

# nexus

The University of Toronto Faculty of Law Alumni Magazine  
Spring/Summer 2012

## PICKING WINNERS

Countries craving glory dangle passports for elite athletes aching for Olympic gold—as the meaning of citizenship continues to tarnish



**PLUS**  
**Angel Advocates**  
**Envisioning a Better World**  
**Patently Universal**

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UNIVERSITY OF TORONTO  
FACULTY OF LAW

# LEADERSHIP



**PAUL MARTIN '61, '64**  
Canada's 21<sup>st</sup> Prime Minister

# POTENTIAL

"THE LAW SCHOOL HAS THE REPUTATION TO HELP ME ESTABLISH RELATIONSHIPS AND DEVELOP PROFESSIONALLY SO I CAN ACHIEVE MY GOALS."



**DIEGO BELTRAN**  
Class of 2013

"IT IS MORE URGENT THAN EVER THAT WE REFORM THE OLD INSTITUTIONS OF GLOBAL GOVERNANCE AND THAT WHERE NECESSARY, WE BUILD NEW ONES. EVEN MORE TO THE POINT, WHEN WE DO SO, IT IS LAWYERS WHO MUST SET THE CONTEXT."

# THINKING

"I BELIEVE WE MUST FURTHER OUR COLLECTIVE UNDERSTANDING OF EFFECTIVE FINANCIAL REGULATION TO UNDERSTAND HOW BEST TO PROTECT CONSUMERS IN TURBULENT FINANCIAL TIMES."



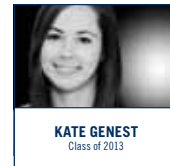
**PROF. ANITA ANAND '96**  
Associate Professor  
Financial Markets Regulation

# INTEGRITY



**JUSTICE ROSALIE SILBERMAN ABELLA '67, '70**  
Supreme Court Justice

"MY LIFE STARTED IN A COUNTRY WHERE THERE HAD BEEN NO DEMOCRACY, NO RIGHTS, NO JUSTICE. IT CREATED AN UNQUENCHABLE THIRST IN ME FOR ALL THREE."



**KATE GENEST**  
Class of 2013

# COMMUNITY

"I CAME TO U OF T BECAUSE OF ITS REPUTATION FOR OFFERING A HIGH LEVEL OF INTELLECTUAL CHALLENGE. WHAT I DIDN'T EXPECT TO FIND, THOUGH, WAS INSTANT MEMBERSHIP IN A SUPPORTIVE AND INSPIRING COMMUNITY THAT EXTENDS BEYOND THE WALLS OF THE SCHOOL."

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Dean of the Faculty of Law

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**PROF. MICHAEL TREBILCOCK**  
Global authority on law and economics, trade and international development

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"THE ROLE OF LAW AND LEGAL INSTITUTIONS IN PROMOTING DEVELOPMENT IN THE WORLD'S POOREST COUNTRIES IS ONE OF THE GREATEST CHALLENGES THAT LAWYERS EVERYWHERE MUST GRAPPLE WITH AS OUR PROFESSION'S CONTRIBUTION TO MAKING TOMORROW'S WORLD A BETTER PLACE."

# COUNSEL

"THE LAW SCHOOL HELPS STUDENTS FROM ALL WALKS OF LIFE RECOGNIZE THEIR POTENTIAL TO PARTICIPATE AND CONTRIBUTE BY CONNECTING THEM TO LAWYERS WHO DEMONSTRATE LEADERSHIP IN PUBLIC LIFE."

# IDEAS

"THE U OF T EDUCATION FORCES YOU TO THINK ABOUT THINGS HARDER AND PUSH YOURSELF. I LEARNED HOW TO THINK CRITICALLY, WHICH IS REALLY IMPORTANT AS A WRITER."



**DAVID SHORE '82**  
Creator of House



**CORNELL WRIGHT '00**  
Corporate Lawyer

# PERSPECTIVE

"AT U OF T LAW, WE SEE THE BIGGER PICTURE."

# OPPORTUNITY

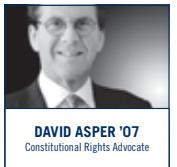
"FROM ACADEMIC EXCELLENCE TO PROFESSIONAL DEVELOPMENT, THE LAW SCHOOL OFFERS UNRIVALED EXPOSURE TO THE ENDLESS OPPORTUNITIES WITHIN THE STUDY OF LAW."



**ALBERT LIN**  
Class of 2013

# ENERGY

"CHARTER RIGHTS, FREEDOMS AND THE RULE OF LAW ARE EVERYTHING IF WE ARE TO ACHIEVE ENDURING SUCCESS AS A CIVILIZATION. THIS GOAL DOES NOT HAPPEN WITH THE FLICK OF A SWITCH. IT TAKES DEEP COMMITMENT TO TEST, STUDY AND EVALUATE OUR STATE OF FREEDOM ON AN ONGOING BASIS."



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## Local talent, global leadership

**A**nother fantastic academic year has come to a close. In typical fashion, a myriad of activities have kept the law school humming these past months: a wonderful Distinguished Alumnus Award dinner honouring Justice Ian Binnie and Jean Fraser; an innovative Transformative Human Rights exhibition celebrating 25 years of fieldwork for the IHRP; and a stimulating National Health Law Conference, which looked at global health challenges and the role of law.

We are very proud of our co-curricular programs, which give students opportunities to apply their studies in the broader world. You can read about one such project, an international initiative to eliminate discrimination against the LGBT communities in the global south, in "Envisioning a better world," p. 8. Of course, this kind of social activism isn't new at the Faculty of Law; our award-winning legal aid clinic, Downtown Legal Services, just celebrated its 40th birthday. You'll read about the impact of volunteering at DLS throughout the decades from a variety of alumni in "Angel advocates," on p. 12.

Our building campaign continues to gain momentum, thanks to all of you who supported, and continue to support, the future of this great law school. You can read profiles of alumni who have chosen to give back starting on p. 20, "The generosity continues." We are also excited to announce a transformative gift of \$1M from Teva Canada, which will support academic research and public education in the area of patent law ("Patently universal," p. 11).

We head off for our summer vacations with a nod to the Olympic Games, delving into the meaning of citizenship and the fascinating research of Prof. Ayelet Shachar ("Picking winners," p. 16). Take a few minutes to check out our fabulous new website at [www.law.utoronto.ca](http://www.law.utoronto.ca), with its fresh, clean design and powerful search and news features. We hope it helps keep you connected to your law school, wherever your travels may take you. And finally, a heartfelt congratulations to the members of the class of 2012, as they join the global alumni community that makes us so proud. ↩

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**“I think precisely because I didn’t take citizenship for granted, because I had gone through the process of immigration and naturalization, I became much more aware of how difficult it might be to acquire, how precious citizenship is, and how lucky people are to have it as a natural born right.”**

—Prof. Ayelet Shachar, Page 17



Meet Renatta Austin, JD 2012,  
in "The power of one"

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## Contributors



### Brent Ledger

A freelance writer, Brent Ledger specializes in the arts and gay culture. He was a columnist with *Xtra!* magazine for more than 15 years and also wrote ‘Queer Culture’ for the *Toronto Star*. He contributed to *Toronto Life* magazine for many years and has written for everyone from *Quill & Quire* to *Maclean’s*, the *National Post* and the *Globe and Mail*. He is writing a book on an influential Toronto eccentric. Ledger wrote “Envisioning a better world: gay rights in the global south,” on p. 8



### Vincent Chiao

Our opinion piece this issue, “Dangerous liaisons,” p. 28, was written by Assistant Professor Vincent Chiao. Chiao researches and teaches primarily in the area of criminal law and criminal justice, with a particular interest in the philosophical examination of its doctrine and institutions. Prior to joining the Faculty of Law in 2011, he was a law clerk for the Hon. Juan R. Torruella of the United States Court of Appeals for the First Circuit and a Reginald F. Lewis Fellow at Harvard Law School. His research has appeared in *Legal Theory*, *Criminal Law and Philosophy*, and is forthcoming in the *New Criminal Law Review*.



### Michelle Yee

Michelle Yee is a freelance photographer specializing in environmental portraiture and documentary photography. Her work has appeared in numerous publications including *Toronto Life*, *Chatelaine*, *Report on Business*, *Financial Post Business* and *BUST* magazine. She photographed Prof. Ayelet Shachar in our cover story, “Picking winners,” p. 17 and our alumna in *Nota Bene*, p. 27. Yee says if she couldn’t be a photographer, she could easily envision herself as a writer, filmmaker or surfer. Originally from Edmonton, Yee currently lives in Toronto with her husband and their Chihuahua named Jeans.

## Letters

I was quite surprised that there are only two women who have been honoured with the Distinguished Alumnus Award. While I was happy to see my classmate Jean Fraser honoured, I was perplexed as to why there are so few women and no visible minorities. While the list of male recipients is stellar, I suggest that we broaden our scope, as there are many potential recipients who should be honoured.

—Howard J. Feldman, Class of ‘75.

# square two

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Notable charter lawyer Douglas Elliott, LLB 1982, chair of the Envisioning project's legal committee



Experiential learning: UTLaw students Jeff Marshman, Heather Palin, Atrisha Lewis and Zahra Ahmed volunteered with the Envisioning project



# ENVISIONING A BETTER WORLD: GAY RIGHTS IN THE GLOBAL SOUTH

## How UTLaw is part of a landmark project to eliminate life-threatening discrimination

By Brent Ledger / Photography by Jeff Kirk

**E**arlier this year, third-year law student Heather Palin got a chance to make history on the other side of the world. The Indian Supreme Court was hearing the appeal of a landmark 2009 decision that had decriminalized gay sex between consenting adults, and one of the leading lawyers in the case needed some key documents. The case had vast implications not just for India's 1.2 billion people but for countries throughout the global south. Versions of India's anti-sodomy statute, known as Section 377, exist in other former British colonies as well. The lawyers representing the gay-rights forces were among the most prominent in the Indian bar but they were missing some key texts. So they talked to their Canadian partners in the Envisioning Global LGBT Human Rights project, a five-year multi-disciplinary program, funded by the Social Sciences and Humanities Research Council of Canada (SSHRC), that is researching the state of gay rights in several former British colonies around the world, and asked for help.

