I always wanted to go into business for myself, that was always the ultimate aim," Jeff says. "If anyone thought I was crazy to leave the relatively sure thing of the practice behind, no one said it out loud."

During his fifth year at Sullivan & Cromwell, Josh knew he was going to check out. He had steeled himself to tell the partner who sent him the most work when that partner called in a panic, wanting him to do an emergency deal. “I did the deal then told him. Otherwise, it would have looked bad. They were used to people leaving to go in-house at major corporations, to other big firms, or smaller, specialized firms, but not at all used to people leaving to start up relatively small businesses. They were positive and supportive.”

The pay cut for both, initially, was large—though Jeff says the earnings from their businesses, if they took them out, by now would exceed his salary as a senior associate. “But we just take out what we need to live on, no more.” Both couples have kids—the Cohens, a four-year-old daughter, the Pattens, three under six—and live blocks away from each other in Brooklyn, allowing a constant four-way personal and professional to-and-fro between them.

The weekend I’m there, I randomly run into the Cohens in Brooklyn getting birthday party gear for their Madeleine. Their first wine shop Blanc & Rouge is also in that trendy borough and specializes in organic wines, most at a moderate price point. “They loved wines, our customers, but a lot of them had medium budgets,” Jeff says.

“Coming to Manhattan is a big deal,” Josh says. “The Broadway address gives you credibility. Many of our clientele are very sophisticated, knowledgeable about wine, and they expect that extra level from you.”

The buzz around the new shop, barely a year old, is already considerable, with Florence Fabricant, the influential critic at the *New York Times*, mentioning it within weeks of its opening: “Regions they like include Burgundy, the Loire Valley, Piedmont, the Rhone Valley, the Mosel, Champagne and Northern California.” Since then the *Village Voice* has named it among its top ten New York stores, and the *Financial Times* among its top five.

But the shop nearly didn’t happen—and the law degrees came in handy. The lease was signed during the post-downturn real estate dive, but then renovations began at the unused building. As the work proceeded, the market picked up and the landlord, one of New York’s biggest property holders, tried to exit the arrangement, knowing it could now get more for the same space. “They thought we were just these kids from Brooklyn,” Stephanie says, “That we were going to roll over. They had much deeper pockets, there was the threat of litigation ... but it worked out.”

They still call on their legal training to help navigate New York’s byzantine liquor regulations, but the main focus has been on learning about wines and building a business with a distinctive approach. Organic remains a forte; long suits are the wines of the underrated Mosel and the so-called California New Wave (see Tasting Notes sidebar). And while they carry many high-end wines, the store’s centrepiece is a grab-and-go bin of quality wines for \$15 or less.

Their tasting notes are careful, not at all as purple as those pieces of writing tend to be, and there’s a refreshing lack of pretension on offer here. Later I ask Josh about that “weird” wine, and then, and only then, he explains that it’s a “Bourgogne Aligote Plantation 1902, a very rare bottling of an old clone of Aligote from vines planted in 1902.” And goes on to describe, again with great precision, what exactly that back-story means to the wine’s taste.

For him, the love affair with wine began when he visited his grandfather and grandmother in France, and they took him on tastings. “It was special in Vouvray, and so we have a lot of wines from there. My grandfather was a French-Canadian *avocat* and notary, a Jesuit-trained man, whose work for the U.N. High Commission for Refugees took him there. His love of wine was only one aspect of this wider sense of culture to him.”

The others soon caught the wine bug. Stephanie recalls: “Josh and I studied in Paris on an exchange from U of T. Jeff came to visit for six weeks, skipping three weeks of classes, and we all went to Bordeaux. I didn’t drink much wine then.”

Jeff laughs: “We sure brought you around.”

“They were just studenty wines in jugs,” Josh says. “What we could afford then. But still, this is why we’re in this business. You remember how it was; it helps make a moment that much ... more.” They’re silent for a few seconds, eyes going a bit inward, and maybe all of them are conjuring up their separate memories of that shared idyll.

Jeff pulls out first: “One of the perks of this job is going to the places where wine is made, learning about it.” He and Josh are just back from a trip to the caves and chateaux of Beaujolais with the renowned importer Kermit Lynch. “You never think at those moments, ‘Oh I could be doing due diligence in a corporation’s document-storage room!’”

TASTING NOTES

The U of T law grads welcome fellow alumni visiting New York—connoisseurs and those with less developed palates—to their casual Friday, Saturday and Sunday tastings at 929 Broadway (www.flatiron-wines.com). At the moment, Jeff Patten says Manhattan’s aficionados are all about sherry (on the spirit side), certain Rieslings and small plantings from a new school of growers in California, known as the “New Wave.” Josh Cohen later explains the term: “It’s not heavily-oaked wine, not those big wines that work well as a cocktail, but less so with food. The new ones are mainly dry-farmed, subtler, not oaky and pair well with food.”

For newcomers to the world of wine wanting to learn, he recommends, oddly, a set of Japanese graphic novels as a way in. “*Drops of God* is very Japanese, about one’s role in the family and overarching duty to one’s parents, but it captures something of what is special about wine.” (The conceit: two sons of a famous Japanese wine-critic father compete to show who is more worthy of inheriting his cellar.) “The wine world follows the series, and when a wine is mentioned there, its price can go way up. Small growths mentioned in it sell out almost immediately.”

