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A Focus on Our Students
Reflections from Four Generations of Deans of Students
Admissions Essays that Caught the Law School’s Attention
Justice Sotomayor’s Visit to The Law School
Dear Friends –

Many of you have no doubt seen a recent New Yorker piece (available on our website) in which Malcolm Gladwell analyzed and criticized the subjectivity of the US News & World Report rankings. He ranked schools with three different formulas providing different metrics and weightings of faculty quality, student quality, and cost, and in each one the University of Chicago Law School ranked as the best. While I agree wholeheartedly with the proposition that Chicago is the finest law school in the nation (and I am happy we came out first rather than last!), I hope I am not raining on anyone’s parade to emphasize instead Gladwell’s central theme that rankings are severely flawed.

Gladwell’s main point is that every ranking is nothing more than a result of its inputs, and that those inputs are skewed choices made by editors. The editors decide not only what weight certain bits of information should be given relative to each other, but also what inputs should go into the calculus in the first place. By changing the weights of these indicators and by adding new ones, Gladwell shows how the current ranking system is arbitrary and unreliable. His smart critique joins a growing literature to which our graduates Bill Henderson, ’01, and Tom Bell, ’93, and our faculty member Brian Leiter have contributed demonstrating mathematically how flawed ranking systems are.

Here’s a concrete example from last year’s data. In July of 2010, 89 out of 92 Stanford graduates who took the California bar exam for the first time passed—an impressive 97.8% rate. Seventeen Chicago graduates took that same test, and had a 100% passage rate. Bar exam results are a sensible basis for assessing law school quality, so it would not be crazy to compare how Stanford and Chicago graduates did on the same test. But that is not what US News does. Instead, the magazine bizarrely compares the performance of Stanford and Chicago graduates taking different tests. Because the largest number of Chicago graduates take the Illinois bar exam, US News compares the passage rates of Chicago graduates (95.1%) to the passage rates of all first-time takers of the Illinois bar (91%). It subtracts the first number from the second number to create a “differential.” US News then does the same calculation for Stanford grads and the California bar.

Because California’s overall pass rate is only 71%, Stanford’s differential is much greater than Chicago’s. Stanford got a big rankings boost over Chicago as a result. How big? In the 2011 rankings the boost was equivalent to lowering Chicago’s median LSAT score by eight points. In order to offset the boost to its US News rankings that Stanford gets from bar passage rates, Chicago would have needed 118% of its graduates to pass the Illinois bar exam on the first try. Our graduates are terrifically smart and hard-working, but even they are constrained by the elementary laws of mathematics!

The current ranking methodology for law schools is full of similarly absurd inputs and arbitrary weights. But importantly, even when the inputs are sensible, they fail to capture much about what makes Chicago Law students unique and wonderful. Indeed, we are dedicating this issue of the Record to talking about our students. In these pages, you will read about how incredible they are in ways that never come close to affecting rankings. You will read the personal statements that got them admitted, discover their incredible academic work, and hear about the new curricular innovations we’ve made to even better prepare them for practice. I am so proud of our student body, and it has been thrilling to get to know them. Their extraordinary quality and the training they receive here are the truth of who we are.

Message from the Dean

Many of you have no doubt seen a recent New Yorker piece (available on our website) in which Malcolm Gladwell analyzed and criticized the subjectivity of the US News & World Report rankings. He ranked schools with three different formulas providing different metrics and weightings of faculty quality, student quality, and cost, and in each one the University of Chicago Law School ranked as the best. While I agree wholeheartedly with the proposition that Chicago is the finest law school in the nation (and I am happy we came out first rather than last!), I hope I am not raining on anyone’s parade to emphasize instead Gladwell’s central theme that rankings are severely flawed.

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Chief Cook and Bottlewasher: Deans of Students through the Generations

There may be no more complex—and rewarding—job in the Law School than that of the Dean of Students. The Office of the Dean of Students handles everything from student organizations to disciplinary actions, from counseling students to overseeing the Registrar’s Office, from Coffee Mess to graduation. And each of the 650-odd students he or she counsels has no idea what’s been going on with the others, so the Dean of Students must be as bright eyed for the last appointment of the day as for the first.

For the first half-century of the Law School’s existence, the title of Dean of Students was held by a professor as part of his faculty duties. Since then, the job—and the student body—has changed a great deal. We asked four alumni who have served (or are serving) as Dean of Students in different eras to share their views on this demanding and rewarding position.

Hon. James Hormel, ’58: Jim clerked for the Illinois Appellate Court, then practiced briefly with Peterson, Lowry, Rall, Barber, and Ross. Jim served as Dean of Students from 1961 to 1967, then moved east to manage family investments and become involved in politics. He moved to San Francisco, became a professional philanthropist, was a member of two United Nations delegations, and served as United States ambassador to Luxembourg from 1999 to 2001.

Richard Badger, ’68: Dick practiced with Schiff Hardin in Chicago before serving his ROTC obligation in Texas and Vietnam. Afterwards he returned to Chicago and, at then-Dean Phil Neal’s request, took over the career services office at the Law School in 1971. When the Dean of Students moved on a year later, Dick assumed that position as well. He stayed Dean of Students, as well as Dean of Admissions, until 1995. He is now the Assistant Dean for Graduate Programs at the Law School.

Ellen Cosgrove, ’91: Ellen was an investment banker before law school, and afterward practiced at LeBoeuf Lamb (now Dewey & LeBoeuf) for four years. She served as Dean of Students from 1995 to 2004, when she became the Dean of Students at Harvard Law under her old friend from the Chicago faculty, then-Dean Elena Kagan.

Amy M. Gardner, ’02: Amy spent more than five years as a litigation associate at Skadden Arps in Chicago, then was a litigation associate and partner at Ungaretti & Harris. She has been Dean of Students since August 2010.

To show that everything around here comes full circle, each of our panelists is connected to another—Jim was Dick’s Dean of Students, Dick was Ellen’s, and Ellen was Amy’s. Dick admitted Amy to the Law School, and Amy was in the same Law School graduating class as Jim’s granddaughter, Heather.
As I started to go back through my life and think about the patterns and the things that really attracted me, I realized that when I was in college and in law school, I was much more engaged in the enterprise outside the classroom, making the place work, creating community. I thought it would really be great to have a job like this and so I started looking. I was a finalist for a position at Yale and I needed some references, so I started calling the people at Chicago. They said, why don’t you come here.

**MARSHA:** What made you want to move into law school administration, or, more specifically, into the Dean of Students role?

**JIM:** At a time when I was feeling that perhaps the practice of law was not for me, I got a call from Dean Edward Levi. He mentioned that he was looking for someone to replace Jo Lucas, who had been Dean of Students in a period in which he was also teaching courses at the Law School and wanted to switch to full-time professor. When the offer was made I was very surprised—it was something I hadn’t considered and when I did, it called up my fantasies about how wonderful it would be to be a part of the academic community.

**DICK:** I happened to be here working when the then-Dean of Students had left and I had no notion that I really wanted to go back to practicing law. I can’t say that I grew up wanting to be a Dean of Students, but I can say that having been a residential counselor for three years in college and a battalion adjutant in the Army, I had some preparation for it.

**ELLEN:** When I was in college, I was very involved in student life and got to know the Dean of Students well. I talked to her about what it would be like to become a Dean of Students, but she told me I had to get a PhD in higher education administration. I said, so much for that career, and I moved on. Once I was practicing law, I was intellectually stimulated but I wasn’t emotionally fulfilled.

As I started to go back through my life and think about the patterns and the things that really attracted me, I realized that when I was in college and in law school, I was much more engaged in the enterprise outside the classroom, making the place work, creating community. I thought it would really be great to have a job like this and so I started looking. I was a finalist for a position at Yale and I needed some references, so I started calling the people at Chicago. They said, why don’t you come here.

**AMY:** I had considered higher education when I was in college and did the things you’re supposed to do to pursue higher ed administration. I was an RA and an assistant hall director, worked in the president’s office, did the admissions tours. When I was in law school I really enjoyed my time here. I really admired Dean Cosgrove, thought she had a great job, and that it would be a lot of fun to get to do. I did a fellowship last spring in Europe and when I came back from that fellowship I felt I wanted to do something that felt more fulfilling than what I was doing at the time. As much as I liked IP litigation, I decided I wanted to do something that seemed fulfilling in a different way. A few professors reached out to let me know that the job was going to be posted and that I should think about applying. It happened to be at the right time so I decided to give it a shot.

Earlier this year, the panelists met by phone with editor of the Record, Marsha Nagorsky, ’95, who had both Dick and Ellen as her Deans of Students, and was admitted to the Law School by Dick.

**MARSHA:** What was it like for you to transition from being out of school into this position? What was it like being back here as a professional as opposed to a student?

**JIM:** I arrived knowing very little about what I was doing there or who I was working with. What I did know was that Edward Levi was in charge. The job of Dean of Students was [then] principally as Director of Admissions and Jo
Lucas was extremely helpful and generous with his time and that made it a lot easier to transition. Being a part of the academic community was fascinating and it wasn’t quite what I expected. I thought maybe it was different and it’s not different. People behave the same way in academia as they do world at large, but I had a wonderful time.

DICK: As with Jim, the job was much different back then than it is now. You look at the [student services] staff [now] and there must be 15 or 20 people. Back then there was me, there was Ann Barber, who was kind of the registrar. I had a staff of two admissions people and we had one other person in career services and I was responsible for all those things, including financial aid. I like to say that the transaction costs back at that time were essentially zero. Dealing with students once they were here was relatively straightforward. It involved making clear what the rules were. We didn't have anywhere near the number of student activities that have since evolved. The difficulty was dealing with two barriers. The first barrier was dealing with the faculty. Here are people who had taught me a couple of years prior, I was very much in awe of them, and here I am now on a first-name basis with them and working with them. They were very good about that, but it was always difficult in the beginning to accept that I’m treated by them sort of as a colleague, even if it’s only as a second-class colleague. Then there’s the issue of dealing with students. When I took over I was 28, around the same age as Jim was when he started. I had to be careful to create some barriers between myself and the students because even though I was relatively close to them in age, I was in a different position. I had to administer and apply the rules to them. One difficulty of being a Dean of Students is reaching that right mix between being accessible to the students and understanding them, but at the same time understanding you’re not their friend. We all have [had] to work on that relationship, particularly since [we have] all been students here.