At the University of Toronto Faculty of Law, the Envisioning project partners with Pro Bono Students Canada and the International Human Rights Clinic, and involves more than a dozen law students including Palin. She was in the midst of studying for exams at the time of the request but she hurried to gather the needed documents.

The verdict in the Indian case won't be known for some time but for Palin it was part of what she laughingly calls her "crash course in human rights and gay rights issues." Interested in criminal law and human rights, Palin was still shocked at the extent of anti-gay discrimination around the world. "My best friend is gay and...I couldn't actually

believe that there were places where all these things were still going on."

Here in Canada we tend to take gay rights for granted. Although the gay community has certainly suffered persecution (see especially the bathhouse raids of the early 1980s), no one has been arrested for homosexuality per se since the 1960s. The Criminal Code was amended in 1969 as part of Prime Minister Trudeau's push to keep the state out of the "bedrooms of the nation" and the struggle ever since has focussed on refining such relationship rights as marriage and pensions. Discrimination remains a problem in some quarters but the idea of gay rights is firmly entrenched.

For gay and lesbians elsewhere in the world, though, it's often a struggle simply to exist. Some 76 countries continue to criminalize homosexuality (at least five with penalties that include death) and whether or not those laws are invoked, they speak to the intolerance that continues to reign over much of the globe. In Uganda, the government is trying to make homosexuality punishable by death and under a proposed law even promoting gay rights would be a crime punishable by seven years in jail. In Jamaica, gays are routinely beaten and killed, and the police are often indifferent or worse. In India, one eunuch was raped by thugs and another tortured by police. The Envisioning project aims to alleviate at least some of that suffering by documenting the oppression and the resistance, as well as its implications for human rights policy.

Because many of the anti-gay laws still on the books are a legacy of British colonialism (and are disproportionately common in Commonwealth countries like some of the ones Envisioning is studying), some of the students' work is historical, tracking the evolution of punitive

laws. But they've also canvassed media reports and tracked official government positions on the issue. Much of the work is pure research but because of the project's commitment to "knowledge transfer," it has real-life consequences as well.

"Part of the legal team's job is helping to dig up research for lawyers who are currently in the middle of challenges," says Palin. "So if they need a legal question answered, students work on doing some legal research, case law and legislative history."

There's a lot of great legal work being done in these countries, says Douglas Elliott, LLB 1982, the renowned charter lawyer who chairs Envisioning's legal committee. But some legal teams don't have the resources required to do the necessary research. (Depending on where they are, Internet service can be spotty and computerized legal research prohibitively expensive.)

In Canada, Elliott is best known for his charter and class-action work on behalf of gay and lesbian couples. Over the past two decades, he has appeared in almost every high profile gay-rights challenge, from *M. v. H.* (the landmark decision of the Supreme Court of Canada on equality

**“When you're a human rights lawyer, you're in the hope business. You have to feel and convey the feeling that positive change is possible.”** —Douglas Elliott, LLB 1982

rights for same-sex couples) to the same-sex marriage reference in the SCC. As co-founder and first president of the International Lesbian and Gay Law Association (ILGLaw) he also has a long association with international gay rights. One of the things he learned long ago, he says, is that "when you're a human rights lawyer, to a significant extent, you're in the hope business. You have to feel and convey the feeling that positive change is possible. That is what we are bringing to the table for a lot of these people—the sense that they are not alone."

Painfully aware that similar studies of the global south have been tarred as neo-colonial intrusions, the Envisioning project has partnered with 32 activist organizations and NGOs on the ground—and only goes where it's wanted. Palin concentrated on Jamaica and one of her colleagues in Pro Bono Students Canada, Jeff Marshman, looked at Guyana, where a constitutional challenge to a criminal prohibition of cross-dressing is underway. He's been in touch with the legal team there and has volunteered his services for research.

Much of the work involves creating a knowledge network around the world, and of course most of that is best done face to face. Last February, Palin and Elliott attended a conference on gay rights in the Caribbean that attracted lawyers and activists from all over the world, and gave Palin a new sense of what her work was all about. "It was quite something," says Palin, who describes herself as white, middle-class and well-educated. "I think I was maybe one of two or four straight people there. It was probably the first time I have ever felt as if I were a minority in my life."

In March, Atrisha Lewis and Zahra Ahmed, two students in the International Human Rights Clinic, went to Geneva for a historic meeting of the United Nations' Human Rights Council. They went hoping to fill in some gaps in their research on the diplomatic positions on sexual orientation and gender identity (SOGI) rights in 10 countries, and their relationship to international forums and monitoring bodies, such as the

UN. They came away with a new sense of the complicated dynamic at work in international human rights.

It was the first formal intergovernmental discussion of SOGI rights at the UN and a who's who of international LGBT activists were there. Lewis and Ahmed met human rights officers and representatives of NGOs and heard a groundbreaking report on discrimination and violence against sexual minorities presented by the UN High Commissioner for Human Rights. But the highlight of their trip was meeting Hina Jilani, the Secretary-General's former Special Representative on Human Rights Defenders and co-founder of the Human Rights Commission of Pakistan. They followed her through the corridors of power as she conferred with various activists and advocates and listened in on their concerns and confabs.

"It was fascinating to see how the UN works on the inside," says LLM student Ahmed, who hopes to move into international law, "and how the negotiations happen before the final document or resolution is produced. At the end of the day the State has to confirm [any policy decision], but a lot of it depends on who the actual representative is at the UN."

"It was great," says Lewis. "It's crazy to believe that as a third-year law student I was sent to Geneva to conduct these interviews and to meet all these really amazing people. It was a great opportunity from a student perspective."

It's one thing to read about human rights cases at school, she says. But quite another to "watch real live human-rights advocacy, watch some of the NGOs meet and debate with each other to determine what the best strategy was for them as a group, which statements to make at the UN, and to watch them talk to UN officials and state representatives. It's very personality-driven, very one-on-one, and I think people forget that."

For the students, the work is first and foremost a chance to gain experience in a new field, to see how the world works outside Canada and to meet high-end legal minds. Not just the likes of Douglas Elliott, but also eminent international lawyers like Maurice Tomlinson of Jamaica and Adrian Jjuuko, a straight activist lawyer who's put his life on the line to work for gay rights in Uganda.

"For a third-year law student," says Palin, "that's pretty awesome, to be able to learn from and network with those legal minds."

But there's also the hope of doing good, although always in a low-key, unobtrusive very Canadian way. Some of the students have gay friends and/or a keen interest in international human rights, but whatever their motivation, they're not wild-eyed innocents or thorough-going idealists. Nor do they think that legal change alone is enough. Even in a country like South Africa that long ago decriminalized homosexuality, notes Ahmed, there's still anti-gay violence. For gay rights to succeed in these countries, says Lewis: "There has got to be pushback on all angles, at the UN and in the courts, on the ground with the government"

Still, nobody doubts that they're making a difference, even it's only bringing solace and support to people who live in fear, in countries where dissent is dangerous and difficult. The Envisioning endeavour is primarily a research project, and one moreover that has adopted a collegial approach to legal aid, so it cannot hope (and does not wish) to change local laws and attitudes by itself. But by documenting the struggles of emergent gay rights groups, and the history of their oppression, it gives voice to groups that have been largely silenced.

In Uganda, an activist like Adrian Jjuuko is reviled and ostracized. In Canada, where he spoke last March at the Faculty of Law, he was roundly applauded. "So for him," says Elliott, "it's a completely different and much more positive experience. And it's all been made possible by the Envisioning project." ✍



# Patently universal

## Teva Canada gift establishes a leading-edge patent law program that goes beyond the world of pharmaceuticals

By Lucianna Ciccocioppo / Illustration by Justin Renteria

**T**eva Canada wants to shine a spotlight on what some might call the newest frontier in law: patent law, a critical area of business for the pharmaceutical company with branded and generic drug divisions.

“There are always new issues emerging and coming to the forefront which transforms what the issues are,” says Ildiko Mehes, VP and general counsel. “And because it’s such a litigious area—and so vital to our business—we continue to push the field of patent law forward. Both sides make very novel arguments. Then both sides have to respond to these novel arguments. So the field is really like a chess game, where companies are constantly trying to be one step ahead of their opponents.”

One way Teva is stepping out in front is with its generous gift to the Faculty of Law, a \$1M donation to establish a cutting-edge patent law program for scholars and law students, including an annual seminar for the bench to tackle the known and unknown issues.

“It’s a complicated area,” says Mehes, “because of the scientific background required to grapple with patent issues. We’d like to promote a solid academic understanding of patent law, give basic primers in the science behind many of the pharmaceutical patents, encourage its teaching and research at the Faculty of Law, and ideally raise the level

of academic discourse and promote interdisciplinary research with health law, competition law and other related areas,” explains Mehes.

And Teva looked no further than the Faculty of Law to establish such a program. “We knew the University of Toronto law school was exceptionally well-positioned to be able to attract the talent to help us achieve our goals.”

Adds Mehes: “We felt it would be beneficial for the court and the bar to have an annual discussion, not in a court room, nor in the context of litigation, but in an academic setting, and include top speakers from around the world for added perspectives. This would help make decisions more predictable for everyone in the pharmaceutical industry, not just generic or branded companies.”

More importantly, Mehes stresses that patent law principles are universal, and patent decisions have applicability and relevance in other fields beyond the pharmaceutical sectors, such as mining and high-tech companies.