MOVING FORWARD



FROM LEFT:
GESTA ABOLS,
JONATHAN FELDMAN
AND ALLAN LEIBEL

GOODMANS

Support for the Faculty of Law renewal continues

STORIES BY LUCIANNA CICCOCIOPPO
PHOTOGRAPHY BY NIGEL DICKSON

Exciting new buildings are top of mind for our alumni at Goodmans LLP. That’s because the firm recently moved its Toronto offices into a bright, modern space in the Bay Adelaide Centre. And the impact has not gone unnoticed, says Jonathan Feldman, JD 1999.

“It’s refreshed everyone’s practice. The space is state-of-the-art and it’s been a real motivator and inspiration to our firm. We can very much appreciate why the Faculty of Law is eager to do the same.”

Feldman continues to have close ties to his alma mater, and is now on the executive of the Law Alumni Association, in large part because of his appreciation and connection to the law school.

“I have a lot to be grateful for. A lot of our success can be attributed to our great education, and Goodmans partners who are Faculty of Law alumni identified the building campaign as a worthwhile cause to support.”

Even during his school days, he remembers how dated and tired the facilities were.

“The buildings were just OK, and many times we felt the library was overcrowded. We definitely could have used new classrooms,” says Feldman. “The new building will align the student and faculty experience with what’s required in the 21st century. It will be state-of-the-art in every respect.”

Feldman says the firm believes its support is an investment in the greater community—and in the future. “Strong institutions can only benefit the legal profession. And down the road, perhaps my children will benefit, as all our children can.”

The Jackman Law Building’s official groundbreaking ceremony has come and gone, but the excitement for the project continues. “It was a great way to kick off the next stage of this project. We are very honoured and pleased to be a part of this campaign. Goodmans wishes all future students and faculty continued success in the new building.”



HAROLD J. WOLFE

FRED KAN



GARFIELD EMERSON

GAR EMERSON, LLB 1966, was pleased to hear that the Faculty of Law's transitional space during construction of the new building will be at the lovely Victoria University, right across the street from the law school. He spent his undergraduate years there, but his history classes and seminars were held at Flavelle House. Little did he know that down the road both these schools at Canada's largest university could count on him for support.

"I chaired the campaign for Victoria University from 1996 – 2001, under then-President Rob Prichard, and I was deeply involved in that campaign. And now I'm happy to support the Faculty of Law's campaign. I'm very closely connected to this area of campus."

Emerson recalls his flourishing law practice at Davies Ward & Beck, and how quickly the world was changing. "I had been practicing for more than 15 years, but we recognized back then that we were not competing with the firms across the street from us, but with international lawyers in New York and London, looking to provide their services in Toronto."

That's why he's clear on the critical importance of having the best technology and resources available to continue to compete on this level. "It's paramount to have the research tools, faculty and facilities to allow one to obtain the best legal education possible. This is the 'new ball game.'" ↩

WHEN HAROLD J. WOLFE, LLB 1966, heard about the renewal project, he took the initiative and called his former classmate, the Hon. James Farley, co-chair of the Class of 1966 Campaign.

"Supporting the campaign just felt right to me," says Wolfe. Wolfe attended the Faculty of Law when the "legal gurus" were teaching: Professors Wright, Milner, Able and Laskin. He is grateful for the critical thinking and analytical skills he gained from his law studies.

"I was involved in our family business, known as The Oshawa Group Limited, for almost 30 years, as a director, corporate secretary, general counsel and corporate vice-president real estate. My law degree helped me to perform those functions."

Wolfe remembers the condition of the law school in the 1960s. His initial resolve to help was reinforced particularly when he attended the groundbreaking on June 4. He remarked to himself the deterioration that had occurred since he was last there. "It partly explains the dire need for the campaign," says Wolfe.

"The law school is an important part of the University of Toronto, and it is an important legal institution. It is very interesting that the new building will be facing Queen's Park, where provincial statutes are debated and passed. Some of the interpreters of such statutes will be trained across the road, in our new law school building."

Says Wolfe: "We have to think about the future. Those who benefitted from the resource being renewed must step forward and contribute to ensuring that the proper physical infrastructure exists to train future legal practitioners."

FREDERICK KA CHONG KAN, LLB 1967, believes all alumni have a duty to support the new building at their alma mater. "As alumni, we have a vested interest in seeing our law school and students excel and grow from strength to strength. The success and reputation of our law school reflect on us."

Based in Hong Kong, the polyglot founder and senior partner of the firm Fred Kan & Co. knows all too well the importance of communication—and not just via cyberspace.

"Nowadays most communication is through the Internet and social media. However, nothing can replace face-to-face interaction. I have found my best ideas came from close encounters in intense debates and discussions," says Kan. "New classrooms, collaborative spaces, advanced technology and more are vital in the acquisition and development of knowledge."

These necessary infrastructure updates were made all too clear when he last visited the law school. "I saw how jammed and crowded the school was. That's when I decided to make my donation. I entered the law school in 1964. It was Canada's top law school—and still is. We had small classes with great teachers. The school looked new to me. Most probably, it was recently refurbished or built. And there was a pervasive sense of pride."

Now it's another generation's turn to pay it forward, says Kan, so the law graduates of the future can continue to feel the U of T law school pride.

Photo: Eric Lee

IN MEMORIAM: RALPH SCANE

As soon as you entered a classroom in which he was teaching, you knew that he loved it – he loved teaching, he loved law, he loved the classroom as a stage, and he loved his students. Of course, Professor Scane's vast and expert knowledge of his subject always came through in his teaching, but one of the best things about his class was his ability to let himself and his warmth reflect through the legal principles he taught.