ELLEN: To have gone from a large, multinational firm where you had 24-hour support to do pretty much anything, to suddenly have a place where you had to wander through dark rooms and figure out how to turn on pieces of equipment, it was just staggering how much longer it took
JIM: Admissions was my principal activity, but I was also in charge of financial aid and all of the law student records were maintained in our office. I’m happy to say that there were practically no disciplinary matters, but the ones we had were strange. We had a student who was a contrarian, but a very pleasant one. I had the unpleasant duty of telling him that the law school dormitory was for law students and not their mates and he was living with [someone] openly and notoriously. I said you either have to move out or move her out. The next day I was sitting at my desk, which overlooked the back parking lot, and I looked out the window and here comes this guy and this girl. It was the middle of winter, he was barefoot, and they were carrying a bed. That was the last I heard about the cohabitation.

DICK: For me, it depended on what time of year it was. I was on the road doing recruiting activities before a class actually arrived on campus and that was unusual because most schools had already begun classes. In the fall, I spent an awful lot of time doing recruiting visits. Over the Christmas vacation period I spent a lot of time reading applications and then dealing with applicants in the late

Amy: Having been a partner at a law firm, it was definitely an adjustment. Some of that is inherent in making a transition to working in higher education. There’s so much room to make your mark on the student life experience here, which is terrific, but it is a little disconcerting to go from the hierarchy of the law firm and living your life in six-minute increments to a much more fluid environment.

Marsh: When you were Dean of Students, what was your role? What did a typical day look like?
I didn't have control, that the students were really in the
driver's seat and the issues I worked on were the issues that
students thought were important that day. If there was a
student crisis, an issue with a faculty member or a personal
issue, I was in the middle of that, so it was very, very hard
to predict what the day was going to look like. It would be
impossible to say there was a typical day.

AMY: This is amazing because I keep feeling exactly the
way Ellen just described. I was trying to find a “typical”
day. Last Wednesday we had Coffee Mess from 8:30 a.m.
to 10:00 a.m. in the Green Lounge. I’m answering
student questions and talking with students and faculty
and after that we prepared for a wellness fair. Then I met
individually with students. That particular Wednesday, I
met with students on bar disclosures, designing a new
joint-degree program, clerkships, and planning students’
course selections, then dealt with registrar issues. Most
days I get here at 9:00 a.m. and I meet with students and
respond to things until about 5:00 p.m. or 6:00 p.m., then
I finally start what I had planned to do that day.

MARSHA: How do you think both the students and the
student body have changed over the years?

ELLEN: My arrival really marked the big transition in the
job, because that’s when we split admissions and the Dean
of Students’ job. At the time, time management books
started appearing everywhere. They advised you to make a
task list for the day. This was exasperating for me because
I felt like from the minute I arrived until the minute I left,

winter and early spring. At the same time, I was talking
with current students and dealing with the class schedules
and [everything] that the Dean of Students was responsible
for. As the admission season wore down I worked on the
curriculum and getting the Announcements out. Even
during the summer, when I wanted to spend my time
devoted to baseball, I had to do lots of other things in
anticipation of the class coming in. I also engaged very
actively in interviewing—we were one of the few law
schools that did that. In February I would spend lots of
time away from Chicago traveling around the country
interviewing applicants. Eventually the dean decided that
I couldn’t be away, so we started having people come to
the law school for interviews.

JIM: February is when I went to California, all those
schools in California.

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schools in California.
in business and medical schools. For a period of time we had a cohort of older women who had graduated from college, had taken jobs or gotten married and raised kids, and then wanted to come to law school when they saw that the places were more hospitable to them. For awhile, the women in the Law School were older [on average] than the men. With minorities, it was the same thing. You began to see many more Latinos and African Americans coming from the typical undergraduate feeder schools and showing an interest in going to law school, but the big difference and the one that people don’t really talk about very much is the emergence of the Asian student. When I talked to some of our students about this they would say, look, my family wanted me to be an engineer or a doctor. It was only over a period of time, maybe moving into a second or third generation, that we began to see a large number of Asian students here. Now, of course, they’re very much a presence.

ELLEN: If you go back to when I was a student, [in] our class the percentage of women was in the high 20s; we hadn’t hit 30 percent yet, and we had one Asian student in our class. There was no such thing as either the Asian Law

Dick Badger shows Harvey Levin, ’75, how to throw a frisbee.
ELLEN: The really big transition that happened [between] ’95 and 2004 was technology. When I arrived, we communicated with students on paper, then we developed an e-mail system and contacted students on e-mail. Soon, we began using e-mail exclusively. We started to allow students to use laptops in the classroom; we started to move into laptop exams. Each one of those changes brought concerns about maintaining the integrity of the institution and trying to be aware of the opportunities that technology presented.

JIM: There were very few student activities outside of the academic ones at the law school. That was certainly true in both my days as a student and as Dean of Students and as a result there was less cohesion among the students. I get a sense, and I especially get it from my granddaughter, Heather, who graduated in 2002, that there is much closer interrelationship among students today than there was then, which I think is all to the good.

MARSHA: Amy, you know what that looks like today.

AMY: Women today are about 45 percent of the JD student body. Faculty diversity is still an issue, but our 1L class [this year] is 10 percent African American. We have a very active BLSA [chapter], and we’re ending diversity month today with salsa lessons going on right now at Wine Mess in the Green Lounge, sponsored by the Latino Law Students Association. Groups like Law Women’s Caucus, OutLaw, APALSA, and others are really strong and really active. I helped restart Amicus, the group for partnered and married students, because we continue to have a large number of men and women students with children. Some students also have children while they’re in law school.

JIM: I wanted to add briefly that so far as diversity is concerned, when I was in law school and when I was Dean of Students, there was no such thing as a gay or lesbian law student. But of course that was not the fact, and by the time my granddaughter was attending law school, there was a vibrant LGBT law student association, OutLaw.

DICK: My hunch is that there were in percentage terms perhaps as many gay students back then, but we didn’t know who they were.

JIM: Exactly, yes. I should also say that when I graduated from law school I entered a professional field in which there were fewer than 70,000 people and I believe this year alone over 80,000 people graduated from law school. There has been an enormous change with respect to the profession, where people go, how many of them end up in corporations.

MARSHA: What were the biggest student issues when you were Dean of Students?

AMY: I think the economy is certainly a big issue. Students are concerned about finding jobs and figuring out what they want to do with their law degree. We have a lot of students interested in public interest and a lot more resources available today for those students than when I was a student. But working through what path they want to take with their career right out of law school is still a really big concern for students.

MARSHA: What is your favorite memory of your time as Dean of Students?
AMY: I really love this job. Last Thursday night I would have said the CLF auction was fantastic. But then Friday night I got an e-mail from a student after I e-mailed all the 1Ls about grades. The student had forwarded my e-mail to her mom and her mom had sent her an e-mail back about what a great environment she chose to come to for law school. So I thought, this is the best day I’ve had at this job. Then last night I was talking with students at a BLSA alumni event and they mentioned the wellness activities my office has organized and how excited they are about them. They also talked about the spirit of community at the Law School and how happy they are here. I thought that was the best moment. It seems like every day has a favorite moment. Certainly there are moments that are not so great every day, but every day has been great.

ELLEN: I was going to echo that because I have a really hard time saying one favorite moment. I loved getting up and going to work every day. It is a fantastic environment where people were stimulating. It was kind of the best kind of intellectual environment and fun community you could hope for. What sticks out are the little moments where a student takes you aside or a parent takes you aside at graduation and talks about something I did and how important that was to that particular student. It’s humbling. You understand how important some little things in life can be. It gave me a real appreciation for the impact that that job could have on people.

DICK: I agree with Ellen. The conversations that you have with students and then after they’ve graduated about things that happened that they felt somehow you were responsible and helped them in some fashion, those are already very rewarding. I like it that I have the [international] students over for Thanksgiving and I can give my little talk about the history of Thanksgiving and what the food is meant to be. Each day I look forward to dealing with new students and new issues. I don’t really dread coming into work. I may dread some of the things I have to do, some of the routine, but I look forward to each day.

MARSHA: Any advice for our newest Dean of Students who has all of six months under her belt at this point?

DICK: There is this issue of balancing the function as a student advocate on behalf of the students and [as an] administrator. It’s important that the dean and the faculty not see you as the messenger. It’s important for them to hear from students directly why the students are unhappy. You want to try to be as helpful as you can to the students, but you don’t want the dean or the faculty to see you as a pest. They need to have access to the students and it [gives] the students another reason to be critical if we don’t listen to them and talk to them about issues.

JIM: I second every word. Some of the faculty have discovered or perhaps already knew that those relationships between them and students are very important and require nurturing and attention and some just don’t feel it and need to be pushed in that direction. As Dick said earlier, you can easily feel like a second-class citizen surrounded by all of the great minds of the legal education world and that’s not appropriate.

AMY: I kept saying one of my favorite things about this job is getting to be surrounded by smart people, but there are days where it does seem like it was a little easier at a law firm.

ELLEN: The one bit of advice I would throw out is the importance of having touchstones. It’s a crazy job. You’re living within several different cultures simultaneously and everybody has been trained to advocate, so everyone’s trying to convince you that their issue is the important issue of the day. You need to stand back and say, these are some students that I trust are levelheaded, or these are a few faculty members that have a good sense of the institution, or these are some colleagues at other schools who seem to understand what they’re doing. It’s important to have those people [who] you can talk these things through with so that you can keep perspective. I struggled a lot in the beginning to get the perspective of 650 people and not be swayed by the 20 hysterical people in front of you.

AMY: I’m fascinated by what you all have to say about this. We might have to do a Part II at some point.