“I certainly think patent law is growing in terms of prominence and importance in law.” And—note to law students—the area is in demand.

“Patent law is recession-proof,” says Mehes. “And the pharmaceutical industry is generally recession-proof. It’s a fascinating, challenging area, with broad policy implications.”

# ANGEL ADVOCATES

## Stepping in when the down-and-out had nowhere else to turn, law student volunteers in the activist '60s and '70s—and beyond—planted a radical seed from which Downtown Legal Services sprouted

By Sheldon Gordon / Photography by Jeff Kirk

In 2009, when Edyta Katarzynski, an HR assistant, encountered pushback from her husband of 21 years in finalizing the custody, visitation and child support terms of a separation agreement, she turned to Legal Aid Ontario (LAO), but didn't qualify for assistance. Unable to afford the cost of a lawyer, she searched online for options, and eventually phoned the University of Toronto's Downtown Legal Services. It was the beginning of a three-year narrative.

DLS, which has existed under a variety of names and marks its 40th anniversary this year, is a community legal clinic and clinical education program run by the Faculty of Law. Funded primarily by LAO, it serves clients who have low incomes yet don't qualify for legal aid. About 80 JD students volunteer at the clinic each year, receiving calls from some 3,000 would-be clients. It has the resources to help only about 1,000 of them, while providing referrals and summary advice to others.

Katarzynski passed the initial phone screening. Her case met the financial and category eligibility criteria. The clinic handles summary criminal cases, family cases except divorces, tenant rights cases, immigration and refugee cases, and student disputes with the U of T administration. (Criminal defendants account for about 50 percent of its clients.)

When Katarzynski showed up for her intake appointment a few weeks later, she hoped her case could be settled out of court. Instead, in April 2012, a two-day trial unfolded—the first family-law trial that DLS has ever conducted. (DLS is the only student legal clinic in Ontario that offers services in family law.)

"Whatever the ruling, I'll be at peace," said Katarzynski a few days later as she awaited the verdict, "because the people at DLS have done everything they could. They provided not only legal support but a human side; they were friendly and understanding."

For Jennifer Wall, JD 2012, who was the last and longest of Katarzynski's student caseworkers, the litigation was a valuable experience. Claire Hepburn, one of DLS's four staff lawyers, conducted the trial, but Wall played an important role in a cross-examination. She estimates she devoted hundreds of hours to DLS in three years. Above all, she says, it was an opportunity to "learn how to manage client expectations and how to communicate with clients in a way that gets the legal issues across."

Volunteering has also helped her grasp the procedural aspects of the law—everything from how to draft the myriad forms required in a family law case to where to stand in court and how to address the judge. "You learn how to practice law, instead of just how to think about law." Wall begins articling this August with the Ontario government's Family Responsibility Office, which enforces child and domestic support orders and collects support payments for families.

Though Wall is moving on, DLS won't lack replacements. Among first-year law students, about 160 apply for placements and 80 are selected. "It can be challenging in other community clinics to maintain your enthusiasm [in the face of] the endless demand," says Lisa Cirillo, acting executive director at DLS. "But the great thing about working here



**"It was an opportunity to learn how to manage client expectations, and how to communicate with clients in a way that gets the legal issues across."**

**—Jennifer Wall, JD 2012**



**“We had a role to play in our education. We weren’t happy with the conservative, stifling way things were at the law school.”**

**—Justice Roger Timms, LLB 1970**

is that, because of the turnover of students, there’s regularly an influx of fresh energy.”

DLS started out in 1972 as the Toronto Community Legal Assistance Service. (TCLAS was renamed Downtown Legal Services a decade later.) The impetus for TCLAS’s creation came not from the faculty but from the student legal-aid committee, headed during two critical years by Roger Timms, LLB 1970, who is now a judge on the Ontario Superior Court of Justice (Family Court Branch).

Following the province’s establishment of the Ontario Legal Aid Plan (OLAP, now Legal Aid Ontario) in 1967, students at several Ontario law schools pushed for student legal aid societies funded by OLAP. Timms and Robert Sharpe (a future dean of U of T Law and now a judge of the Court of Appeal for Ontario) held meetings with OLAP officials. “There was initially fierce opposition by some at Legal Aid,” said Timms, “but with the support of Andrew Lawson, the provincial director, we succeeded in getting OLAP approval and support.”

Timms didn’t feel like a trailblazer at the time; he views the initiative as part of the student activism of the late 1960s. “We considered we had a role to play in our education,” he said. “We weren’t happy with the conservative, stifling way things were run at the law school.” He had finished law school by the time TCLAS was born, but his role with the student legal-aid committee led him to Parkdale Community Legal Services, where he was associate director from 1974 to 1976 before leaving to open his own office.

By the mid-1970s, the program was placing students with several affiliated clinics such as Advocates for Injured Workers. John B. Laskin, LLB 1976, spent much of his volunteer time “slogging through case files” of injured workers, presenting their claims to the then-Workers Compensation Board “and thinking how impossible it would have been for most of them to adequately represent themselves.”

Now a senior trial and appellate counsel with Torys LLP (and president of the Faculty of Law Alumni Association), Laskin got his first taste of trial work while volunteering at the clinic. “My client was up on a criminal charge—leaving the scene of an accident. The trial judge saw the apparent flaw in the Crown’s case, and we got an acquittal. It was due more to the active engagement of the judge than to anything that I contributed, but it was satisfying nonetheless.”

The experience helped Laskin decide later “that if I was going to practice law [rather than teach it], I would practice as a litigator.” If TCLAS left its mark on him, he returned the favour. In his third year, he succeeded Robert Pritchard, LLB 1975, as president of TCLAS. “During my period, we pushed for, and got, the law school’s support to hire a full-time review counsel, Richard Gathercole,” he recalled.

Previously, TCLAS relied on part-time review counsel who gave increments of their time. The full-time counsel “helped professionalize the services that we were able to provide,” said Laskin. Another significant advance on his watch was the creation of a course at the law school which enabled the student volunteers to learn more about the



**“Slogging through case files, I remember thinking how impossible it would have been for most of the clients to adequately represent themselves.”**

**—John B. Laskin, LLB 1976**



**“My volunteer work provided confirmation for me that criminal law was what I wanted to do. I grabbed every criminal law case that I could.”**

**—Mark Sandler, LLB 1978**

law they were practicing—and to gain academic credit for it.

For Kathy Laird, LLB 1977, volunteering at TCLAS had a major impact on her career trajectory. It inspired her to work for four community clinics for a total of 15 years, from Cabbagetown to James Bay, Ontario.

The pivotal moment for her at TCLAS came in her third year, when she acted for a mature worker who had injured his back and had been denied full Workers’ Compensation benefits. “I realized the depth of his loss in income and community status. I could see that the way I was able to help him [by winning on appeal] made a really big difference in his life.”

At TCLAS, too, Laird first saw the connection between litigation, law reform and public interest advocacy, including the use of the media. She acted for a caregiver, seeking wages owed. “The nanny was involved with an advocacy group campaigning for better employment standards protection for domestic workers. The case helped illustrate the problem with the lack of protection at that time,” recalled Laird, “so I spoke to the media about the case.”

(Laird’s client won, and the employer had to pay the wages owed. The Employment Standards Act was amended 10 years later to cover domestic workers.)

The TCLAS experience also informed Laird’s later work as an adjudicator of disputes involving lower-income parties at the Ontario Human Rights Tribunal and the Pay Equity Hearings Tribunal. Since 2008, she has been executive director of the Human Rights Legal

Support Centre, which last summer began training DLS volunteers on how to handle human rights referrals from the centre’s lawyers. So Laird finds herself back in the DLS orbit.

Mark Sandler, LLB 1978, of Cooper, Sandler, Kaufman and Shime LLP had a criminal law practice in mind even before he joined the clinic. “My volunteer work provided confirmation for me that criminal law was what I wanted to do,” he said. “I grabbed every criminal law case that I could.” One of those cases taught him the dangers of “asking one question too many” at trial.

Sandler’s client was charged with obstructing police—he allegedly pushed on a door to hold it shut as the police struggled to enter and apprehend a suspect. The officer who tried to force the door open testified that, when he finally succeeded, both the suspect and the defendant had fled. “If they had both fled,” Sandler cross-examined, “how do you know it was my client who had held the door shut?” “Because it was a glass door,” replied the police officer.

“It was gracious of the judge not to laugh too loudly,” recalled Sandler. (The defendant was convicted.)

Not all judges, or even all law professors, liked the idea of a student legal aid program. Some judges felt it was risky for students to act as agents for defendants in their court, while some professors felt the clinic distracted students from their studies. When a professor advised his first-year students not to get involved, the law school held a special assembly in the moot court to air the issue.



**“I realized the depth of his loss in income and community status. I could see that the way I was able to help him made a really big difference in his life.”**

**—Kathy Laird, LLB 1977**



**The whole experience was “an eye-opener for us middle class kids...transgendered individuals came to us to get legal name changes because that was part of their process.”**

**—Jeananne Kathol Kirwin, LLB 1983**

Paul Calarco, LLB 1982, recalls that one of the clinic’s then-review counsel, John Moore, rebutted the criticisms and “spoke about how his grades had actually improved when he was a student volunteer at TCLAS. “Not only was volunteering a good way to help people,” says Calarco, “but it involved real practical applications of theory that we learned in class.”

Had he been a summer student at a downtown law firm, said Calarco, “I’d have been running around doing errands for lawyers.” At the newly named Downtown Legal Services, however, “it was possible, albeit at a low level, to actually handle cases and appear before a court or a tribunal.”

Now a sole practitioner focused on criminal law, Calarco’s interest in it developed when he articulated with the Department of Justice, but the DLS experience “assisted us in our articles as we were able to build on those basics. We got some inkling of how a courtroom works by volunteering at DLS.”