In thinking about Professor Scane this week, I came across an interview he did with the UofT law school magazine. In it he described teaching as "hard work, there's a lot of preparation, but when I'm in the classroom, that's not work. It's joy." I love that quote – and I know that he did find joy in the classroom, but it also brings to mind his exceptional level of preparation for each and every class he taught.

Just about everyone I know who took a course at UofT Law with Professor Scane has wonderful memories of his extraordinary teaching, and many responded to news of his death with what might be his most famous Scane-ism: "This is a problem best viewed through the bottom of an empty scotch glass."

-Excerpted from his eulogy by Nini Jones, Class of 1999

A fund has been created at the Faculty of Law in Professor Ralph Scane's memory. If you would like to make a contribution, please contact the Advancement Office at alumni.law@utoronto.ca.



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As at June 30, 2013

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Cassels Brock & Blackwell LLP
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George A. "Bunk" Robertson
Stewart M. Robertson
Andrew M. Robinson
Linda Robinson
Sidney Robinson and Linda Currie
Thomas J. J. Rocchi
Hadiya Roderique
Brian MacLeod Rogers
Clayton L. Rogers
Anne Rogers Stransman
Simon A. Romano
Paul F. Rooney
Joel M. Rose
Michael Rosenberg
C. Ian Ross
Sandra and Joseph Rotman
Michael and Sheila Royce
Jana Rozehnal
Grant J. Russell
Anita Ryan
Michael Sabet
Martin Sable
Raj Sahni
Andrea Sanche
Vinay K. Sarin
Linda and Gordon Sato
Emily Satterthwaite
Ralph Scane
James Scarlett
Lionel and Carol Schipper
David R. Walsh
Norman Schipper
Rocco Schiralli
C. John Schumacher
Charles J. Schwartz
Gerald Schwartz and Heather Reisman
C. Bruce Scott
William G. Scott
William A. Scott
Colleen M Shannon
Paul D. Shantz
Robert J. Sharpe
David, Rochelle, Megan and
Benjamin Shaw
Ed Sheremeta and Jennifer Yang
Mitchell Sherman
Owen B. Shime
Melanie A. Shishler
Murray B. Shopiro
Ryan Shupak
Alina Silvestrovici Paur
Douglas M. Slack
Ronald G. Slaght
Steven B. Slavens
Carrie Smit
Alex Smith
David W. Smith
Geoff Smith
Steven W. Smith
Chloe A. Snider
Ellen M. Snow
Leslie Sole
Julie Soloway
The Gary Solway Family
Edward Sonshine
Anne E. Spafford
Andrew Spence
James M. Spence
John C. Spencer and Cynthia E. Koller
David E. Spiro

Robert Staley
Paul and Marni Stepak
Roy E. Stephenson
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Stephen Stohn
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Family Foundation
Gray Taylor
John Terry
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Joan Thompson
Pamela A. Thomson
Craig C. Thorburn
James M. Tory
Jeffrey Trossman
Alice Tseng
Michael Rosenberg
C. Ian Ross
Sandra and Joseph Rotman
Michael and Sheila Royce
Jana Rozehnal
Grant J. Russell
Anita Ryan
Michael Sabet
Martin Sable
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Rocco Schiralli
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Owen B. Shime
Melanie A. Shishler
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Ryan Shupak
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Julie Soloway
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Anne E. Spafford
Andrew Spence
James M. Spence
John C. Spencer and Cynthia E. Koller
David E. Spiro



Coming up in the next issue of *Nexus*

Wonder twins:

The Cohen brothers pursue similar but not identical careers, both using their U of T law degrees to make a difference. Jonathan works for the Open Society Foundation in New York—the international NGO founded by George Soros—while Matt, older by a few minutes, helps Pro Bono Law Ontario match worthy clients with top lawyers.

Story call:

We're always interested in your suggestions of alumni to profile for our regular departments, such as Nota Bene and On the Stand. Stay in touch and let us know where you and your former classmates have landed after law school. Email us at nexus.magazine@utoronto.ca

Letters to the Editor:

Like what you read in *Nexus*? Have a comment to make? Send us your feedback at: nexus.magazine@utoronto.ca. Letters may be edited for length and clarity.

IN MEMORIAM:

Kris Astaphan 1953-2013

BY IAN MALLORY, LLB 1984

Kris Astaphan, a distinguished member of the Class of 1984, passed away in Toronto on June 6, 2013, after a bout with cancer. He was 59. As he liked to remind his classmates, he was one of the “older” students in our cohort: he had previously secured an MBA at U of T and acted as managing director of a Crown corporation in his native country of St. Kitts-Nevis. Once we deciphered his Caribbean speech, we quickly discovered that he had a lot to say.

Kris was a genius at tax and corporate law. I recall watching in awe as he walked out of the bar exam in corporate law half-way through the period—and still received an “A”. He articulated and became a partner at Aird & Berlis, but left legal practice to return to business, where he thought his efforts could have a bigger, more positive impact on the world.

He was for 12 years a key senior executive at the highly successful Berkshire and AIC investment groups, focusing on developments in the Caribbean. He held numerous executive positions at companies throughout the region, including deputy chairman of National Commercial Bank Jamaica. In 2005, he retired from large company life to follow his entrepreneurial passions. Over the next eight years he applied his magic touch to early-stage ventures in a wide range of sectors, including energy and athletics. I know from my own involvement in one of these ventures that Kris’ most important test for his investment was whether the venture’s product would be of direct benefit to society.