ELLEN: Yeah, we could check back and see what Amy’s doing a year from now!
IN THEIR OWN WORDS:

ADMISSIONS

ESSAYS THAT WORKED

Throughout this issue, countless examples show why we are so proud of the students at the Law School. One might think that we get lucky that the students the admissions office chose for their academic accomplishments also turn out to be incredible members of our community, but it’s really all by design. Our students show us a great deal more in their applications than just academics—and we care about a lot more than their numbers. In these pages, meet six of our students in the way we first met them: through the personal statements they wrote for their law school applications. And through their photos, meet a seventh: Andreas Baum, ’12, the talented student photographer who took these pictures for us.
notes of the treble and bass clefs, and practice, my palm arched as though an imaginary apple were cupped between my fingers, playing one note at a time. After I had mastered the note of “C,” she promised, I could move on to “D.”

It took a few years of theory and repetition before I was presented with my very first full-length classical piece: a sonatina by Muzio Clementi. I practiced the new piece daily, diligently following the written directives of the composer. I hit each staccato note crisply and played each crescendo and every decrescendo dutifully. I performed the piece triumphantly for my teacher and lifted my hands with a flourish as I finished. Instead of clapping, however, my teacher gave me a serious look and took both my hands in hers. “Music,” she said sincerely, “is not just technique. It’s not just fingers or memorization. It comes from the heart.”

That was how I discovered passion.

Beethoven, Mozart, Mendelssohn: the arcs and passages
The turning point of my college football career came early in my third year. At the end of the second practice of the season, in ninety-five-degree heat, our head coach decided to condition the entire team. Sharp, excruciating pain shot down my legs as he summoned us repeatedly to the line to run wind sprints. I collapsed as I turned the corner on the final sprint. Muscle spasms spread throughout my body, and I briefly passed out. Severely dehydrated, I was rushed to the hospital and quickly given more than three liters of fluids intravenously. As I rested in a hospital recovery room, I realized my collapse on the field symbolized broader frustrations I felt playing college football. I was mentally and physically defeated. In South Dakota I was a dominant football player in high school, but at the Division I level my talent was less conspicuous. In my first three years, I was convinced that obsessively training my body to run faster and be stronger would earn me a starting position. The conditioning drill that afternoon revealed the futility of my approach. I had thrust my energies into becoming a player I could never be. As a result, I lost confidence in my identity.

I considered other aspects of my life where my intellect, work ethic, and determination had produced positive results. I chose to study economics and English because processing abstract concepts and ideas in diverse disciplines was intuitively rewarding. Despite the exhaustion of studying late into the night after grueling football practices, I developed an affinity for academia that culminated in two undergraduate research projects in economics. Gathering data, reviewing previous literature, and ultimately offering my own contribution to economic knowledge was exhilarating. Indeed, undergraduate research affirmed my desire to attend law school, where I could more thoroughly satisfy my intellectual curiosity. In English classes, I enjoyed writing critically about literary works while adding my own voice to academic discussions. My efforts generated high marks and praise from professors, but this success made my disappointment with football more pronounced. The challenge of collegiate athletics felt insurmountable. However, I reminded myself that at the Division I level (continued on page 17)
and ignorance. This realization was extremely empowering. I knew that mirroring their hostility would only reinforce the fear and prejudice they held. Instead, I reached out to my peers with an open mind and respect. My acceptance of others served as a powerful counter example to many negative stereotypes I had to face. With this approach, I was often able to transform fear into acceptance, and acceptance into appreciation. I chose not to hide my heritage or myself, despite the fear of judgment or violence. As a result, I developed a new sense of self-reliance and self-confidence. However, I wasn't satisfied with the change that I had brought about in my own life. I wanted to empower others as well. My passion for equality and social justice grew because I was determined to use my skills and viewpoint to unite multiple marginalized communities and help foster understanding and appreciation for our differences and similarities alike.

The years following September 11th were a true test of character for me. I learned how to feel comfortable in uncomfortable situations. This allowed me to become a dynamic and outgoing individual. This newfound confidence fueled a passion to become a leader and help uplift multiple minority communities. During the last two summers I made this passion a reality when I took the opportunity to work with underprivileged minority students. All of the students I worked with came from difficult backgrounds (continued on page 18)

OSAMA HAMDY, ’13

EDUCATION: University of California, Berkeley, BA in Legal Studies, AB in Media Studies (2010)

LAW SCHOOL ACTIVITIES: BLSA, Intramural Basketball

I was a shy thirteen-year-old who had already lived in six locations and attended five schools. Having recently moved, I was relieved when I finally began to develop a new group of friends. However, the days following September 11, 2001, were marked with change. People began to stare at me. Many conversations came to a nervous stop when I walked by. However, it wasn’t until one of my peers asked if I was a terrorist that it really hit me. Osama, my name is Osama. I went from having a unique name that served as a conversation starter to having the same name as the most wanted man in America. The stares and the comments were just the beginning. Eventually I received a death threat at school. I remember crying alone in my room, afraid to tell my parents in fear that they might not let me go to school anymore.

My experience opened my eyes up to racial and religious dynamics in the United States. I started to see how these dynamics drove people’s actions, even if some were not aware of the reasons. The more I looked at my surroundings with a critical eye, the more I realized that my classmates had not threatened me because of hate, but because of fear and ignorance. This realization was extremely empowering. I knew that mirroring their hostility would only reinforce the fear and prejudice they held. Instead, I reached out to my peers with an open mind and respect. My acceptance of others served as a powerful counter example to many negative stereotypes I had to face. With this approach, I was often able to transform fear into acceptance, and acceptance into appreciation. I chose not to hide my heritage or myself, despite the fear of judgment or violence. As a result, I developed a new sense of self-reliance and self-confidence. However, I wasn’t satisfied with the change that I had brought about in my own life. I wanted to empower others as well. My passion for equality and social justice grew because I was determined to use my skills and viewpoint to unite multiple marginalized communities and help foster understanding and appreciation for our differences and similarities alike.

The years following September 11th were a true test of character for me. I learned how to feel comfortable in uncomfortable situations. This allowed me to become a dynamic and outgoing individual. This newfound confidence fueled a passion to become a leader and help uplift multiple minority communities. During the last two summers I made this passion a reality when I took the opportunity to work with underprivileged minority students. All of the students I worked with came from difficult backgrounds (continued on page 18)
Harper Library, situated at the center of the main quadrangle at the University of Chicago, resembles a converted abbey, with its vaulted ceilings and arched windows. The library was completed in 1912, before Enrico Fermi built the world’s first nuclear reactor, before Milton Friedman devised the permanent income hypothesis, and well before Barack Obama taught Constitutional Law. Generations of scholars have pored over Adam Smith and Karl Marx in the main reading room, penned world-class treatises at the long wooden tables, and worn their coats indoors against the drafts in the spacious Gothic hall. Abiding over all of these scholars, and over me when I was among them, is an inscription under the library’s west window that has served as my guiding intellectual principle: “Read not to believe or contradict, but to weigh and consider.”

Per this inscription, which is an abridgement of a passage by Sir Francis Bacon, we readers ought to approach knowledge as a means of enhancing our judgment and not as fodder for proclamations or discord. The generations of scholars poring over Marx, for example, should seek to observe his theories of economic determinism in the world, not immediately begin to foment a riot in the drafty reading room at Harper. The reader may contend, though, that too much weighing and considering could lead to inertia, or worse, to a total lack of conviction. The Harper inscription, however, does not tell its readers to believe in nothing, nor does it instruct them never to contradict a false claim. Instead it prescribes a way to read. The inscription warns us to use knowledge not as a rhetorical weapon, but as a tool for making balanced and informed decisions.

On the cruelest days in February during my undergraduate years, when I asked myself why I had not chosen to pursue my studies someplace warmer, I would head to Harper, find a seat from which I would have a clear view of the inscription, and say to myself: “That is why.” On such a day in February, seated at a long Harper table with my coat still buttoned all the way up, I discovered how much I appreciated Carl Schmitt’s clarity and argumentation. I marveled at the way his Concept of the Political progressed incrementally, beginning at the most fundamental, linguistic level. As an anthropology student, I wrongfully assumed that, because Schmitt was often positioned in a neo-conservative

(continued on page 18)
evening of food, games, and dancing. I volunteered to accompany one of the guests as her date throughout the night’s various activities. The evening culminated in an hour or two on the dance floor, where I rocked and swayed Melissa to the sound of “Tiny Dancer,” and helped move her arms to the shouts of “Y-M-C-A!” It was one of the most memorable nights of my life, and I spent more than an hour of it standing in line, desperately trying to find a way out.

Looking back on that night, it is startling that I ended up volunteering as one of the guests’ dates. Whereas friends and family have always been quick to label me an overly confident extrovert, I spent years putting on a facade to hide a boy riddled with insecurities. Always finding myself the smallest, scrawniest boy in my class quickly wore out what confidence I had. Being the physical outlier amongst my peers affected my self-esteem more than I wanted to admit, and although I did my best to hide my insecurity, even things as simple as asking a store clerk where the restroom is or ordering my own meal at a restaurant would make my knees weak with anxiety. Needless to say, a one-on-one date with someone I had never met—someone

B R E T T N O L A N , ’ 1 3

EDUCATION: University of Kentucky, BA in Philosophy and Political Science, summa cum laude (2010)

LAW SCHOOL ACTIVITIES: Christian Legal Society

Taking my place near the end of the line, I glanced nervously at the hundreds of people waiting in front of me. What had I gotten myself into? My mind raced, trying to think of excuses to leave as I spent every minute worrying about how awkward I might feel, how I don’t know how to dance, and how uncomfortable the whole night would be. Before I knew it, the end of the line became the beginning, and my turn arrived. “Brett,” I heard a woman say. “This is Melissa. She’s going to be your date for the evening.” I took a deep breath, summoning every ounce of confidence inside me while furiously trying to hide the insecurity plastered all over my face. I introduced myself, “Hi Melissa. It’s so good to meet you. Are you ready to have some fun?” I took hold of her wheelchair’s handles—and we were off.