The whole experience was “an eye-opener for us middle class kids,” said Jeananne Kathol Kirwin, LLB 1983. When she volunteered, the clinic was located near the former Clarke Institute of Psychiatry (today’s Centre for Addiction and Mental Health), and many of its patients showed up at DLS. “Some had highly imaginative legal concerns,” she said, “and transgendered individuals came to us to get legal name changes because that was part of their process.”

Kirwin now specializes in intellectual property law at Kirwin LLP in

Edmonton, but she also volunteers her legal skills at the Edmonton Community Legal Centre, among other agencies. She cited the biblical injunction: “From those to whom much is given, much is required.” Like the other DLS alumni interviewed for this article, she became infused with a life-long commitment to pro bono law by volunteering at the clinic.

While that pro bono ethos will remain one of DLS’s hallmarks, the clinic is evolving. Since its clients often suffer more than one crisis at a time, “We’ve long hoped to offer other social support services on-site,” said Cirillo. She is currently in talks with U of T’s Factor-Inwentash Faculty of Social Work to have some of their master’s students do placements with DLS. There are also plans to expand the number of legal workshops that DLS volunteers do offsite for the staff of community agencies.

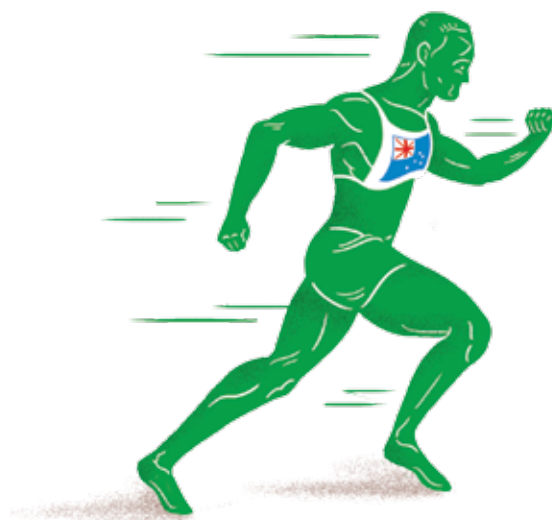
“I hear people say that we’re training the next generation of Legal Aid lawyers,” said Cirillo. “But that view is too narrow. They’re not all going to work for Legal Aid. They couldn’t if they wanted to. But I think there are lots of ways that their time here at the clinic can stay with them. I hope that what we’re giving all the students who come through here is a broader understanding of the complexity of the issues and of the barriers for low-income people trying to access the legal system.”

People like Edyta Katarzynski, who in May 2012 received the family-court ruling she was waiting for—sole custody and the level of child support she had requested. ↩



**“Not only was volunteering a good way to help people but it involved real practical applications of theory that we learned in class.”**

**—Paul Calarco, LLB 1982**



# PICKING WINNERS



**Countries craving glory dangle passports for elite athletes aching for Olympic gold—as the meaning of citizenship, says this law professor, continues to tarnish**

By Karen Gross

Photography by Michelle Yee / Illustration by Jack Dylan





If you were born and raised in a country like Canada, chances are you don't wake up every morning and celebrate your luck. Citizenship is something we tend to take for granted, unless we had to fight for it, relocate for it, spend years pursuing it, or prove ourselves in other ways in order to obtain it. And that's why it's so fascinating to Ayelet Shachar, Canada Research Chair in Citizenship and Multiculturalism, and professor of law, political science and global affairs. Shachar, born and bred in Israel, earned her doctorate at Yale. She and her husband, Prof. Ran Hirschl, then came to the University of Toronto, where they gained their Canadian citizenship the traditional way—living, working, creating a home, and forging an enduring connection with their new community. It was a seminal experience for Shachar, whose research route has been carved in its wake.

"I think precisely because I didn't take citizenship for granted, because I had gone through the process of immigration and naturalization, I became much more aware of how difficult it might be to acquire, how precious citizenship is, and how lucky people are to have it as a natural born right," she says.

Shachar took on the issue of citizenship by birth in her 2009 award-winning book, *The Birthright Lottery: Citizenship and Global Inequality* (Harvard University Press). Now, she's turned her attention to the touchy concept of citizenship as a recruitment tool, and its increasing use and abuse in the worldwide hunt for triumph. Setting her sights on the Olympic Games, Shachar argues passports are becoming a powerful form of international currency. Elite athletes who have no real ties or connections to the countries that covet them are being wooed and enticed—offered the precious prize of citizenship in exchange for a whiff of gold.

"There's something deeply ironic about the notion of saying 'We grant you citizenship precisely because we care about our nation's position in

the world,' even if you have not actually complied with what is typically required of someone applying for citizenship," she says.

Shachar offers several striking examples of this phenomenon, as part of an extensive article she published in the *Yale Law Journal* last year. In "Picking Winners: Olympic Citizenship and the Global Race for Talent," she outlines the egregious case of an Ethiopian runner, who says she was rejected three times by her home country's team due to her Christian religious affiliation. The runner was ultimately hooked by Bahrain and won gold on the world track stage in 2007 and 2009. She has since said she is supported by Bahrain's government "morally and financially" despite hardly having lived there. Shachar also tells the tale of the two "Canadian" hockey teams at the 2006 Turin Olympics. One was actually Italy's team, but featured at least nine Canadian players, some of whom had scant previous ties to the host country.

"These players had strong ties to Canada, but because Italy needed players for its national team, they were selected over native-born Italians to represent Italy as its citizens," she says. In another case, a Canadian-born ice-dancing champion obtained her U.S. citizenship through a special bill signed by former president George W. Bush, less than two months before the Turin games opened. The skater, Tanith Belbin, had been living in the U.S. and representing it at other international events, but she couldn't skate for the Americans at the Olympics without the U.S. passport.

And that's what makes the Olympics stand out, Shachar says. It's one of the few entities that holds citizenship as an absolute prerequisite to participation, and the ultimate example of what Shachar sees as a striking shift in the meaning of citizenship itself. From an ideal whose essence traditionally implied membership, social attachment and a sense of community, the concept is evolving into a much more strategic and opportunistic transaction between national governments and human capital.



Prof. Ayelet Shachar: “We’re at a juncture. It’s hard to predict how this will come out in the end.”

“When you think of this notion of people being parachuted, or really fast-tracked into membership without having these other components,” she says, “that traditional ideal becomes very tricky.”

The issue has been brewing for decades, with glory-hungry countries poaching each other’s highly talented citizens over everything from scientific, academic and intellectual prowess to Oscar-winning acting excellence. Shachar’s captivation with the Olympics was born out of a broader study of changing immigration patterns involving highly skilled migrants. Even as many countries are tightening their immigration requirements and making it more difficult for refugees and family members to gain residency, they are finding more ways to bring in migrants who might enhance their standing on the world stage, or otherwise contribute to their long-term prosperity.

Often, it’s a wealthier country raiding a relatively disadvantaged nation, and that’s a big concern for immigration rights advocates, such as prominent Canadian lawyer Barbara Jackman, LLB 1976.

“I am uncomfortable with the concept because I think it’s not fair,” she says. “It may be fair to the individual who’s being parachuted in, because that person is going to get opportunities and advantages they may not get in their home country. But it’s not fair to anybody else.”

Jackman has practiced immigration and refugee law for more than three decades, arguing a number of Charter of Rights cases before the Supreme Court of Canada. Tilting the balance in favour of those with special talents, she argues, is unjust at almost every level.

“It’s not fair to the country they’re coming into, the country they’ve

left, or the other athletes in the country they are coming into, who’ve worked hard to get to the top, and who might be displaced as a result,” Jackman says.

That’s one side of the argument. The other involves that crucial shift identified by Schachar, and what makes an immigrant desirable to a country in the first place. Every year, more than half of the 250,000 immigrants Canada accepts are selected based on their skills and education, and how they might contribute to the country’s long-term economic needs and growth. The other half is made up of humanitarian and family reunification cases. Like many other countries, Canada reserves a special spot for the super-skilled: immigrants with “extraordinary talent,” whose residency requirements are sometimes shortened and who are granted citizenship on a highly expedited basis. The government does not publish the data for that segment, so the number of cases expedited in any given year is not clear.

Shachar says that elite group is relatively small, but overall, the immigration numbers are shifting in a troubling way. “The trend in the last few years has been to shrink down the refugee category and expand other categories,” she notes. “I personally think that’s not the ideal balance. Canada has multiple commitments to humanitarianism and family reunification, in addition to its commitment to economic migrants.”

In fact, Canada recently temporarily suspended part of its family reunification program, in an effort to clear a backlog of sponsored parents and grandparents waiting to come in to the country. At the

same time, the government has slightly expanded the overall number of people it admits.

“The trajectory has been to change the categories internally,” Shachar says, “not just in terms of getting in more immigrants under the skills category, but they’ve also changed the definition of skilled migrants under the federal program. So it’s not as easy to come in as it was before.”

Other countries are now looking to Canada as a model for reshaping their own immigration policies, with economic migrants increasingly targeted as the recruits everyone wants. This growing global strategy of picking winners, whether in business, academia or athletics, has simply been highlighted by the Olympic examples Shachar raises. What to do about it is a question that has confounded scholars, politicians, and sporting officials for years.

“We think about it with a tremendous sense of sadness and regret,” says Bruce Kidd, professor and former dean of the Faculty of Kinesiology and Physical Education. “The sports community has worried about this and wrestled with it for a very long time.”

But Kidd, a champion runner who competed on Canada’s 1964 Olympic team and one of the country’s most ardent promoters of amateur sport, says it’s a very tough issue to tackle. The world is changing and so is the notion of what constitutes national representation.

swap citizenship for the sake of Olympic glory, that wouldn’t bother her “because changing or gaining nationality is often about the pursuit of opportunities that may not otherwise be available. To the extent that the country is willing to call them a citizen and make them an ambassador of sport, I can’t say I think there’s a major issue,” she says.