Kris was a paladin of probity in all of his pursuits. He was also a loyal and generous friend and colleague. He particularly enjoyed mobilizing his many and disparate contacts, whether in the service of an innovative new project or a relaxed and lively social event. Kris was also among the most steadfast supporters of the U of T, establishing bursaries to help students obtain the same education that he credited as being the source of his professional success.

Kris is survived by his beloved wife Verne and two cherished daughters Kristi and Rebecca. He also leaves an uncommonly wide and enduring network of people in Canada and the Caribbean whose lives were enriched by having the opportunity to know and to work with him.

It is a tremendously fitting tribute to Kris that a special bursary has been established in his name at the Faculty of Law. Contributions to the Kris Astaphan Bursary can be made by contacting the Faculty at 416-978-1355 or alumni.law@utoronto.ca.

Two worlds, one spirit

BY LUCIANNA CICCOCIOPPO
PHOTOGRAPHY BY TONY FOUHSE

It took a global conference in Istanbul, the mystical ancient city straddling two continents, to bring Leilani Farha’s two worlds together: human rights and women’s housing rights. It was 1996, and she was completing her articles at a Geneva-based NGO, the Center for Human Rights and Evictions. Farha was helping to prepare the Center’s participation in parallel NGO events at Habitat II, the UN’s second Conference on Human Settlements, when her colleague fell ill. That meant she was flying solo to Turkey and taking her organization’s message with her.

“I chaired this panel on women’s right to property, and here I made the link to property and housing, where we have established rights.” Energized, she worked her epiphany to the max. “I got to know the main housing organizations in the world and I gained this immediate network of people.”

Equipped with her law and social work degrees from the University of Toronto, and her passion to improve the lives of women around the world fleeing violence, Farha’s advocacy started to gain traction. After working in Geneva, she moved to Melbourne, Australia, where she continued to work on housing issues affecting women in developing countries such as Nigeria, Solomon Islands, and Palestine.

Farha pursued the UN’s first resolution on women’s rights to land, property, housing and equal inheritance, drafting it and honing it with the Mexican government. It was 1998. “It was adopted unanimously and really put this issue on the international legal map.”

She co-authored the Montreal Principles with various women’s groups, including several experts from the United Nations, to solidify the meaning and application of women’s economic, social and cultural rights. “The principles were published in *Human Rights Quarterly* and put pressure on the UN to adopt legal standards in this area.” It worked.

Changes are happening, but Farha is sure she won’t be out of a job anytime soon. The executive director of the non-profit Canada Without Poverty knows change happens slowly. “I won’t give up trying to address social and economic disadvantage in Canada—until those issues are gone.”

Her longstanding efforts to eliminate barriers to poverty that put women at risk of violence have not gone unnoticed. In the spring, Farha was the first recipient of the Spirit of Barbra Schlifer Award, named after the young law grad who was brutally assaulted and murdered after celebrating her call to the bar in April 1980.

Farha is hopeful, particularly with the next generation. She recalls talking about women’s hockey with her children, and the importance of supporting these leagues, so women and girls can get better training times.

“Do you know what it’s called when women are treated differently?” she asked her children.

“Injustice,” said her 10-year-old daughter.

“Sexism,” said her seven-year-old son.

Corporate Lawyers and the Rules of Professional Conduct

BY ANITA ANAND, PROFESSOR OF LAW & ACADEMIC DIRECTOR,
CENTRE FOR THE LEGAL PROFESSION AND PROGRAM ON ETHICS IN LAW AND BUSINESS
ILLUSTRATION BY ULLA PUGGAARD

The Law Society of Upper Canada's Rules of Professional Conduct generally focus on the lawyer-client relationship but do so in the litigation setting. The Rules compel lawyers to encourage clients to settle a dispute whenever possible and to discourage clients from either commencing useless legal proceedings or threatening criminal prosecution in order to secure a civil advantage. Corporate clients are not typically adversaries involved in such disputes but are parties seeking to engage in value-enhancing transactions. While these parties have separate counsel, their mutual objective to complete the transaction at hand remains central, at least in a "friendly" deal.



But the Rules of Professional Conduct pay relatively little attention to the practice of corporate law and ethical dilemmas that corporate lawyers face, whether they are in-house or external to the corporation. This inadvertent neglect may have arisen because professional codes developed with the work of barristers rather than solicitors. It is true that piecemeal additions to codes of professional conduct over time have attempted to address ethical dilemmas faced by practicing solicitors, including corporate lawyers, suggesting that other types of legal practice also need to be covered by the Rules. Despite this evolution, the Rules are arguably limited in their applicability outside the litigation bar.

If this is true, there is cause for concern. Demographic shifts suggest the increasing predominance of corporate counsel within the legal profession. As early as 1985, Deborah Rhode explained that two-thirds of the American Bar, including 95 percent of recent entrants, worked within organizations such as firms or companies rather than as sole practitioners. Additionally, lawyers performed the majority of their legal services for entities (e.g. corporations, partnerships, limited partnerships, non-profit organizations), rather than individuals. These trends have continued. Among 2011 U.S. law school graduates, only half went into private practice, with the rest working for other organizations such as businesses, government and public interest groups. Only three percent of class went directly into sole practice. Likewise, according to 2007 data compiled by the Federation of Law Societies of Canada, approximately 85 percent of lawyers across the country worked within an entity in some capacity, many of those often working on behalf of entities as well. Organizations, including corporations, are thus central to our understanding and ultimate application of the rules and given that the RPC govern all lawyers, we should question the relevance of the RPC to corporate counsel, both internal and external.