Plagued with cerebral palsy, Melissa was one of hundreds of adults with special needs who came that night for an evening of food, games, and dancing. I volunteered to accompany one of the guests as her date throughout the night’s various activities. The evening culminated in an hour or two on the dance floor, where I rocked and swayed Melissa to the sound of “Tiny Dancer,” and helped move her arms to the shouts of “Y-M-C-A!” It was one of the most memorable nights of my life, and I spent more than an hour of it standing in line, desperately trying to find a way out.

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As I tumble through the air, time seems to slow. I have fallen hard many times before, but even before I hit the ground I can tell this fall is different. I complete one and a half back flips and slam shoulders-first into the slope. As I lie on the hill, the snow jammed into the hood of my jacket begins to melt, and icy water runs down my back. I do not yet know that the impact has broken my neck.

I grew up only a short drive from some of New Zealand’s best ski resorts, but my family could never afford ski vacations. My first opportunity to try snowboarding came on a trip with my university flatmate. With expectations shaped purely by the media, I left for the trip assuming snowboarding was a sport for adrenaline junkies, troublemakers, and delinquents. Much to my surprise, I instead found that it provided me with a sense of peace that defied these preconceptions.

Anxiety had been a constant companion throughout much of my childhood. I had not always been this way, but years of physical and psychological abuse at the hands of my stepfather had taken their toll. My once carefree demeanor had changed, leaving me fearful, panicky, and timid. On a snowboard these feelings faded into the background for the first time in years, and the difference was profound. I never truly realized the pain I had endured until riding gave me the opportunity to escape it. I sought out every possible opportunity to go riding, and through the sport I pushed the limits of both my physical and mental courage. Snowboarding became a vehicle for regaining the confidence and self-worth that had been taken from me through the injustice of abuse. Even as I began to ride competitively in boardercross racing and halfpipe, launching myself into the air over sixty-foot jumps, the sense of peace I gained during my first day on a snowboard stayed with me. It did, at least, until that April afternoon.

As I lay in a hospital bed a few hours after my accident, an overwhelming sense of fear replaced any confidence that snowboarding had instilled in me. I faced the prospect of a lengthy and complicated surgery, with no certainty about the outcome. I knew my shattered vertebrae could easily leave me paralyzed. I was lucky to be alive, but any sense of luck eluded me as pain sent me in and out of consciousness. Two days later, surgeons worked for seven hours to rebuild my neck. I awoke to learn that I had escaped any serious nerve damage. However, I would need to be immobilized by a brace twenty-four hours a day, and for over (continued on page 19)
TAMMY WANG, ’12 continued from page 11

of intricate notes are lines of genius printed on paper, but ultimately, it is the musician who coaxes them to life. They are open to artistic and emotional interpretation, and even eight simple bars can inspire well over a dozen different variations. I poured my happiness and my angst into the keys, loving every minute of it. I pictured things, events, and people (some real, some entirely imagined—but all intensely personal) in my mind as I played, and the feelings and melodies flowed easily: frustration into Beethoven’s Sonata Pathétique, wistfulness into Chopin’s nocturnes and waltzes, and sheer joy into Schubert. Practice was no longer a chore; it was a privilege and a delight.

In high school, I began playing the piano for church services. The music director gave me a binder full of 1-2-3 sheet music, in which melodies are written as numbers instead of as notes on a music staff. To make things a bit more interesting for myself—and for the congregation—I took to experimenting, pairing the written melodies with chords and harmonies of my own creation. I rarely played a song the same way twice; the beauty of improvisation, of songwriting, is that it is as much “feeling” as it is logic and theory. Different occasions and different moods yielded different results: sometimes, “Listen Quietly” was clean and beautiful in its simplicity; other times, it became elaborate and nearly classical in its passages. The basic melody and musical key, however, remained the same, even as the embellishments changed. The foundation of good improvisation and songwriting is simple: understanding the musical key in which a song is played—knowing the scale, the chords, the harmonies, and how well (or unwell) they work together—is essential. Songs can be rewritten and reinterpreted as situation permits, but missteps are obvious because the fundamental laws of music and harmony do not change.

Although my formal music education ended when I entered college, the lessons I have learned over the years have remained close and relevant to my life. I have acquired a lifestyle of discipline and internalized the drive for self-improvement. I have gained an appreciation for the complexities and the subtleties of interpretation. I understand the importance of having both a sound foundation and a dedication to constant study. I understand that to possess a passion and personal interest in something, to think for myself, is just as important.

JOSH MAHONEY, ’13 continued from page 12

I was able to compete with and against some of the best players in the country. While I might never start a game, the opportunity to discover and test my abilities had initially compelled me to choose a Division I football program. After the hospital visit, my football position coach—sensing my mounting frustrations—offered some advice. Instead of devoting my energies almost exclusively to physical preparation, he said, I should approach college football with the same mental focus I brought to my academic studies. I began to devour scouting reports and to analyze the complex reasoning behind defensive philosophies and schemes. I studied film and discovered ways to anticipate plays from the offense and become a more effective player. Armed with renewed confidence, I finally earned a starting position in the beginning of my fourth year.

My team opened the season against Brigham Young University (BYU). I performed well despite the pressures of starting my first game in front of a hostile crowd of 65,000 people. The next day, my head coach announced the grade of every starting player’s efforts in the BYU game at a team meeting: “Mahoney—94 percent.” I had received the highest grade on the team. After three years of A’s in the classroom, I finally earned my first ‘A’ in football. I used mental preparation to maintain my competitive edge for the rest of the season. Through a combination of film study and will power, I led my team and conference in tackles. I became one of the best players in the conference and a leader on a team that reached the semi-finals of the Division I football playoffs. The most rewarding part of the season, though, was what I learned about myself in the process. When I finally stopped struggling to become the player I thought I needed to be, I developed self-awareness and confidence in the person I was.

The image of me writhing in pain on the practice field sometimes slips back into my thoughts as I decide where to apply to law school. College football taught me to recognize my weaknesses and look for ways to overcome them. I will enter law school a much stronger person and student because of my experiences on the football field and in the classroom. My decision where to attend law school mirrors my decision where to play college football. I want to study law at the University of Chicago Law School because it provides the best combination of professors, students, and resources in the country. In Division I college football, I succeeded when I took advantage of my opportunities. I hope the University of Chicago will give me an opportunity to succeed again.
and many didn’t feel as though college was an option for them. I learned these students’ goals and aspirations, as well as their obstacles and hardships. I believed in them, and I constantly told them that they would make it. I worked relentlessly to make sure my actions matched my words of encouragement. I went well above the expectations of my job and took the initiative to plan several additional workshops on topics such as public speaking, time management, and confidence building. My extra efforts helped give these students the tools they needed to succeed. One hundred percent of the twenty-one high school juniors I worked with my first summer are now freshmen at four-year universities. I feel great pride in having helped these students achieve this important goal. I know that they will be able to use these tools to continue to succeed.

Inspired by my summer experience, I jumped at the opportunity to take on the position of Diversity Outreach Ambassador for the San Francisco Bar Association Diversity Pipeline Program. In this position, I was responsible for helping organize a campus event that brought educational material and a panel of lawyers to UC Berkeley in order to empower and inform minority students about their opportunities in law school. In this position I was able to unite a diverse group of organizations, including the Black Pre-Law Association, the Latino Pre-Law Society, and the Haas Undergraduate Black Business Association. Working in this position was instrumental in solidifying my desire to attend law school. The lawyers who volunteered their time had a significant impact on me. I learned that they used their legal education to assist causes and organizations they felt passionate about. One of the lawyers told me that she volunteered her legal services to a Latino advocacy association. Another lawyer explained to me how he donated his legal expertise to advise minority youth on how to overcome legal difficulties. Collaborating with these lawyers gave me a better understanding of how my passion for law could interact with my interest in social justice issues.

My experiences leading minority groups taught me that I need to stand out to lead others and myself to success. I need to be proud of my culture and myself. My experiences after September 11th have taught me to defeat the difficulties in life instead of allowing them to defeat me. Now, whether I am hit with a racial slur or I encounter any obstacles in life, I no longer retreat, but I confront it fearlessly and directly. I expect law school will help me the tools to continue to unite and work with a diverse group of people. I hope to continue to empower and lead minority communities as we strive towards legal and social equality.

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**Eliza Riffe, ’13** continued from page 14

tradition, I could not acknowledge him. That day in February, I took the Bacon inscription to heart, modeled its discipline, and was able to transcend that academic tribalism. I added the kernel of *The Concept of the Political*, Schmitt’s “friend-enemy” dichotomy, to an ever-growing array of images and ideas that I had accumulated, among them Marx’s alienation, C. S. Peirce’s indexicality, and Pierre Bourdieu’s graphical depiction of social space. This patchwork of theories and descriptive models, when weighed and considered, informs my understanding of new ideas I encounter.

The academic dons who decided to place the Bacon quote under the western window intended that the idea would transcend the scholastic realm of its readers. Indeed, in my work as a financial analyst for a publicly traded company, it is often a professional touchstone. Though each day in the world of corporate finance is punctuated with deadlines and requests for instantaneous information, I am at my best as an analyst when I consider all of the data thoroughly and weigh the competing agendas. Like emulsified oil and vinegar that separate over time when left undisturbed, the right answer will emerge from among all of the wrong answers when I take the time to consider all of the possibilities. An extra hour spent analyzing an income statement can reveal even more trends than could a cursory glance. Moreover, the more I weigh and consider when I have the opportunity, the more I enhance the judgment I will need to make quick decisions and pronouncements when I do not have time. With inner vision sharpened by years of consideration, I am able to “see into the life of things,” as Wordsworth described in writing of “Tintern Abbey.”

Wordsworth’s memory of the abbey provided him much-needed transcendence in moments of loneliness or boredom. The memory of the inscription under the west window at Harper—“Read not to believe or contradict, but to weigh and consider”—has a similar function. For Wordsworth, Tintern alleviated emotional anguish; for me, the Bacon inscription reaffirms a sense of intellectual purpose. The words under the window, their meaning, and the very curvature of the letters in the stone are fixed in my mind and will continue to be as I enter the life of the law. What intrigues me most about legal education is the opportunity to engage simultaneously in the two complementary processes the Harper inscription inspires in me—building a foundation of theories and descriptive models while enhancing my judgment with practice and patience.
With a severe disability—was as far out of my comfort zone as I could possibly go. But I promised my close friends I would volunteer for the event, and by the time I signed up, all the behind-the-scenes jobs were taken. I had no other options.