But as passport-swapping becomes more popular, some amateur sports federations are tightening their own rules. FINA, the international swimming federation, requires that athletes must have resided in a country and been affiliated with its national federation for at least one year before they can represent it in competition. The IAAF, which governs international track and field, now mandates that an athlete be a citizen of a country for at least two years prior to competing internationally. This new rule was instituted expressly to prevent countries from “buying” medal contenders.

Confronting the issue at the federation level is a good start, Shachar says. She also supports the idea of mutual responsibility, whereby a country that scoops up another’s human treasure reciprocates by making some sort of return investment.

“If another country takes them away,” she says, “our current international system doesn’t have a way to say perhaps this is unfair, perhaps the recruiting country has some obligations.”

## **THE OLYMPIC GAMES ARE ONE OF THE FEW ENTITIES THAT HOLDS CITIZENSHIP AS AN ABSOLUTE PREREQUISITE TO PARTICIPATION, AND THE ULTIMATE EXAMPLE OF WHAT SHACHAR SEES AS A STRIKING SHIFT IN THE MEANING OF CITIZENSHIP ITSELF.**

In the case of athletes, matters are further complicated by the fact that where they reside is often not where they train.

“Canadian athletes train all over the world,” he notes. “Domicile is a very hard one to nail in a way that would be fair to everybody.” It’s also impossible to tell an athlete where they can and cannot compete, especially when their Olympic dreams may be at stake and an eager country is willing to take them in.

“I know Canadians who, if they could have skied in the Olympics for Ghana, would have gone to Ghana and done that,” Kidd says.

Andrea St. Bernard, JD 2005, immigrated to Canada from Grenada with her family when she was a baby. A citizen of both countries, St. Bernard will represent Grenada in taekwondo at the London Olympics this summer. Although she grew up in Canada, St. Bernard spent most of her summers in Grenada. She took up the taekwondo after completing her undergraduate degree, training at a club in Toronto and reaching the competitive stage while she attended law school. St. Bernard amassed a stack of regional and national medals. But when it came time to compete internationally, she found Canada’s training demands clashed with her budding career as a corporate lawyer at McMillan LLP in Toronto.

“There was more opportunity for me to reach international level competition through Grenada,” she says. “At the time, it was like having two full time jobs and I couldn’t keep up with the schedule of Canadian competition the way I would have needed to in order to make the team.”

In fact, St. Bernard will be the first taekwondo athlete to represent Grenada at an Olympics. Her dual nationality and her desire to contribute made hers an easy choice. But, she says, if another athlete wanted to

Bruce Kidd agrees, and says payback should extend far beyond the world of sport. “The First World should do this, but we should do this for way more than just athletes,” he says. “We should do it for physicians, for nurses, and for everybody else.”

Looking for remedies to this modern-day dilemma is one approach. The other involves figuring out what’s causing it. Why, wonders Shachar, are countries so willing to undermine their own increasingly stringent immigration rules, to upend the traditional ideals of citizenship and nationality, all in the ironic pursuit of achieving international success and glory? And what does that say about the future of citizenship itself?

Barbara Jackman is skeptical. Picking winners, no matter what the category, is no way to build a community, she says. Not unless a government is also willing to welcome the pick’s family members, and truly commit to their future.

“It’s a very segmented way to look at a person when you’re just looking at the person as a cog that’s going to help us in the wheel of development,” she argues. “The whole concept of family is lost.”

But Shachar, who describes herself as an optimist by nature, says she sees this moment not as an end, but as an opportunity. With the true nature of citizenship arguably at a crossroads, perhaps states and leaders will be forced to find a better way—one that feeds the needs of individual nations, while still satisfying those people whose sense of community, connection, and self are tied to the country in which they live.

“We’re at a juncture. Traditional concepts of identity and membership still matter greatly to individuals,” she says. “They matter to countries as well. Citizenship is in flux. It’s hard to predict how this will come out in the end.” ↩

# THE GENEROSITY CONTINUES

Alumni give and volunteer to be part of the future at the Faculty of Law

Stories by Karen Gross and Lucianna Ciccocioppo / Photography by Nigel Dickson

## ASIA CAMPAIGN

You don't have to live in Toronto, or even in North America, to feel an enduring connection to the Faculty of Law. More than 125 alumni currently live and work in cities and countries across the Asia-Pacific region, and many of them have joined ranks to support the building campaign, says **Jim Hildebrandt**, LLB 1983.

"The capital campaign is a great opportunity to get these groups together," says Hildebrandt, managing director of Bain Capital in Hong Kong. "It's also a good way to raise the profile of the school in the region."

Born and raised in Ontario, Hildebrandt has had a long and successful business career in Asia. He says the group will increasingly include more native-born alumni, who travel to Toronto to study but fully intend to go home when they're done.

That's exactly what **Scott Guan**, SJD 2003, did. Now a partner at the Zhong Lun law firm in Shanghai, Guan has even held on to early,

marked-up drafts of his dissertation and fondly recalls biweekly meetings with his thesis adviser, Dr. Hudson Janisch.

"Those meetings will always stay with me," Guan says. "The boxes traveled with me from Toronto, to Hong Kong, and then back to Shanghai." Beyond his cherished boxes, Guan maintains many personal ties to the law school. He and other alumni gather regularly for happy hour and to welcome university faculty when they come to town.

"U of T law school is very well known here in China," Guan says. "It's certainly the most famous law school to my seven-year-old son Dong Dong, who may be a future student there."

Both he and Hildebrandt agree the new building is a must.

"The buildings that were old and established when I graduated are now tired and outdated," Hildebrandt says. "We need to ensure that UofT law school remains the top school in Canada, and among the best in the world."

From left: Jim Hildebrandt, LLB 1993, Paul McKenzie, LLB 1989, Scott Guan, SJD 2003



## BETTY MAYFOON HO, LLB 1977

It is difficult to capture in words the respect, love and admiration that so many people in the various facets of her life had for the late **Prof. Betty Mayfoon Ho**, LLB 1977.

Featured as one of the Faculty of Law's "Trailblazers," which honours the accomplished women who graduated in the early years of women entering the profession, Ho's untimely death in 2010 cut short her mission to be a part of the future of China.

"Betty saw her task as one of educating the next generation of legal scholars who would establish the foundations of a legal framework in China," says her niece, Angela Ho. "She gave up more lucrative opportunities and left the familiar surroundings of Hong Kong and North America because she believed in her work."

Her passions were evident, her classes engaging. "I am not surprised at all that Betty was admired and beloved by her students," says Ho,

an assistant professor at George Mason University. "Aunt Betty took her research and writing very seriously, but she was truly devoted to teaching. She spoke with pride about her students' achievements. We used to discuss teaching strategies, and her top priority was always to help students develop critical thinking and writing skills. As a new teacher, I learned a lot from her!"

In the eulogy in Hong Kong, her good friend Dr. Bonnie Tang said "Betty and I were among the first generation of Chinese women who are truly free to aspire and achieve. Betty capitalized on this opportunity fully and her achievements were colossal...Through her personal virtues and integrity, teachings and writings, she has assured that her influence would be much more far-reaching than any wealth, power or fame could ever have brought."

It's no surprise then that her legacy includes generous support of her alma mater's new building campaign. And so on this side of the world, the beloved Prof. Ho will forever be a part of this institution's future, its students and its potential.



## MCCARTHY TÉTRAULT LLP

McCarthy Tétrault prides itself on being Canada's first national law firm, with offices in major cities from Vancouver to Quebec and some 600 lawyers who hail from law schools across the country. Yet when it comes to recruiting new graduates, U of T students are always among those at the top of the list.

"There's a very high quality, there's no question," says **Gail Wong**, LLB 2002, director of the firm's student programs for Ontario. "The students just have a wealth of extra-curricular or leadership experience. Many have had past careers and we know they've had an excellent legal education."

Nonetheless, Wong and her fellow U of T alumni at McCarthy's all agree that a state-of-the-art building will enhance that superior education, and finally bring the law school into the 21st century.

Senior partner **Paul Morrison**, LLB 1975, was part of a class so exceptional, fellow alumnus Jack Batten authored a book about them. Morrison recalls that even then—some 35 years ago—the physical plant needed updating.

"We all lived and studied in the old building and felt that it wasn't up to the reputation of the school," he says. "I think our pride in having graduated from there leads us to get behind the building campaign."

McCarthy's lawyers contribute to the law school in many ways. They teach classes, mentor students and the firm sponsors the Grand Moot competition every year.

"We give of our time, our energy and our expertise. The other way we can support the school is financially," says partner **Sarit Batner**, JD 1998. "It's no longer cutting edge the way it needs to be. Students need access to each other, and to the modern technology and research tools that will give them a better education—and make them better lawyers."

From left: Paul Morrison, LLB 1975, Gail Wong, LLB 2002, Douglas Cannon, LLB 1979



## UK CAMPAIGN

It's been more than two decades since **Richard Price**, LLB 1988, completed law school and launched a corporate career that's taken him from Toronto to Singapore to London, where he currently heads the European capital markets practice at Shearman and Sterling LLP. But his far-reaching success hasn't taken him far from the Faculty of Law. On the contrary, Price is spearheading the building campaign among alumni in the UK, along with Gord Haskins, LLB 1991, and Stewart Robertson, LLB 1986.

"I believe the University of Toronto's reputation is growing in the UK," Price says. "Many of the law firms here, including mine, have a very positive impression of the school and actively recruit U of T law grads."

And when they arrive, those graduates can count on a warm welcome. Some 75 alumni currently live and work in the region and the group is more connected than ever, Price says. They tend to gather at least once a year, when Dean Mayo Moran comes to town.