To probe the extent to which the Rules address the conduct of corporate solicitors, I examined 183 decisions resulting from Law Society of Upper Canada (LSUC) disciplinary proceedings that were publicly available in the CanLii database over a three-year period between 2008 and 2011. Of the 183 cases recorded, only 65 (35.5 percent) related to solicitors. Out of these 65 cases, 46 (70.8 percent) involved solicitors practicing real estate. Only one solicitor in these cases was identified as

a corporate lawyer. Of these same 183 cases, 42 (23 percent) involved barristers whose practices included criminal law, small claims, and family or immigration law. The remaining 76 cases dealt primarily with a failure to communicate with the LSUC under Rule 6.02: 51 of the 76 cases (67 percent) were found to have breached this Rule.

The data collected demonstrate that a plurality of cases where solicitors breached the Rules involved real estate lawyers. This is partly because 2.04(3), (6), and (8) seem to apply in the case of a lawyer acting in a conflict of interest, which often arises in real estate transaction cases. None of the solicitor sanctions arose from commercial transactions or other types of business law. The larger proportion of cases involving lawyers who practice real estate may have a simple explanation. One's real property tends to be the largest asset that one owns; those who are wronged thus have a strong financial interest to complain.

Of course, the data are suggestive only. Although more solicitors than barristers were found to have violated the Rules, it seems that it was a specific type of solicitor practice (real estate) covered by the Rules rather than business law practices more generally. This fact suggests one of two things from a disciplinary standpoint: corporate lawyers do not engage in egregious conduct or the Rules have not caught corporate lawyers' misconduct in a way that is enforced by the LSUC. Going forward, deeper statistical analysis relating to disciplinary proceedings is warranted so that we can better understand the relevance of the Rules for corporate lawyers. Before this can occur, broad-based data including area of practice, gender, and geographical location of practice area, among other things, should be more easily attainable.

Ultimately, an examination of the Rules of Professional Conduct is in order to take into account ethical issues that arise in the course of corporate lawyers' practices. But the review should be broadly conceived as it is not only corporate lawyers but also in-house and public sector lawyers who may well question the applicability of the Rules to their respective practices. The review should involve qualitative and quantitative research, including discussions with counsel and a full-fledged review of disciplinary proceedings before the law society. Empirical analyses of this sort would serve as a foundation for more meaningful discussion about potential reform of the Rules and associated commentary. ↩

¹ Law Society of Upper Canada, *Rules of Professional Conduct*, Toronto: LSUC, 2011, r 2.02(2) [RPC].

² *Ibid.*, r 2.02(4).

³ See for example, *RPC*, *supra* note 1, r 5 (which provides specific guidance on the treatment of employees) or r 2.02(1.01) (which addresses the representation of corporate entities).

⁴ Deborah Rhode, "Ethical Perspectives on Legal Practice" (1985) 37 *Stan L Rev* 589 at 590.

⁵ NALP, *Class of 2011 Summary Report (2012)* available at http://www.nalp.org/uploads/NatlSummChart_Classof2011.pdf.

⁶ Federation of Law Societies of Canada, "2007 Law Society Statistics", online: FLSC <<http://www.flsc.ca/en/lawSocieties/statisticsLinks.aspx>>. The percentage value was produced by adding up the total number of sole practitioners across the country (12,312), and dividing by the aggregate number of practicing lawyers (82,138). This assumes that most, if not all, practicing lawyers who are not sole practitioners work for corporations, partnerships or limited partnerships, or non-profit organizations. It also assumes that the majority of those who work for entities also do work largely for or on the behalf of those entities or client entities.

⁷ Rhode, *supra* note 4 at 590.



Sushma Jobanputra,
LLB 1988,
Partner-in-Charge,
Jones Day Singapore

On her continental
lives, her list of 'firsts'
and why Toronto is
still her hometown

BY LUCIANNA CICCOCIOPPO
PHOTOGRAPHY BY BOON CHIAN

LC: You were born in Rwanda, grew up in India and Canada, worked in the UK and France and now you're living in Singapore. What do you say when people ask you "Where are you from?"

SJ: It's still Toronto. We lived there from 1974 to early 2000—more than 25 years of my life. Many of my best friends are still friends I made in Toronto, in law school, during articling and otherwise. I go back every year to have New Year's Eve dinner with the same people I've been having New Year's Eve dinner with for the last 20 years.

LC: What type of work is your firm's Singapore office primarily involved in?

SJ: Because of its geographic location and excellent infrastructure, Singapore is a hub for doing business in Southeast Asia. As a result, we advise on cross-border M&A and capital-raising transactions.

We have a great energy and infrastructure team which is kept busy doing deals across the region.

Then, as you can imagine, with all that cross-border investment into emerging markets, there are bound to be differences of opinion. Jones Day has one of the largest litigation practices in the world. We have taken advantage of that position and have a disputes team here. Singapore has also positioned itself as a hub for dispute resolution in the region. In fact, it is now the third most preferred location for arbitration in the world.

LC: How does your background inform your current professional life?

SJ: I think my familiarity with Indian culture, because my parents are from India and I grew up in a very traditional household, helps to some extent when we are doing business in India. Even though business is conducted in English, to be able to say 'Hello, how are you?' in the client's native language certainly helps to break the ice. Although it's not the sole reason for us getting a mandate, it certainly helps us get closer to clients in that social way. I think the fact that I've lived in different countries has made me less afraid of venturing into new cultures.

Of course, each country here is so different from the other. India for example is nothing like Indonesia but to be honest, going from Toronto to London was quite a cultural shift for me.