When I heard my name called that evening I was forced to make a choice. It was not just a decision about whether or not I would stay—it was a decision about what kind of person I would be. And when I made that choice—when I decided to confront my anxiety and leave my worries about my comfort zone by the wayside—I found a spirit inside me eager and excited to spend the evening with someone less fortunate than myself.

Life is full of irony, and so it seems fitting that my crippling insecurity came face to face with a woman whose disability left her stranded with virtually no control over her own body. My feelings of alienation over a physical appearance I thought made me “too different” seemed childish and absurd, and it was that night that I finally realized just how rich my life was. This was more than an appreciation for everything I had been blessed with; it was a humbling realization that my success—what I ultimately achieve in life—is limited only by my capacity to believe in myself.

Despite my insecurities, I have always known I am an intelligent, capable person. In both school and work, I have achieved success at everything I put a determined mind toward. I am graduating with honors and a double major in less than four years. As the office manager of BlueSky Clinic, an opiate and alcohol recovery group, I helped navigate from opening our doors to profitability in less than two months. My life has never been a question of whether or not I will succeed—it has been a question about whether or not I will try; a question about whether or not I can face my self-doubt and confront situations my instincts tell me to avoid.

My decision to pursue a career that fulfills my long-standing interest in law is the answer to that question. I find myself thinking about my future with the same spirit I felt that night I took Melissa out on the dance floor—one that is eager and excited at the journey before me. I am not the same pale-faced boy who stood at the end of the line, knees shaking in anxious fear at what might be coming. The moments I shared with Melissa that night helped shatter my debilitating insecurity, and I have since found that my belief in myself is rivaled only by my passion for realizing my potential.

Evan Rose, ’13 continued from page 16

three months, before I could even contemplate rehabilitation.

Those months passed slowly. When I was finally able to start the process of rehabilitation, I made recovery my full-time job. I quickly learned that pain was to become the central reality of that year. The first day I could walk to my mailbox marked a significant achievement. Determined to return to full health, and even hoping to eventually return to riding, I gritted my teeth through the daily therapy sessions. At each subsequent visit, my doctor expressed his surprise at the progress of my recovery. Only twelve months after my injury, he cleared me to make a few careful runs on an easy, groomed slope. While I made it through those first few runs safely, they left me shaking with fear.

Since then, I have again found joy in riding, but no amount of determination will allow me to ride the way I had before. I won’t be attempting double back flips again anytime soon. Rather than focusing on my own riding, I now direct my energy into coaching. My experiences showed me the transformative power of courage and self-confidence, and taught me to build these qualities in others. At the Aspen Skiing Company, I develop and implement teaching curricula for more than two hundred snowboard instructors. My goal is for my fellow coaches to recognize that snowboarding can offer much more than just a diversion. It has the potential to have a profound and inspiring impact on their students’ lives.

In the ample time my recovery allowed for reflection, I found solace in the fact that the abuse in my childhood fostered in me not bitterness, but an enduring dedication to fairness and justice. As a college student, this dedication led me to seek out classes in ethics and morality. As a manager and leader, I strive to display both courage and self-confidence, and taught me to build these qualities in others. At the Aspen Skiing Company, I develop and implement teaching curricula for more than two hundred snowboard instructors. My goal is for my fellow coaches to recognize that snowboarding can offer much more than just a diversion. It has the potential to have a profound and inspiring impact on their students’ lives.

After discovering the salvation it held for me, I believed that I was reliant on snowboarding. Yet, being forced to face the grueling process of rehabilitation without it allowed me to take the final step to recovery from the trauma of my childhood. I realized I am much stronger and more resilient than I had previously believed. I realized that courage is not something that snowboarding gave me but something that has always been within me. These realizations have prepared me to broaden the scope of my dedication to justice. Secure in the knowledge that the courage and determination I have shown will help shape my future success, I am now ready to take on this new challenge: the study and practice of law.
Student Scholars
To earn a JD, every University of Chicago Law School student must write at least two major papers. While this is not every student’s favorite part of their Chicago Law experience, some students take to legal scholarship like ducks to water. Their extraordinary work not only impresses the faculty and future employers, but often is published in legal journals and adds to the legal literature in important ways. Each year, the Law School awards prizes at graduation to students who have excelled in this complex endeavor. Papers are nominated by the faculty members that supervised them, and a faculty committee chooses the winners. Three students from the class of 2010 earned such prizes for their work.

Karen M. Bradshaw, ’10, earned the Casper Platt Award, given annually for the outstanding paper written by a student in the Law School. Ms. Bradshaw is a graduate of the University of California, Berkeley. She graduated from the Law School with honors and served as a comment editor on the University of Chicago Law Review. She is currently clerking for Judge E. Grady Jolly, United States Court of Appeals for the Fifth Circuit. Portions of her paper, “Backfired! Distorted Incentives in Wildfire Suppression Techniques,” were subsequently published in two different law journals: the Journal on Land, Resources, and Environmental Law (forthcoming) and the Fordham Environmental Law Review (“A Modern Overview of Wildfire Law,” 21 Fordham Envtl. Law Rev. 445 [2010]), and were unable to be printed here.

“I like to think that Karen Bradshaw found her ‘voice’ at the University of Chicago Law School and that this inner voice turned out to have a genuine, law-and-economics timbre,” says Saul Levmore, William B. Graham Distinguished Service Professor of Law, who nominated Ms. Bradshaw for the Platt Award. “This is no one-shot success; Karen also wrote a paper on the challenge of social networking websites that appears as a chapter in The Offensive Internet, a book Martha Nussbaum and I edited. In the first case, she wrote about something she knew growing up in rural California, and in the other something she knew from owning an iPhone. She should be an inspiration to us all, finding great topics in our everyday experiences.”

Eitan Hoenig, ’10, received the D. Francis Bustin Prize, which goes to the outstanding graduate in law and economics. Mr. Hoenig is a graduate of Brandeis University, and he graduated from the Law School with high honors. He was both a Kirkland & Ellis Scholar and a member of Order of the Coif. He served as executive articles and book review editor of the University of Chicago Law Review. He is currently clerking for Judge Alex Kozinski of the United States Court of Appeals for the Ninth Circuit.

Richard McAdams, Bernard D. Meltzer Professor of Law, nominated Mr. Hoenig for the Bustin Prize: “We are used to the idea that a criminal defendant can, by pleading guilty, waive his right to a trial and that he can, by agreeing to a bench trial, waive his specific right to a jury trial. Eitan Hoenig’s paper asks a more general and fundamental question: Should a criminal defendant and prosecutor be completely free to tailor their trial procedure by agreement? Should we allow a defendant to waive distinct elements of trial rights, such as the precise structure of a jury or the duration or scope of cross-examination, and thereby offer the prosecutor a more streamlined criminal procedure in exchange for a lower sentence in the event he is convicted? This is an astonishingly creative question to ask. Hoenig does a careful job of examining the effects of such bargains.”

Eric Singer, ’10, received the John M. Olin Prize, which goes to the outstanding graduate in law and economics. Mr. Singer is a graduate of Cornell University. He graduated the Law School with high honors, and is both a Kirkland & Ellis Scholar and a member of Order of the Coif. He is currently clerking for Judge Danny Boggs, ’68, of the United States Court of Appeals for the Sixth Circuit. Mr. Singer’s paper, “Towards a Sustainable Fishery: The Price Cap Approach,” will published later this year in volume 24 of the Tulane Environmental Law Journal.

“Eric’s work on his fisheries paper represents all that is best in Chicago students,” says Richard Epstein, James Parker Hall Distinguished Service Professor Emeritus of Law and Senior Lecturer, who nominated Mr. Singer for the Olin Prize. “He took the germ of an insight and drove it for all that it was worth. He tracked down every lead, and sought to deal with every objection. The product showed so much promise that I sent the paper off to several of my colleagues at other institutions who are leaders in the field, who responded graciously and favorably to the paper. Oh, I suspect that the paper is wrong. But his splendid effort is just another part of Chicago’s distinctive intellectual culture.”

We are grateful to Mr. Hoenig and Mr. Singer, as well as the Tulane Environmental Law Journal, for their permission to publish the introductions to their prizewinning papers here.
It’s no secret that few criminal defendants avail themselves of their constitutional right to trial. Critics of the decline in the criminal trial blame this state of affairs on the “triumph” of plea bargaining and argue for restricting defendants’ ability to plead guilty or prosecutors’ ability to offer sentence concessions in exchange for a guilty plea. Albert Alschuler and Stephen Schulhofer have gone so far as to argue for the abolition of plea bargains. But these calls for increased regulation of prosecutor-defendant bargaining miss the point.

The problem (if there is one) is not that prosecutors and defendants bargain too much—it is that they bargain over the wrong items. Defendants and prosecutors bargain intensely over guilt, but they generally treat criminal procedure as fixed and immutable. The unfortunate result is that defendants are forced to choose between a “champagne and caviar” trial and no trial at all. Defendants who wish to trade away some of their procedural rights in exchange for a partial sentence concession have no opportunity to do so. Likewise, prosecutors willing to pursue a stripped-down trial must instead accept a full trial or try to influence the defendant to plead guilty. Compare this state of affairs to civil litigation, where parties bargain over trial procedure, or streamlined adjudication systems such as alternative dispute resolution.

The lack of bargaining over criminal procedure may have made sense under determinate sentencing regimes that restricted prosecutors’ ability to offer sentence reductions. The dearth of scholarly interest in criminal procedure bargains is understandable for the same reason. Now that sentencing has moved to a discretionary regime, however, the time is ripe to examine bargains over criminal procedure with the goal of determining whether they are (1) possible and (2) desirable.