"We are a small community in a very large city," he says. "I continue to draw inspiration and learn from being around these people."

Among his favorite experiences at law school, Price counts Prof. Alan Mewett's "highly entertaining" criminal procedure course, the Law Follies, and the pinball machine in the common room where he and fellow classmates spent many hours socializing and relieving stress. Now, he says, it's time for the next generation to make their own memories.

"I feel very privileged to have gone to U of T law school," he says. "The new facilities will no doubt provide an even more inspiring environment for students and faculty to work, and to interact with each other and the broader community."



## RICHARD IVEY, LLB 1975

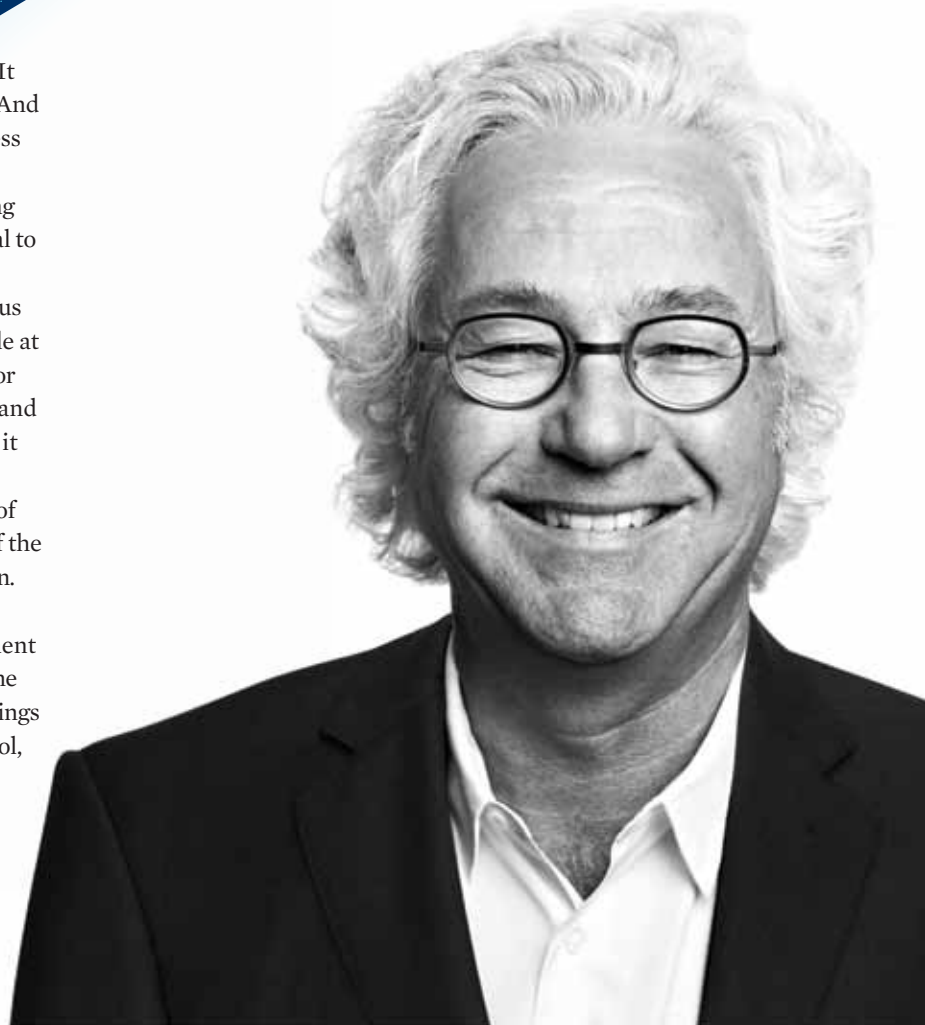
Alumnus **Richard Ivey** says he owes much to his law school. "It positioned me to go to Torys, where I spent six wonderful years. And those wonderful years in turn positioned me for life in the business and non-profit worlds."

That's why he has chosen to support the exciting new building campaign "for Canada's pre-eminent law school. I owe a great deal to the University of Toronto Faculty of Law."

Ivey says the rejuvenation project is certain to have a tremendous impact on students and faculty—just like his favourite course while at the law school had an impact on him. Taught by then-adjunct professor Jim Peterson, a practicing and busy international law lawyer (and brother to former Ontario premier David Peterson), he called it "absolutely fascinating."

"He had been sought out by the United Nations to act on behalf of Sudan in negotiations with British mogul Tiny Rowlands, head of the Lonrho conglomerate, who wanted to build a sugar refinery in Sudan. The course was a description and discussion of that entire process."

Says Ivey: "A conducive environment to intellectual engagement and learning adds a lot more than most people think. It also has some relevance in the competitive recruiting process." It's one of the things that continues to support UTLaw's reputation as a stellar law school, says Ivey, and he's pleased to be a part of it.



## CLASS OF 1966

Before joining the class of '66, the **Honourable James Farley, QC**, studied at Oxford University as a Rhodes Scholar. Spending time in those historic old buildings prepared him well, he says, for the ravages of Flavelle House.

"It was in very poor physical shape," he remembers. "They tried to pretty it up by using wallboard to hide all the plasterwork in the ceiling." Still, Farley and his classmates thrived. They played cards in between classes, and learned the law from such masters as the Honourable Bora Laskin, who went on to serve as Chief Justice of Canada's Supreme Court and whose name now graces the law school library.

Farley too was eventually elevated to the bench, serving for 17 years on the Ontario Superior Court. These days, he is a senior counsel at McCarthy Tétrault, and boasts an open-door policy where young lawyers and students are welcome to drop by and chat about everything, from legal cases to baseball scores.

Farley and his fellow classmates have been solid supporters of the law school over the many years since they graduated. The new building, he says, is what their alma mater needs most right now.

"I'm a great believer in comfort, lighting and ventilation. You need to have good facilities to attract great students and great teachers."



## YOUNG ALUMNI CAMPAIGN

Law school holds many sweet memories for **Aaron Emes, LLB 1998**, and **Amreen Omar, LLB 1998**, who met as first-year students while volunteering at a legal clinic. The education was excellent, says Emes, a partner at **Torys LLP**. But the experience extended far beyond the classroom for the Calgary native and his future wife, who was from New Brunswick.

"Neither of us was from Toronto. The law school gave us an instant family."

Omar, now a professor at Toronto's Seneca College, recalls meeting with friends in the rotunda at Flavelle House, and late nights studying at the Bora Laskin Library, which back then was almost new.

"It was a very intellectual environment," she says. "You wanted to

be there every day to learn."

Today, the couple still counts law school classmates among their closest friends and colleagues. And now, they say, it's their generation's turn to pave the way for future students, to give them a state-of-the-art building where they too can learn and linger.

"Amreen mentioned how much she loved working at the Laskin Library," Emes says. "It took others to contribute funds to have that built. Now the next generation will benefit from what we're doing."

From left: Amreen Omar, LLB 1998 and Aaron Emes, LLB 1998





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Andrew D. Gray  
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A. Yi  
Timothy Youdan  
Anonymous (7)

# Coming up in the Fall/Winter 2012 issue of *Nexus*

## Power up

How the Global Professional LLM has invigorated the career tracks for the first graduates.

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## Data dilemma

Who owns it, what happens to it, how can we protect it? We explore the myriad issues surrounding copyright law and beyond.

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## Story call

We're looking for your suggestions for alumni to profile in 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](mailto:nexus.magazine@utoronto.ca).

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## Leading with ideas

### Access to justice strategies published in seminal book

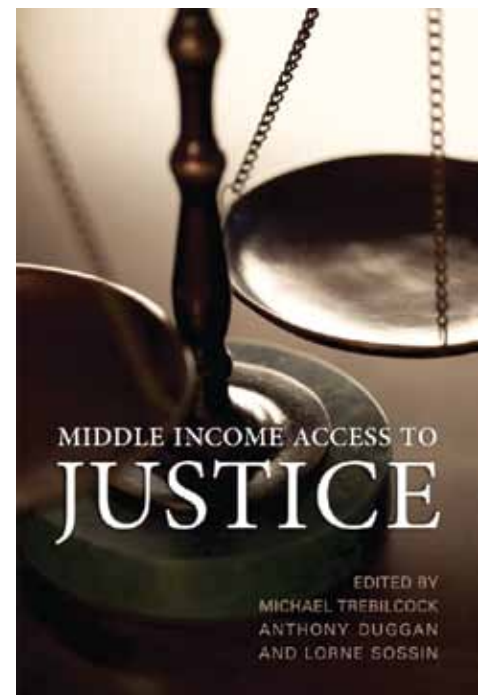
The pinnacle of a multi-year and innovative initiative launched at the law school *Middle Income Access to Justice* (Michael Trebilcock, Anthony Duggan and Lorne Sossin, eds.), is now available. The book, published by University of Toronto Press, is the culmination of the ideas, strategies and concrete solutions emanating from the Faculty of Law's 2010 Access to Justice colloquium.

The event featured keynote speaker SCC Chief Justice Beverley McLachlin and focused on the three hot-topic areas of family, consumer/debtor-creditor and employment law. It tapped into the brightest legal minds in the academy, profession and legal organizations across Canada, the US and overseas to effect change in the legal landscape for Canadians caught in the middle—too rich to receive public legal aid, not rich enough to afford legal fees.

For further information or to order: <http://bit.ly/LlCN5W>.



Read more on the Access to Justice for Middle Income Canadians project:  
<http://uoft.me/a2jproject>.





## The power of one

By Lucianna Ciccocioppo / Photography by Michelle Yee

**R**enatta Austin, JD 2012, is a city girl. So landing an articling position in the City of Toronto’s legal department is the perfect launching pad for her career in municipal planning and policy, and eventually pursuing a master’s degree in urban planning.