LC: Really, how so?

SJ: As the saying goes, "Separated by a common language!" Going from Toronto and Osler, where I had spent 13 years and knew everyone, to an English firm of more than 2000 people spread over several countries was quite a shock. People would say I was talking with an accent (I was of course thinking *they* were talking with an accent!). I would say things like, "We'll quarterback the documentation for the other jurisdictions," and everyone around the table would look at me like I had two heads. Of course, things have changed since then.

LC: What was it like working in London?

SJ: Fun, challenging, probably the busiest years in London's legal commercial history, from 2000-2007. It was a time of great economic growth resulting in tremendous growth in the financial industry and therefore the legal industry. People were centering much of their activities for the region out of Europe out of London. When we were younger, we used to talk about having done an all-nighter. In those days in London, a 'one-nighter' was for novices. You were only a hero if you did a two or three-nighter. The transactions were complicated and often had to be done in a very short time frame. I was also in a new place and had to get to know the city and meet people, make friends. My husband was living in Paris and I was in London, so we had a trans-Chunnel commute every weekend. Thank goodness for the Eurostar.

LC: How did it feel to become a partner at such a large and prestigious firm such as Linklaters?

Exciting! At the time, the number of women partners in large firms was quite small, let alone a woman from another country and of ethnic origin. It never occurred to me to think about it until you step back and say, 'Wow, that was quite something.' I loved working there and the only reason I moved was because I had a client head hunt me into Barclays Capital. When I went to the bank, I was the first front-office woman managing director at Barclays globally. That was in 2004.

LC: You were named one of Asia's top 100 lawyers in 2011. Do you see yourself as a role model for up-and-coming lawyers?

SJ: I didn't go through my career thinking about myself as a role model but women do come and ask me how I cope. I guess it gives younger lawyers comfort to know that women can be partners in law firms, get married and have kids and stay married and be happy.

I have to say that certainly at Osler, when I was a young lawyer there, we had some amazing women partners and to me they were the role models. They were the first women to do so many things and we were lucky to have them ahead of us because we weren't breaking through massive walls.

There is no way I could do what I do without having an incredibly supportive husband.

LC: Where do you see yourself in about 10 years' time?

SJ: By a pool with a G&T. And still practicing. I really do like doing deals. I've been called a 'deal junkie,' and I think it's true. I love closing deals. I'm so happy when I close a deal and no matter how painful it was, there is so much satisfaction getting to the end of the line. I would like to continue to have that adrenaline 'high' of closing deals, if I can. ↩

Read the complete Q & A online at:
law.utoronto.ca/nexus/jobanputra



CONVOCATION 2013

PHOTOGRAPHY BY JEFF KIRK

More than 200 graduates of the Faculty of Law were lucky enough to have an honorary degree recipient and commencement address like no other at their June 7, 2013 convocation ceremony. Murray Edwards, LLB 1983, co-founder of Canadian Natural Resources Ltd., business innovator, extraordinary philanthropist—and Calgary Flames owner—accepted his Doctor of Laws, *honoris causa*, but wanted to ensure the grads paid attention to his talk. So he offered hockey tickets to a future Flames/Maple Leaf match to the first three grads who emailed him his key messages, after completing his speech. And the lucky winners were: Ginger Ellison, Khrystina McMillan and Jamie Rosenblatt. The traditional lunch on the back lawn with the awards ceremony and a hilarious valedictorian, Lane Krainyk, capped off the day. Congratulations to the Class of 2013!

1965

JULIAN POLIKA, JD: I retired on February 8, 2013 as a case management master in the Ontario Superior Court of Justice (Toronto Region) and commenced a new career as an arbitrator, mediator, referee and neutral in Ontario specializing in arbitrated motions and references under the *Construction Lien Act*.

1968

PETER J. CLARKE, LLB: I won the singles and doubles over 70 tennis titles in July at the Ontario Senior Tennis tournament, sanctioned by the Ontario Tennis Association and held at The Boulevard Club in Toronto.

1970

GEORGE GLOVER, LLB: I was appointed a commissioner of the British Columbia Securities Commission effective Jan. 1, 2013. This is a part-time position. As a commissioner, I participate with other commissioners in governance of the Commission, regulation and policy-making and in a quasi-judicial capacity hearing cases involving alleged breaches of BC securities law and appeals from decisions of self-regulatory authorities. In April, I was also elected for a second term as president of Royal Colwood Golf Club. As at the end of April, I resigned from my position as senior adviser to the Business Law Clinic at the University of Victoria Faculty of Law.

1974

ROBERT J. BAUMAN, LLB: I was appointed the new Chief Justice of the Court of Appeal of British Columbia (with the style and title of Chief Justice of British Columbia), and the new Chief Justice of the Court of Appeal for the Yukon, effective June 16, 2013.

1977

JONATHAN FRIED, LLB: I became Canada's ambassador and permanent representative to the World Trade Organization in Geneva

in November, 2012. I was chosen by my peers as the chair of the WTO's Dispute Settlement Body for a one-year term as of March, 2013.

1982

MARK HAYES, JD: In July 2012, my firm Hayes eLaw LLP merged with the intellectual property and technology practice of Heydary Hamilton PC to form Heydary Hayes PC, with offices in the TD Centre in downtown Toronto. I was appointed managing director of Heydary Hayes, which was recently named 2013 Canadian IP Specialty Firm of the Year by US-based *Managing Intellectual Property* magazine. I can be reached at mhayes@heydary.com.