This Essay is by no means the first to discuss a criminal procedure bargain. Commentators have already examined the few procedure bargains available under determinate sentencing regimes such as waivers of the right to a jury trial, to appeal one’s conviction, or seek post-conviction review. These efforts, however, have tended to examine each bargain individually, without reference to other bargains. This Essay, on the other hand, proposes a framework for analyzing any kind of criminal procedure bargain. The analytical framework covers the bargains identified by other scholars, but it can also be extended to capture novel bargains that prosecutors and defendants might enter into. This Essay also argues that prosecutors and defendants (with the help of courts) should strike more and more varied criminal procedure bargains.

Part I of this Essay will define a criminal procedure bargain and distinguish it from a plea bargain. Criminal procedure bargains share two characteristics: 1) the defendant does not admit unconditional guilt; and 2) the prosecutor and defendant strike a formal bargain. The end result is that defendants and prosecutors still go to trial after striking their bargain. Part I also proposes extensions of this framework to novel, time-saving deals such as reverse waivers, reverse conditional pleas, and waiver of collateral issues.

Part II has two goals: to test Part I’s framework and to demonstrate that the US criminal justice system already accepts the idea of a criminal procedure bargain. Accordingly, Part I will apply the framework developed in Part I to five types of waiver in criminal procedure: 1) bench trials; 2) appeal waivers; 3) waiving the opportunity to testify; 4) conditional pleas; and 5) habeas settlements.

Part III will make the normative argument for criminal procedure bargains. Starting from the basic economic models of plea bargaining developed by William Landes and Richard Adelstein, Part III will show how criminal procedure bargains increase the number of situations where a prosecutor’s optimal choice is to go to trial and therefore the number of criminal trials. Ironically, eliminating the restrictions on criminal bargains produces the same effect that Alschulder and Schulhofer have tried, without success, to achieve by calling for their abolition.

This Essay will conclude by sketching out the limits on criminal procedure bargains and identifying areas for further research and commentary.
Towards a Sustainable Fishery: The Price Cap Approach

Eric M. Singer

The practice of catching more of a species of fish than its population can replace through reproduction, or overfishing, is a problem that has not gone unnoticed. Fishermen feel its impact in the forms of diminished wages, costly regulations, and in extreme cases such as the moratorium on Northern Cod fishing, the disappearance of their entire livelihood. Skilled Cod fishermen once profited off of what was thought to be an infinite supply of the popular fish; they now work odd jobs, catch the noxious, slime-secreting Atlantic Hagfish, or idly collect government aid, all while waiting for the resurrection of the Cod population, an event that may never come to fruition. Consumers feel the impact of overfishing through higher prices and, in many cases, the unavailability of preferred fish. Politicians responding to the interests of both groups, in addition to those of environmentalists and endangered species advocates, continue to spend the public dollar in pursuit of an effective and politically-feasible solution.

Overfishing has attracted significant scholarly interest, and in the law and economics literature, it is the classic tragedy of the commons. An unregulated fishery is an open-access commons where any fisherman can catch as many fish as he chooses. As he realizes only his own costs, he will catch fish until the marginal benefit (the market price if he is fishing commercially) equals the marginal cost of production. As more fish are caught, the fisherman’s catch will be limited by the falling market price and the increasing marginal cost of production as the population declines. If the reproductive capabilities of fish were robust enough to keep up with the market equilibrium level of production, there would always be enough fish to meet consumer demand and overfishing would not be a concern. During the early years of commercial fishing, this was the case. The fish population was high, the human population—and thus the demand for fish—was low, and due to the limitations of fishing technology, the cost of production was high enough to limit yields to sustainable levels. As a result, fish were able to reproduce fast enough to keep up with the numbers being caught, and their supply was, given the lack of any perceived supply problems, not unreasonably thought of as infinite. In time, however, the market equilibrium yield began to increase, a consequence of an increase in the human population and, with the introduction of more advanced fishing technology, a decrease in the cost of production. Once the equilibrium yield reaches a point where the reproductive capacity of the fish stock cannot keep up, the effects of overfishing can begin to be seen. As stock size decreases, so too does the size of each individual fish caught, representing the inability of fish to live long enough to reach their full size before being caught. Bluefin tuna, for example, used to be caught at sizes exceeding 1500 pounds, yet the typical size landed today is less than 200. Lobster and Cod can both live for over 70 years and reach massive proportions, but as their population decreased, so too did their average age and size. Effects of overfishing on the fish stock can be drastic and sudden, materializing with significant increases in the marginal cost of production and decreases in fish size over shockingly short periods of time. When the age of landed fish is lower than the age at which they reproduce, as was ultimately the case with the Atlantic Cod, the population collapses to the point of commercial extinction. Explained as a typical tragedy of the commons, overfishing results from fishermen creating externalities by reducing the total supply of fish but internalizing only their own costs. As a result, fishermen catch fish beyond the optimal level.
The economic consequences of overfishing include overcapitalization by fishermen and the resulting dissipation of rents. As fish become scarcer, the cost of production increases. So too, however, does the market price. Because fishermen will catch fish until the cost of production equals the market price, they will always invest more into production until the market equilibrium is reached. As a result, no rents are available. If fishermen could agree or be made to limit production to sustainable levels, the cost of production for a given yield would be lower than in the unregulated commons. Fishermen would thus be able to extract rents from the fishery, representing the difference between the market price, which is higher due to the reduced supply, and the cost of production, which is lower due to the increased fish population. These economic losses due to dissipated rents are immense, some studies calculating them to exceed fifty billion dollars per year.

Solutions to overfishing seek to limit the yield, or the total number of fish caught, to sustainable levels. Although such a solution would benefit fishermen as a whole, the incentives to violate any agreement or restriction are great. Each individual fisherman would still profit from catching fish until his cost of production equals the market price, making the implementation of any solution difficult and highly dependent on incentives to comply.

Overfishing also leads to many severe biological consequences, many of which have an economic value that, although hard to quantify in monetary terms, increases the total societal loss. As species are connected through the food chain, there are significant cascading effects from overfishing. The elimination or reduction of a particular species of fish will result in a decrease in population in the species that prey upon it and an increase in the species that it preys upon. Down the food chain, this may result in an elimination of smaller species, all the way down to the levels of individual nutrients or the plant species that help absorb carbon dioxide from the atmosphere. Many of these changes have been observed in the Atlantic and attributed to the collapse of the Cod fishery. The environmental impact of these changes in the food chain may be immense, yet due to the complexity of ocean ecosystems, they are not yet fully understood and cannot be accurately quantified. However, some species of fish at risk of extinction are primarily responsible for consuming and keeping the population of organisms that cause human diseases such as schistosomiasis under control, and an increase in disease is a more concrete, calculable harm. In many undeveloped parts of the world, such as Africa, the fish themselves are important sources of protein without an adequate substitute, and their elimination would result in a serious degradation of human health. Although difficult to quantify, these biological consequences are real societal harms and help establish the seriousness of the overfishing problem.

In theory, any of a variety of methods could be employed to resolve the overfishing problem. A solution needs only to ensure that the number of fish caught equals the number of fish that the stock has the reproductive capacity to replace, an amount referred to as the sustainable yield. Many approaches of varying complexity can theoretically achieve this result, and significant effort has been devoted over the past several decades to proposing and implementing numerous different solutions, hoping to find one that will work in practice at the lowest cost. These methods can be roughly divided into two categories: bottom-up approaches and top-down approaches. While both may share similar elements, they are sufficiently distinct to merit separate descriptions.

Bottom-up approaches are those designed and implemented by the fishermen themselves. These approaches are essentially contracts, formal or otherwise, amongst fishermen who agree to somehow limit their total catch. A classic example of such an informal approach is that employed by the lobster fishermen of Maine. By destroying the traps of outsiders, the local fishermen limit access to the lobster fishery, transforming it from an open-access commons to a limited-access shared property claim. In theory, this should result in more sustainable yields, as fewer lobstermen results in fewer lobsters caught. A finite number of fishermen also allows for the prevention of overcapitalization, as the fishermen can agree upon certain technologies and enforce against deviations. Controlling the number of fishermen and the technology employed results in an effective control on the number of fish caught. All bottom-up approaches
supply fish that they cannot sell, they will catch only the
yield for a particular species of fish. As fishermen will not
the level that will result in demand equaling the sustainable
thus reducing consumer demand. The tax must be set at
added to the sale price of fish, increasing their price and
that is not otherwise reflected in the price of the good, is
active fishermen, as is the case in bottom-up arrangements.
rather reduces the catch by the reducing the number of
input controls work
lower, sustainable yield. Another type of input control is
marginal cost of production equal the market price at a
in their reducing their total catch. The goal is to make the
of fish that fishermen are allowed to catch in a given
period of time. The limit may be per boat, per fisherman,
or per the entire fishery, and it may be for any period of
time. Regardless of the form of the limit, the purpose is to
ensure a sustainable yield, and as long as the limit is
enforceable, an output limit is the most direct solution.
More common top-down approaches are input controls,
or limits on the effort fishermen put into catching fish.
These include limiting the length of the fishing season and
limiting the technology and equipment used, such as the
size of the nets or the type of vessel. Input controls work
by raising the cost of production for fishermen, resulting
in their reducing their total catch. The goal is to make the
marginal cost of production equal the market price at a
lower, sustainable yield. Another type of input control is
to limit access to the fishery by issuing permits. This does
not raise the cost of production for each fisherman, but
rather reduces the catch by the reducing the number of
active fishermen, as is the case in bottom-up arrangements.
A Pigovian tax, a tax equal to the cost of the externality
that is not otherwise reflected in the price of the good, is
another form of top-down approach. These are taxes
added to the sale price of fish, increasing their price and
thus reducing consumer demand. The tax must be set at
the level that will result in demand equaling the sustainable
yield for a particular species of fish. As fishermen will not
supply fish that they cannot sell, they will catch only the
sustainable yield. Although a Pigovian tax on fish has yet
to be implemented, if the tax is calculated and enforced
properly, it will result in sustainable yields.