She’s a strong proponent of community building, beyond the technocratic work. “I’m a big believer in opportunities.” And she wants to ensure students who have a dream, just like she did many years ago, can fulfill them.

“I want to live in a city where opportunities are available to everyone; I want people to have options, and that’s why I’ve been so involved in programs at the Faculty of Law that allow people to have options,” says Austin.

As a Grade 11 high school student at Bloor St. Collegiate in downtown Toronto, where the multicultural flags popped out during World Cup season, she took advantage of University of Toronto outreach programs. One of them took her to the Faculty of Law for six weeks, to a summer mentorship program—and mentor—that changed her life. She remembers the law student’s name.

“Virginia Huang [JD/MBA 2005]. She had such an impact on me. She was just the most down-to-earth person I met at the law school, and she reminded me of my high school classmates ... If you come

from a family where you have not been exposed to the profession, you don’t have a realistic view of what lawyers are like or what they do. They’re regular people, like you and me.”

When she was accepted to the Faculty of Law, after completing her undergraduate degree at U of T, Austin says it was important for her to pay it forward.

And she did, by revamping the See Yourself Here annual open house, which was traditionally held for black students, by opening it up to a variety of multicultural groups largely under-represented in the legal profession. The sessions were jam-packed.

She also volunteered with the LAWS program, Law in Action Within Schools, which provides law-themed courses and mentorship programming to six inner-city high schools in the city. Her volunteer dedication (including with Pro Bono Students Canada) landed her a prestigious U of T Gordon Cressy Student Leadership Award, recognizing outstanding students committed to service.

“I remember what it was like to be a student with a dream, and to be uncertain if that dream would become a reality. To see young people at the stage where I was five or six years ago is great. I look forward to seeing where they land in the future.”

She hopes it’s in the legal profession. “It needs to be more reflective of the community, particularly in certain areas of law, such as criminal, family and immigration law.”

“It does happen,” says Austin. “These programs work.” ↗

# Dangerous liaisons

The most significant aspect of the Ontario Court of Appeal's decision on operating brothels 'is not what it did, but rather what it did *not* do'

By Vincent Chiao, Assistant Professor, Faculty of Law

Early this spring, the Ontario Court of Appeal handed down a decision that invalidated the Criminal Code's prohibition on the operation of "bawdy houses" (i.e., brothels) and limited the reach of another provision criminalizing "living on the avails" of prostitution. As the court recognized, sex workers frequently toil in a "world of dark streets and barren, isolated, silent places ... with always the risk of violence and even death." The court largely sided with the trial court in concluding that the effect of these Criminal Code provisions was to needlessly make an already dangerous job that much more precarious, thereby infringing sex workers' security of the person in a manner inconsistent with the principles of fundamental justice. The decision has garnered international attention for its brave and pragmatic solicitude toward a highly vulnerable segment of the population. Notwithstanding the attractions of the protections held out by the Ontario court, however, the decision further underscores the need for these sorts of complex and controversial questions to ultimately be resolved through the ordinary political, rather than legal, channels.

The case arose out of a challenge brought by a trio of current and former sex workers who, supported by various intervening parties, contended that the Criminal Code's treatment of prostitution—permitting the sale of sex, but regulating how it is sold—seriously endangers sex workers by forcing them to work under treacherously dangerous conditions. In particular, the plaintiffs, respondents before the Ontario Court of Appeal, argued that the bawdy house provision (s. 210) made it legally impossible for sex workers to work out of monitored and secure locations, instead forcing them to work on an "out call" basis, i.e. to travel to clients' homes or meet them in hotel rooms. The living on the avails provision (s. 212(1)(j)) further restricted their ability to retain personnel—such as receptionists, bodyguards and drivers—who could help ensure their safety, and a final provision, criminalizing public communication "for the purpose of engaging in prostitution" (s. 213(1)(c)), restricted their ability to screen customers for signs of dangerousness. Although the respondents did not prevail on this last point, they won major victories on their first two claims, with the bawdy house provision struck down as unconstitutional and the living on the avails provision judicially limited to "exploitative" relationships.

Despite these victories, arguably the most significant aspect of the court's decision is not what it did, but rather what it did *not* do. Contrary to some misleading statements in the media, this was not a decision "legalizing" prostitution; prostitution is, and has long been, legal in Canada. The court assessed the Criminal Code's attempt to regulate various aspects of the sale of sex, but did not address the possibility of criminalizing prostitution as such. The most important aspect of the Ontario court's decision may thus be to raise the political salience of the prostitution question, placing the ball squarely in the government's

court as it decides whether to abandon the Criminal Code's long-standing toleration of prostitution *per se* in favour of a more broad-brushed criminalization of prostitution generally. This would, presumably, be a result the respondents would consider not simply worse than the result reached by the Ontario court, but even worse than the *status quo ante*. Although the validity of any such legislation could ultimately be tested before the Supreme Court of Canada, it is at least not clear that the respondents and their allies should expect a favorable outcome to a challenge of this kind, as the Supreme Court has not so far shown too much enthusiasm for rigorously policing Parliament's decisions as to what kinds of conduct are worth criminalizing. As the Court observed nearly a decade ago in *R. v. Malmö-Levine*, a case challenging the criminalization of simple possession of marijuana, while questions about what sort of conduct to criminalize are "matters of legitimate contro-

**“The most important aspect of the Ontario court's decision may thus be to raise the political salience of the prostitution question, placing the ball squarely in the government's court.”**

versy...the outcome of that debate is not for the courts to determine.”

This is perhaps as it ought to be. Prostitution is one of those issues that tends to stir strong feelings, and to create controversy among reasonable people who otherwise share similar ideals. It is a complex and persistent problem that requires nuanced and informed policymaking. Whatever one's views on the morality of buying and selling sex, concerns about institutional competence and democratic legitimacy both suggest that Canada's decisions as to how to regulate the sale of sex are best taken not in the whispered chambers of its appellate courts, but in the vexing crucible of political contestation. ↩

Assistant Professor Vincent Chiao received his BA from the University of Virginia, his PhD from Northwestern and his JD from Harvard University. His research and teaching interests focus primarily on criminal law and criminal justice, particularly in the philosophical examination of its doctrine and institutions. Prior to joining the Faculty of Law in 2011, he was a law clerk for the Hon. Juan R. Torruella of the United States Court of Appeals for the First Circuit and a Reginald F. Lewis Fellow at Harvard Law School. His research has appeared in *Legal Theory*, *Criminal Law and Philosophy*, and is forthcoming in the *New Criminal Law Review*.





Q

A

*with*  
**Melanie Aitken,**  
 LLB 1991

**The Competition Bureau  
 commissioner talks about  
 working in the public  
 sector, growing your career  
 and keeping the ‘compete’  
 in competition**

**Nexus:** You left a partnership to join the Competition Bureau. What was the most significant thing you’ve had to learn?

**Melanie Aitken:** There’s lots of process, process and process. But more seriously, it’s a complex place—Ottawa and the public service—and while many of the skills sets are transferable between the private and public sector, in both cases, there are specific things you just have to learn. And it’s not intuitive. But more importantly, you have to be open to learning. By the time you take on a job like this, you think you know a fair bit, but I think you have to be very aware of what you don’t know. And that’s true always, but particularly jumping into this environment. I was very fortunate that I could find a few mentors to help me navigate through that. I think that was my biggest challenge.

**Nexus:** What riles Canadians?

**Melanie Aitken:** No one wants to be taken advantage of. When I’m looking at cases, considering whether to investigate and potentially take action, I think: can I as a consumer relate to it? I have exactly the same frustrations everyone else does. And if I don’t understand an advertisement, or if I was misled, chances are, I’m not alone in that. A really good example was the Bell case, where after our investigation, we concluded that Bell had been misrepresenting what customers had to pay for various services, such as Internet and TV, and they were hiding information in fine print disclaimers, mandatory charges that obviously made the amount bigger than what they were advertising in a promotion. To Bell’s credit, when we confronted them with that, they agreed to enter into a consent agreement which required them to pay a \$10M penalty, which is the maximum we could get, but more importantly, they would immediately cease that conduct. So, if you’re going to advertise things to consumers, don’t lie to them; put the information up-front, so they can make an informed decision.

**Nexus:** How do you feel when the bureau takes on big companies, and the changes affect Canadians?

**Melanie Aitken:** It’s obviously a team effort.

My dedicated staff deserve the credit for pursuing the investigations. Really, it’s about doing what we can to educate businesses about what is right and what is wrong, and when it’s wrong, educating them so they stop doing what they’re doing. It’s actually very satisfying, and I think we have an important role to play in productivity and competitiveness in Canadian markets, in trying to make advertisements transparent, and to ensure M&A activities don’t substantially reduce competition.

**Nexus:** How does the Competition Bureau balance its role in an increasingly globalized economy, without establishing a business chill in Canada?

**Melanie Aitken:** That’s a really good question. My role as commissioner is not to pass judgment on transactions, not to pick a preferable transaction over others, but rather in those very few mergers where there is a very real risk of a substantial prevention or reduction in competition, to ensure we pay attention. Typically mergers most often are a positive means to increase competitiveness and achieve synergies and the like, but we need to ensure those under review do in fact have that outcome. More than 90 percent of mergers that we look at every year are cleared in 14 days. It’s interesting, sometimes those with the worst competitive effects are in smaller markets, so don’t always hit people’s radar screen. But it’s just as important to protect competition in smaller markets as it is in major markets.