1983



BRIAN AND FRANCINE CHU

BRIAN CHU, JD: I was appointed chair of the Board of Trustees at the Ontario Science Centre, effective December 21, 2012, by Minister of Tourism, Culture and Sport Michael Chan. I'm a founding partner of the law firm Bogart Robertson & Chu, and a specialist in commercial real estate law.

1991

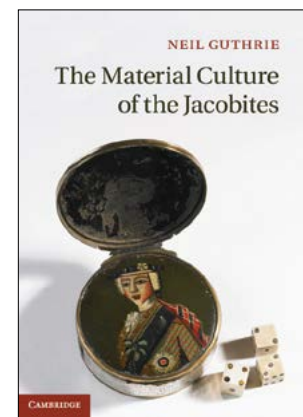
GORDON HASKINS, LLB: After more than 14 years in London, 10 of those years with the Royal Bank of Scotland, I've taken up the challenge of moving to Kazakhstan. My role is country executive for RBS and I will be based in Almaty, the financial and commercial centre of the central Asian country. Gordon.HASKINS@rbs.com

1993

ANGUS M. GUNN QC, LLB: I'm a commercial litigation partner in the Vancouver office of Borden Ladner Gervais LLP. My practice emphasizes appellate litigation and commercial arbitration. I completed a judicial clerkship with the Court of Appeal for British Columbia and articulated at the former Ladner Downs in 1995. I obtained an LLM from the University of Cambridge in 1998. Since 1999 I've served as an adjunct professor at the University of British Columbia Faculty of Law, twice receiving the Adam S. Albright Award for Outstanding Teaching By an Adjunct Professor. I'm currently a director of the Access Pro Bono Society of BC, and maintain a steady diet of pro bono litigation matters. Married to Lisa for 15 years, we have two daughters, Sarah and Isla. I was appointed Queen's counsel in 2012.

1995

NEIL GUTHRIE, LLB: My book *The Material Culture of the Jacobites* will be published by Cambridge University Press this year. The book considers the wide range of objects produced by and for the adherents of the exiled King James II and VII and his descendants;



the first chapter considers the law of sedition and treason in the late 17th and 18th centuries, which rendered these objects 'things of danger.'

BARBARA ROBLIN MIRZA, LLB: I was named counsel in Skadden's Executive Compensation and Benefits practice and am now the most senior member of the group in Los Angeles. My daughter Sophia is now nine years old. She's an avid tennis player and artist and heading into fourth grade this fall. We're loving life in southern California, particularly in the winter! barbara.mirza@skadden.com

1998

TAMARA KRONIS, LLB: I was just on special assignment to Bolivia for two weeks, representing two Canadian NGOs and a Bolivian government agency, working with goldsmiths there to assist them along the path to export readiness. It was a fascinating experience and required a really interesting blend of my law, business and goldsmithing skills. [Editor's Note: watch our website for a feature story on Tamara's assignment!]

MIKE RICHMOND, LLB: I have been appointed to the National Energy Board as a temporary member. The NEB is an independent federal agency established by the Parliament of Canada to regulate international and interprovincial aspects of the oil, gas and electric utility industries. I will continue to practice full-time as a partner at McMillan LLP in Toronto while taking on this new initiative.

1999

SARIT SHMULEVITZ, LLB: After graduating from law school, I spent several years on Wall Street with Sidley Austin & Brown Rudnick and then formed Shmulevitz Law. More recently, I merged my love for animals and interest in business into a startup called forAnima.com, a vegan community marketplace. Vegan artisans create stores on forAnima.com, and members can share vegan recipes, create collections and more. Trevor Hoffmann (U of T, LLB 1999) and I have one amazing daughter, Sophie, who is in Grade 1, and happily reside with our two rescue cats, Mallory and Licorice, and our rescue dog, Doggie.

2002

SAMINA UDDIN ENGEL, JD: Samina Uddin Engel, JD: I currently live in Los Angeles, California. After graduating from U of T, I worked in New York for Milbank, Tweed, Hadley & McCloy LLP. I left Milbank in 2006 and did a master's degree in public administration at Harvard University's Kennedy School of Government (June 2009). After Harvard, I began work in television news -- first at the PBS NewsHour, then CBS News, and most recently, The Huffington Post. I am now working as a freelance news producer with NBC News (Los Angeles bureau). I married my husband, Robin Engel, in 2010.

2004

MICHAEL S. HONG, JD/MBA: I'm now a partner at Paul, Weiss, Rifkind, Wharton & Garrison LLP in New York and specialize in the formation of private investment funds, including private equity funds, hedge funds, hybrid funds, distressed funds, credit funds and funds of funds. My wife H. Sandra Bang and I have been in New York for nearly nine years and currently reside in Manhattan's Upper West Side with our two boys, Joshua, 7 and Jackson, 3.

BROCK JONES, JD: I am an assistant Crown attorney in the Scarborough Crown Attorney's Office. I remain co-director of its Youth Justice Team. I have also just finished my first year as an adjunct professor of law at the U of T Faculty of Law, where I teach a new course: Youth Criminal Justice. This coming year I have been acclaimed Continuing Professional Development director of the Ontario Bar Association's Criminal Justice Section Executive. We welcome and actively encourage students to join and participate.

Send your Class Notes to:
nexus.magazine@utoronto.ca

2005

JANICE BAYANI, JD: I practiced commercial real estate law at Osler, Hoskin & Harcourt LLP in Toronto until May 2012 and am now legal counsel at First National Financial LP, Canada's largest non-bank lender. I'm a happy and proud mom of two boys, Lucas and Nolan.