The most recent top-down approach, and that which
currently gets the most attention, is the creation of private
property rights in the fishery, specifically the individual
transferrable catch quota (ITQ). The most basic property
rights approach would be to grant private ownership of
individual parcels of ocean. While establishing and finding
boundaries may now be technologically feasible with the
advent of satellite navigation, the fact that fish move make
the geographic property rights approach that is well-suited
for land rather untenable at sea. The ITQ combines a
permit to control access with an individual output control
in the form of a seasonal catch limit. This permit can be
bought and sold in an open market, resulting in a property
right to catch a certain number of fish. If yields are
sustainable and the fish population is able to grow to a
normal size, the cost of production will decrease, making
each fish more valuable to the fisherman and increasing
the value of the permit. This gives fishermen an incentive
to obey their catch limit, as they can make money in the
sale of their permit if the stock grows. The ITQ system has
been implemented in a number of fisheries, and studies
indicate promising levels of success in many ITQ fisheries.

While each of the above approaches is based on a sound
theory, implementation of any approach is accompanied
by a plethora of problems. Once all relevant costs and
problems are considered, it becomes abundantly clear that
not only no solution is perfect, but also that no solution is
the best in all situations. As there is no first best solution,
efficient fisheries management relies on determining which
of the many second best solutions produces the most benefit
at the least cost in the unique circumstances of each fishery.
With this in mind, I propose one additional arrow in the
fishery manager’s quiver: the price cap. As is the case with
the above approaches, capping the market price of fish
sold is based upon sound theory, and when the balance of
the various costs is analyzed, it could be that in certain
fisheries, the price cap is the most efficient solution. Part II
of this paper will summarize the various costs associated
with implementing any overfishing regulation. In Part III,
I will introduce price caps as a method of controlling
overfishing. Part IV explains the implementation costs of
price caps and factors that will influence their magnitude
in a particular fishery. Part V compares price caps to
existing overfishing solutions, and Part VI will conclude.
Appearing at ease in front of the crowd, Sotomayor’s answers reflected the breadth of her experience. Her most interesting comments, of course, were about her time on the Supreme Court.

The best advice she says she’s received was from Justice David Souter, whose retirement in 2009 precipitated her appointment to the court. A few days into her tenure, Souter told Sotomayor to remember that her colleagues on the court were people of goodwill who were committed to law and the Constitution. Once he reached that realization, Souter said, he had a much easier time disagreeing with them.

Sotomayor told students that this advice has made her stop, listen, and be more respectful of other justices’ viewpoints.

One difference in viewpoints surfaced when Professor David Strauss, who led the question-and-answer session, asked Sotomayor about originalism, a principle of interpreting the Constitution by trying to discern the original intent of its authors. Sotomayor said she finds it difficult to agree with a point of view that relies solely on the Constitution and discards the last two hundred years of legislation.

“I have one colleague who doesn’t believe in legislative history,” she said. “To her, however, legislative history is “like a...
"toolbox" that provides framework for solutions to vexing legal questions. "I don't see [originalism] as a day-to-day approach that gives you a clear answer," Sotomayor said.

She’s been surprised by how burdensome the Supreme Court’s decision-making process has felt, she said. As a district court and appellate judge, Sotomayor took solace in knowing that close cases would reach the Supreme Court for final decisions. Now, she has the responsibility of being a part of that final line of judgment. She also had not anticipated how much she would sense the impact of the Supreme Court’s decisions on groups in society.

To handle this, she relies on advice she received as a new district court judge. One of her fellow district judges told her of another judge that had retired because he couldn’t sleep at night second-guessing decisions he’d made. The point of that story, Sotomayor said, was to discourage her from doing the same.

While she internalizes the importance of her position, she said, “I’m not tortured. I can only do what my colleague told me then.”

Sotomayor had advice of her own to give to attorneys and students. Attorneys preparing cases for the Supreme Court should take a broad approach when deciding how to form their arguments, she said. They should also be aware that the justices will decide the case keeping in mind its potential impact in the future.

In response to a question from Seth Oranburg, ’11, Sotomayor said oral arguments before the Supreme Court don’t usually sway the justices to being in favor of a particular side, but an attorney can lose a justice’s vote by not correcting a factual misunderstanding or by not keeping the justices on track. Oral arguments are a time for justices to air their concerns via questions to an attorney, and time for an attorney to assuage those concerns. “If you’re a lawyer and not welcoming questions, then you’re not doing your job,” she said.

To students, Sotomayor gave two orders: take time during law school for casual interactions with your classmates and find your passion. Sotomayor recalled that her best moments in law school were when she and her classmates sat in a lounge talking and debating the issues of the day. Law students today book their schedules full of obligations that they think will look good on their resumes, she said. “Do you stop and breathe?” Sotomayor asked. “Do you stop
and talk for the sake of talking? Do you even see a movie?”

Sotomayor said she passes over law clerk resumes that are packed with a thousand entries in favor of resumes that demonstrate a passion. Those people who show that extra spark and who can reach within themselves to give extra effort are the ones she wants to hire, she said.

Clinical professor Craig Futterman asked Sotomayor about the burden of being an inspiration, saying his 14-year-old daughter admires Sotomayor for being the first woman of color on the Supreme Court. Did Sotomayor feel a special responsibility when it came to issues of race, class, or gender? he asked.

People have an expectation that her race will lead her to rule in certain ways, she said. But she doesn’t approach the judging process as a woman of color who needs to make decisions that would help special groups of people. Instead, she said, “I come to the process of judging understanding that we are a better society because we have a rule of law.”

Among other questions, students asked Sotomayor for advice for new attorneys, her thoughts on the confirmation process, and how society influences decisions. One of the more provocative questions came from Nik Abraham, JD/MBA ’11, who asked if Sotomayor could describe a personal failure that may have motivated her.

“I have spent most of my life in fear of failure,” she told him. That, she said, was what has motivated her to do the best in everything she faced. Still, she’s been turned down for jobs—some deservedly, she said—and has had failed personal relationships. Her first year as a district court judge was one of the most difficult times in her life as she adjusted to being on the other side of the bench, she said.

Later, Abraham said Sotomayor’s reply helped him connect with her on a more personal level. “Her response

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was phenomenal,” Abraham said. “I thought she was extremely frank, very honest.”

After the Q&A, Dean Schill gave the justice a tour of the Law School and took her through the Green Lounge and the library. Sotomayor asked questions about the building’s architecture, and was curious about the Law School’s policies and day-to-day functioning.

At lunch with faculty, Sotomayor sat with the Law School’s brightest minds, experts in bankruptcy law, international law, legal history, and—of course—constitutional law.

Sotomayor graciously answered their questions, addressing the value of consensus on the Supreme Court, the role of international law, her thoughts on interdisciplinary legal education, and whether she and her colleagues actively read law review articles. Her answer on the last point pleased the faculty. While most of the other justices don’t consult law review articles, Sotomayor said that she does, particularly when a case involves an area of law that is outside her expertise.

“The justice’s view that legal scholarship can actually offer solutions was exciting, as was the suggestion that what law professors write can bolster the reasoning of the justices,” said Assistant Professor Alison LaCroix. “In the constitutional law area, it often seems as though the Court is setting the interpretive agenda, so it was encouraging to hear that the channels of communication between the Court and the academy run both ways.”

Sotomayor chose to visit Chicago Law in part because of her connection to Bernard Harcourt, the Julius Kreeger Professor of Law and professor and chair of the Political Science Department. Harcourt’s father, Edgar A. Harcourt, BA ’49, LLB ’52, was a partner at Pavia & Harcourt, where Sotomayor was hired for her first law firm job and was partner until her appointment in 1992 to the federal bench. At the end of her day at the Law School, Sotomayor co-taught a class because of her connection to another Chicago Law professor.

When Sotomayor was an appellate judge, she committed to serve as a guest lecturer for Assistant Clinical Professor Alison Siegler’s Criminal Procedure II course. Soon thereafter, though, she was nominated to the Supreme Court, and she was unable to come to Chicago as planned. Years later, Sotomayor remembered this promise and initiated plans to follow through on it after she scheduled a visit to the Law School. That’s how about 60 students in Siegler’s class gained a private audience with the justice.

Sotomayor gave students a glimpse into her daily life, beginning with what dominates: “Reading is the life of a justice,” she told them. Weekends are often spent reading bench memos. In a typical week, she spends her days reading briefs, prior Supreme Court cases, and opinions drafted by other chambers, in addition to opinions generated in her own chambers.

She spends more time with her fellow justices than she ever spent with colleagues on the district or appellate courts. Sotomayor said they eat lunch together after every argument and after every Friday conference, the justices’ weekly meeting. Other time is spent meeting visitors of all kinds—heads of state, athletes, writers. “The court is a public body, so we have a public educational role to play as well,” she said.

When she has free time, Sotomayor likes visiting law schools and students at all levels. On her trip to Chicago, for instance, she spent some time meeting with children at a grade school.

Working on the Supreme Court was a return, in part, to being a lawyer again, Sotomayor said. In her time on the Second Circuit, she did most of her persuading in writing. “On the Supreme Court, we talk a lot. There is real dialogue and it’s necessary,” she said. In their Friday conferences, the justices take turns saying why they’re inclined to vote on a case in a certain way, starting with Chief Justice John Roberts followed by the other justices in order of seniority. After some discussion among the group, the justices stake out their positions on an issue. Sotomayor said she uses the same advocacy skills she used as a lawyer to defend her position in the Friday conference and to persuade others to join her.

Many of the Criminal Procedure students’ questions for Sotomayor centered on prosecutorial discretion, a topic they recently studied in class. Hillary August, ’12, asked whether prosecutors should take defendants’ personal...
details into account or whether all defendants who commit the same crime should be treated alike. Sotomayor said it’s unrealistic to tell prosecutors that they can’t consider a defendant’s individual characteristics, but they should make sure they’re treating like people alike to avoid creating racial disparities. She also said that police and prosecutors need to be sensitized to potential racial and gender disparities in the system and need to try to prevent them from coming into play.