**Nexus:** What would you like to say to the Class of 2012 in terms of mapping out a career?

**Melanie Aitken:** Well, I always feel a little humbled by that question because I’m still work in progress. I would say: Don’t be afraid to take risks because you’re afraid you might fail. That’s how you learn most about yourself and certainly about your work. People talk a lot about making a difference, and making a difference with your law degree, and it’s important to recognize that this can take a lot of different forms. I think you can have it all, you probably can’t have it all at the same time. That’s true for men too. How do I do the kids and career thing? On some days, not very elegantly. ↩



**Web Extra:** Read the Q & A in its entirety at [www.law.utoronto.ca/nexus/spring-summer2012/MelanieAitken](http://www.law.utoronto.ca/nexus/spring-summer2012/MelanieAitken)

# Convocation 2012

Photography by Jeff Kirk

Under a sunny blue sky, Convocation 2012 drew a packed audience of family and friends on June 8, as the JD grads cheered their classmates on one by one. Distinguished keynote speaker, Justice Robert Sharpe, LLB 1970, a former dean of the Faculty of Law, humoured the crowd with a history of 'deans past,' while valedictorian Matthew Mundy delivered a witty and self-deprecating speech on behalf of his class. View more photos on our Facebook page: <http://on.fb.me/MCQaxZ>







## 1964

**J. Michael Robinson, QC, LLB:** Received the Ontario Bar Association Award of Excellence in International Law for 2011. It recognizes achievement in practice and scholarship over the recipient's career. He continues as counsel at the firm he joined as an articling student 66 years ago, now Fasken DuMoulin LLP. He is now mainly occupied in teaching, as an adjunct at Western Law School (JD students) and in Osgoode's LLM program for foreign lawyers. His subjects are international business, trade and foreign investment protection law. Michael is also proud to be welcoming his second grandchild this June. His third daughter, 13-year-old Caroline, begins Grade 8 at Branksome Hall this September.

## 1966

**Harvey B. Kasman, LLB:** Has been married to Noreen for 44 years and they have two daughters, one of whom is a mathematics professor in the Boston area, and the other an epidemiologist in Toronto. As a sole practitioner, he says he did not have much time to develop hobbies but has held executive and board positions at his synagogue over the years. While he still goes to his office on the Danforth daily, he says he's definitely slowed down in the last few years.

**Donald L. Macdonald, LLB:** Is retired from Borden Ladner Gervais where he spent his entire career as a civil litigator. He now lives with his wife Dorothy in Orillia. For the past several years, he's served as treasurer of the Orillia Naturalists Club and as a trustee of Trees Ontario, and has tried to keep from disintegrating by working about the cottage, playing tennis and cross-country skiing. Older son Ian is a partner at Gowlings and Peter is a manager at KPMG.

## 1970

**Bill Pashby, LLB:** Retired this year after practicing with Borden Ladner Gervais LLP in the firm's Toronto Office for about 40 years. His practice involved acting for and advising charities, associations, entrepreneurs and Canadian subsidiaries of global companies. He received the AMS John Hodgson Award from the Ontario Bar Association for his contribution to the bar and the charity community. He will remain active in the charity sector by chairing the boards of two charities, serving as a director of three others and acting as a committee member of a sixth organization. He continues to live in the Leaside area of Toronto. Bill enjoys spending time with his three daughters and two granddaughters and at his cottage on Georgian Bay. He has travel plans for this year, continues to play tennis and is taking up the challenge of competitive swimming. Bill can be reached at bill.pashby@gmail.com.

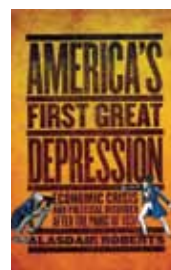
## 1973

**Stephen Grant, LLB:** Has opened a family law advocacy/ADR boutique practice, Grant & Sadvari, www.grantsadvari.com.

## 1980

**Barbara Landau, LLB:** Is president of Cooperative Solutions, a lawyer, psychologist and mediator. She's enjoyed a varied and wonderful career. In addition to family law, she offers mediation workshops through Conrad Grebel University College, University of Waterloo. She's co-authored two books *The Family Mediation, Arbitration & Collaborative Practice Handbook* (5th ed), 2009 and *From Conflict to Creativity*, 2001. Barbara has been honoured by several organizations for her mediation, law reform and community work, addressing domestic violence, building cooperative relationships between Jews and Palestinians, and Jews and Muslims. Over the past decade, she's received the following awards: the Dr. Vara P. Singh Award by the Women's Intercultural Network for outstanding community service, the McGowan Award from the ADR Institute of Canada, an appointment to the Attorney General's Expert Advisory Panel on Family Law Reform, the Long Term Achievement Award from Family Mediation Canada, the Distinguished Mediator Award from the Association for Conflict Resolution, the Award For Excellence in Dispute Resolution by the Ontario Bar Association, and the lifetime title of Fellow of the Canadian Psychological Association for outstanding contribution to clinical psychology.

## 1984



**Alasdair Roberts, LLB:** Is pleased to announce the recent publication of *America's First Great Depression: Economic Crisis and Political Disorder After the Panic of 1837* (Cornell University Press, April 2012.) *The Publisher's Weekly* and *Library Journal* reviews are here: <http://aroberts.us/books/>.

## 1987

**Benjamin Rubin, LLB:** In November 1984, during my first year at U of T Law, my son Ori was born. He attended the Law Follies, asleep in a car seat. Now, after almost five years on Bay Street and 20 years as a sole practitioner, I'm joined by my son Ori in the practice of law. In the Mindlaw offices at King and Jarvis, we practice corporate/commercial and business law, serving owner-managers, entrepreneurs and family businesses, of which our law practice is now all three. brubin@mindlaw.com

**JoAnn Korenda Zytaruk, LLB:** Has just retired after 21 years as a family law lawyer with the firm of Lucenti, Orlando and Ellies in North Bay, Ontario.

## 1989



**David R. Boyd , LLB:** Would like to announce his latest publication, called *The Environmental Rights Revolution: A Global Study of Constitutions, Human Rights, and the Environment*, published by UBC Press. He's an adjunct professor in resource and environmental management at Simon Fraser University. [www.davidrichardboyd.com](http://www.davidrichardboyd.com)

## 1991

**Gord Haskins, LLB:** Is still in London after 13 years, continuing to survive the turmoil in the financial markets at the Royal Bank of Scotland. After many years structuring transactions, he is now chief operating officer for the debt capital markets and derivatives business for the EMEA region at RBS.

## 1995

**Paul Horwitz, LLB:** Will publish his second book, *First Amendment Institutions*, late this fall with Harvard University Press. His first book, *The Agnostic Age: Law, Religion, and the Constitution*, was published in 2011 by Oxford University Press. Both books make splendid gifts. He is Gordon Rosen Professor of Law at the University of Alabama School of Law and continues to blog on the popular legal blog "Prawfs-blawg." His wife, Kelly, is in her first term as an elected member of the Tuscaloosa Board of Education. They have two children, Samantha and Isaac.

## 2001

**Jason Brock, JD:** Was an articling student and then associate from 2001 to 2004 at Stikeman Elliott LLP, where he practiced corporate and tax law. He left the firm in 2004 to join the family business, High Strength Plates & Profiles Inc. in Mississauga, Ontario, where he's currently president. Since 2004, the company has grown to more than 60 employees and has opened a second location in Sudbury, Ontario. We are a steel service centre, with steel processing operations including plasma cutting, forming, machining and welding. He has two sons, Griffin, 7, and Turner, 4, and together with his wife Karen they live in the Bloor West Village in Toronto.

**Emily LaRose (formerly Winter), JD:** Has been working at Cassels Brock LLP since graduating from U of T and she articulated there. She's now a partner and practices in the area of life science law, advising pharmaceuticals and natural health product manufacturers.

## 2004

**Philippe Phaneuf, JD:** Is a shareholder in the Los Angeles office of international law firm, Greenberg Traurig LLP, and has been named to *The Recorder's* 50 Fast Track lawyers list. He was recognized at an awards luncheon on June 5, 2012 at Marines' Memorial Club in San Francisco, with a keynote delivered by U.S. Magistrate Judge Paul Grewal. The award winners were also profiled in a special Fast Track section in the June 4 edition of *The Recorder*, a California legal publication.

## 2006

**Michael Kotrly, JD:** Returned to the litigation group of Ogilvy Renault after completing his clerkship at the Federal Court of Appeal. Following Ogilvy Renault's merger with Norton Rose, he signed up with the firm's Global Mobility Register, and now finds himself in Norton Rose's Dubai office on secondment in dispute resolution. He practices mainly in arbitration, but he also appears before the Dubai World Tribunal and the Dubai International Financial Centre Courts. It's very warm here!



## 2007

**Noel Semple, JD:** Recently received his PhD from Osgoode Hall Law School. He is pleased to be returning to U of T Law as a postdoctoral research fellow, affiliated with the Centre for the Legal Profession. Noel's postdoctoral research queries the relationship between regulation of the legal profession(s) and access to justice. He lives with his wife Angelique Moss and daughter Madeleine in the west end of Toronto. 🐿

### Class notes

What have you been up to? Update your classmates on your personal and professional achievements. Please send a short email to: [nexus.magazine@utoronto.ca](mailto:nexus.magazine@utoronto.ca). Include your degree and graduation year, and let us know if we can publish your email address.

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## Portraiture up close

By Jeff Kirk

The **'It' spot** for me is a simple background with a graphic shape that complements but doesn't over power the subject. Sometimes it seems to jump right out at you. At other times, it can be the **greatest challenge** of the shoot.

I draw out the **best portraits** from my subjects by assuring them that standing in front of my camera will be the easiest part of their day.

Having a spouse **in the same business** is great. We feed each other ideas about locations and lighting. And it's helpful to have a second set of eyes in finding that one perfect shot out of the 90 photos you took.

I think the shot of Justice Roger Timms at the **Oshawa Court House** was my favourite.

He took a **10-minute break from a court case** to come have his picture taken. I like the dark robe against the light background.

In my next life **maybe I'll practice law**, and I'll be sure to have lots of simple and graphic elements in my office just in case I have to have **my photo** taken for *Nexus*. ↖



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