2006

JENNIFER L. SCHULZ, SJD: I finished a three-year term as associate dean of research and graduate studies at the Faculty of Law, University of Manitoba. I'm currently a Faculty Visitor at the Faculty of Law, University of Cambridge and a Research Fellow at Birkbeck School of Law, University of London, where I'm working on a book. <http://ssrn.com/author=393157>

2007

CHRISTOPHER R. GRAHAM, JD: I have started a consultancy called Yours, as ever (www.yoursasever.com), specializing in research, writing, and thinking for boutique professional service firms. I'm based in Toronto with outposts in Oxford, Dublin, and Chicago. crg@yoursasever.com

2010

JOSHUA A. KRANE, LL.M: I just wanted to let you know that LexisNexis will be publishing my book called *Investment Canada Act: Commentary and Annotation*, 2014 edition this summer. The product sheet is available online at the following site: <http://bit.ly/16v4YF3>

MICHAEL LEWYN, LL.M: I just published a book, *A Libertarian Smart Growth Agenda*, and am now teaching at Touro Law Center in Central Islip, NY. mlewyn@tourolaw.edu

Illustrator insights

BY OLI WINWARD,
ILLUSTRATOR

I didn't even know there was such a thing as an Arctic Council so it was all new to me and I found the article really interesting. It ties in with my postgraduate studies I did at the University of Nottingham, a master's in social and global justice.

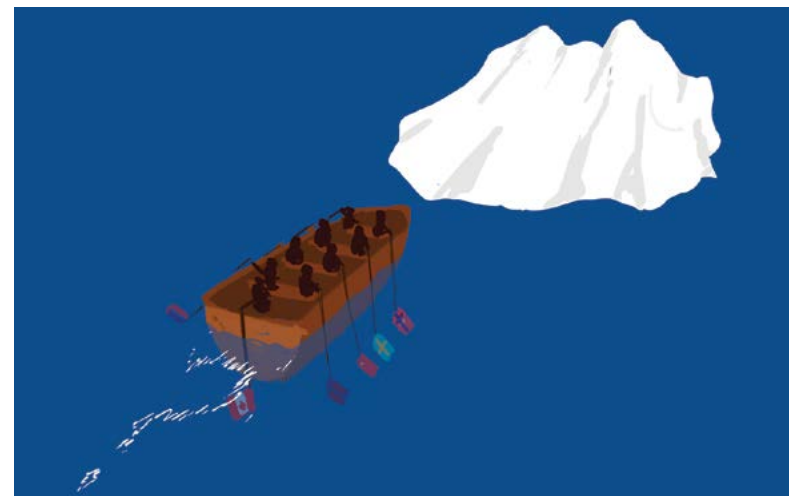
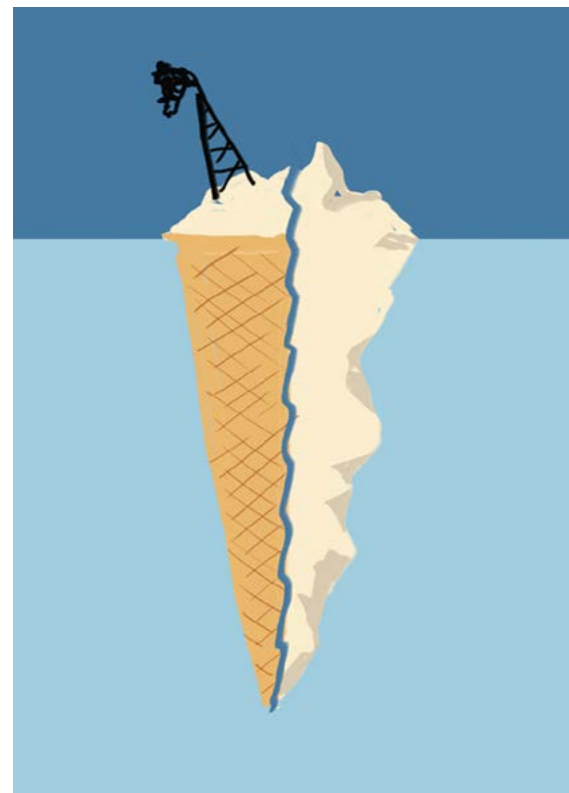
I tried to summarize the article in a single sentence to get the key points: "Which direction will Canada lead in?", "Will Canada protect or not?", "How will Canada shape Arctic policy?"

From there, I brainstormed with words, coming up with different and more unusual ways of expressing the same thing. For example "shaping" made me think of "sculptures" which I thought could be a good concept.



My favourite concept was probably the idea of using the "life belt" and the "workman's cones" to represent Canada's options of either influencing the Council to protect the ecosystem, or opening up the Arctic to energy companies or shipping.

The subconscious goes to work, and often I wake up with an idea in my head. I always sleep with a sketchbook next to the bed now! ↗



THANK YOU!

To our generous alumni and friends who supported awards, bursaries, programs and the UTLaw Excellence Fund in 2011/2012:

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Join us for **Fall Reunion 2013** and spend time with other lawyers—not working for a change. A variety of non-billable activities are on the agenda.

New this year—**Sunday brunch!**



If you graduated in a year ending in 3 or 8, save the dates for Law Reunion 2013, October 25–27. We have a lot planned, including Sunday brunch.

To volunteer on your Class Committee, please contact the Alumni Affairs Coordinator at heather.thornton@utoronto.ca or 416.946.0888.



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