Emassie Susberry, ’12, asked if prosecutors should have more or less discretion. That led Sotomayor to recall a time when she was a prosecutor and was faced with a challenging case. The defense attorney approached Sotomayor and said the defendant was a special-needs student who was picked out of a lineup by the 80-year-old victim because he was the only person in the lineup wearing a black jacket, the same color jacket as the perpetrator’s. In addition, the defense attorney told Sotomayor, the timeline of events made it impossible for the defendant to have had time to commit the crime. Sotomayor did some investigating on her own and corroborated what the attorney had told her. She decided to seek dismissal of the charges.

“I went to my supervisor, who challenged me,” she told the class. “He said, ‘Let the jury decide.’ I said, ‘No, I don’t think the evidence is enough.’” In the end, her supervisor allowed her to ask for the case’s dismissal, but only because he thought Sotomayor had proven to him that it should be done. “You have to be cognizant that you serve a role in the justice system as a prosecutor,” she told students.

Sotomayor also answered several questions about judicial discretion at sentencing. She said that she has grown to understand that the most important issues are the sentencing issues, because the vast majority of defendants in the criminal justice system plead guilty. She concluded her talk by urging students thinking about careers in the criminal law field to consider criminal defense as well as prosecution, and by talking about how important it is that federal judges be drawn from the ranks of defenders and prosecutors alike.

Sotomayor left the Law School toting a Chicago Law hooded sweatshirt with her name printed on the back, a small token of appreciation for sharing her valuable time and thoughts. And students were left with memories that will stay with them for years to come.
Many people who work at the Law School tell stories about landing here through happy chance—meeting an enthusiastic alum, chatting with the Dean at a Reunion event, working with a summer associate from among our students. Joan Neal is no exception. “I met Dean Schill serendipitously, and when he heard what I’d been doing in practice, he said I was the kind of person he needed to teach some of the new skills courses he wanted to add to the curriculum,” Neal said. “So he talked me into it.”

Neal came to the Law School as a lecturer in Law this fall with a mandate to teach contract drafting skills to upper-level students. Over time, Neal, together with Associate Dean for Corporate and Legal Affairs and Schwartz Lecturer in Law David Zarfes, will expand upon Zarfes’s existing offerings and develop a suite of additional courses designed to fulfill Dean Schill’s goal of providing a greater range of practical skills courses to our students.

Neal is extremely well suited to this sort of teaching, having spent nearly all of her twenty years as a practicing lawyer at Morrison & Foerster drafting and reviewing contracts for her clients in the telecommunications industry. She really enjoys sharing her experience with her students, and says, “I found it very challenging to step back and take all the things I just knew from practicing for twenty years and put all these skills into an organized and coherent framework that I could teach to someone else.” The first course in her new curriculum, entitled Contract Drafting and Review, was taught this fall. Neal began with the anatomy of a contract: what components are typically in a contract and how they are organized. Using very basic contracts—nothing elaborate or field-specific—she showcased basic principles and the elements of clear drafting. Once students had begun to feel comfortable with drafting, the second half of the course moved into matters with added complexity: identifying business issues, asking clients the right questions, addressing and allocating risks, and dealing with consequences when things go wrong. Neal aimed to get her students thinking not only about legal drafting, but also about issues of business judgment and the ways that a lawyer can also add value as a business counselor, though she knows this cannot be taught overnight. While Neal certainly taught the practical side of drafting, she also drew her students into a highly analytical process—students learned how to think about contracts and how to bring their substantive knowledge to bear on a real-world situation.

The students, ten of them this fall, rose to the challenge. “I had a terrific group of students—I couldn’t have asked for a better group as a first-time novice professor,” says Neal. “They were self-selected, of course—the ones who really wanted transactional skills courses. They were really diligent and determined to wring every benefit they could out of the course and worked really hard. It made the experience a tremendous amount of fun.” The students who took the course weren’t necessarily just the transactionally minded students—a few of the students indicated that they were likely to become litigators, but that they wanted to take every legal writing course the Law School offered. Neal thinks contract drafting is an important skill for any lawyer and one that is currently missing from most first-year legal writing programs, including our own. “It’s a completely different kind of legal writing than brief writing—the goal isn’t to persuade someone of a position, but to very clearly specify what has been agreed in a way that, hopefully, will leave no uncertainty when people go back to look at it in the future.”
Neal assigned weekly written exercises because “you can talk about drafting all you want, you can read about it all you want, but until you roll up your sleeves and do it, several times, and make a bunch of mistakes, you won’t really understand it. Things that seem simple when agreed orally can turn out to be much more complex when you try to commit them to a precise provision.” Sometimes the students drafted or revised certain limited provisions, and sometimes they had longer assignments such as drafting or revising a whole contract given with certain facts. The small size of the class allowed her to give very detailed and specific feedback on these assignments every week. In class, Neal led the students through lots of exercises, sometimes doing the first few steps of a large drafting assignment together to brainstorm about how to organize or express certain ideas. Each week, Neal would also go over model answers for the weekly assignments, recognizing that there isn’t necessarily a single “right” way to do something, but there are often better ways. Late in the course, Neal had the students go back to the very first contract they wrote and revise it based on everything they’d learned during the intervening time. “It made them realize how much they really had learned in a short time,” Neal noted, “and how much more competent they felt the second time around.”

The final exam required the students to mark up a contract based on a cover memo containing their client’s instructions and concerns. Neal thinks the final was the most complex thing they were given all quarter, and that it really tested everything they’d learned.

This winter, Neal is teaching another new course, Contract Negotiation, in conjunction with Schwartz Lecturer in Law David Zarfes. The course is a quarter-long simulation of an outsourcing negotiation. Two outsourcing partners from Mayer Brown—Paul Roy and Brad Peterson—gave an engaging presentation and overview of the outsourcing industry at the first class meeting, and provided helpful template documents for use in the simulation. The students were then divided into two groups, buyers and sellers. In the initial stages, the entire buyer team worked with the entire seller team in preparing a Request for Proposal (RFP) and responsive bid. The students were then divided into two-on-two teams to negotiate a term sheet and a master agreement. They started with a template agreement, and are currently negotiating with their paired partners, documenting those negotiations, exchanging drafts, marking the drafts up, and eventually (if all goes well) signing an agreement by the end of the quarter. Neal and Zarfes are functioning as the clients for their respective teams and hold regular meetings with the students representing them to provide client feedback and instructions on both legal and business matters. Neal and Zarfes deliberately chose an outsourcing contract that set out a long-term relationship between the clients so that students wouldn’t engage in a “winner-take-all” type of negotiation. While Zarfes and Neal will look at the final contract to see how well each side incorporated its client’s concerns, they’ll also be looking at how well the pairs worked together to get a deal done.

Neal estimates that the number of associates that she worked with in her years of practice who came in armed with the knowledge about drafting that she’s providing in her classes is close to zero. True to Dean Schill’s goals in creating these practical courses, Neal believes that students who take her drafting courses will have a leg up when they enter practice. She tells her students that senior attorneys often like to teach new hires their own way of drafting, and that they have to be chameleons to some extent in their early years, writing differently for different people, but that they can still use the base principles from her courses and layer the preferences of the individual partners or clients on top of them.

Neal has one more course to teach before her first year of teaching is over: a course in Telecommunications Law and Regulation in the spring quarter. Then, together with Zarfes and Dean Schill, she’ll determine whether she’ll teach these same courses next year, or perhaps introduce new ones. When discussing preparing our students for their future careers, she is fond of quoting a book she encountered while preparing to teach, Working with Contracts: What Law School Doesn’t Teach You by Charles M. Fox. Fox says, “Learning is an accretive process: the more one knows, the easier it is to learn, because there are reference points that new information can ‘stick’ to. It’s like a crystal. Once the seed of a crystal is formed, it grows quickly by accretion.”

Neal’s skills courses are not only giving our students that crystal seed on which to base their future knowledge, but are also providing for the Law School a strong foundation for the ever-increasing skills course offerings. Once again, the forces of serendipity will reap benefits to the Law School’s students and community for a long time to come.
The Evolution of the Bigelow Program

By Robin L. Mordfin

While the University of Chicago Law School provides its students with a remarkably wide range of legal classes, none is more important than the required first-year course in legal research and writing. Contracts, torts, criminal law, and the other first-year stalwarts are all fascinating subjects and can provide the basis for a legal career, but none can be practiced without a firm grounding in how to construct and convey a legal argument.

“A lot of the first year, it’s not about any one particular thing you learn,” notes Douglas Baird, Harry A. Bigelow Distinguished Service Professor of Law and former director of the Bigelow program. “It’s more that you learn to think like a lawyer and you understand how to put together a legal argument. That is what the Bigelow program is about.”

Every year, each first-year law student is assigned to a legal writing section, which is taught by one of the best young legal minds in the country—a Bigelow Fellow. The Bigelow Fellows are an elite group of scholars selected from applicants who have graduated from the best law schools all over the US and commonwealth nations. Many of them come to the Law School directly from prestigious clerkships, impressive practice opportunities, or other highly regarded fellowships. They are chosen to give Law School students the very best possible foundation in legal thinking.

“We hire the best people, the ones who tend to be better teachers,” explains Jonathan Masur, a former Bigelow Fellow and an assistant professor at the Law School. “The
University of Chicago has a cultural commitment to good teaching, and it is really evident in our writing program.”

Legal writing has been key to the curriculum of the Law School since its inception, and continues to be viewed as a fundamental necessity of legal training—not to mention one of the greatest strengths of the Law School.

“The research and writing program is as important as ever here,” says Saul Levmore, William B. Graham Distinguished Service Professor and former dean of the Law School. “It is always a pleasure to hear from law firms, judges, and other employers, because they compare our graduates so very favorably with the graduates of other writing programs. Indeed, applicants to our Bigelow program often say that their Chicago-trained co-clerks inspired them to think that our writing program would be really great.”

Every year, each first-year law student is assigned to a legal writing section, which is taught by one of the best young legal minds in the country—a Bigelow Fellow.

Legal writing and research were part of a larger Introduction to Law course for the first three decades of the School’s existence. It first became its own class—a radical new idea in legal education—in 1936, when the required course called Methods and Materials of Legal Research launched, earning students one-half a credit. The following year a new curriculum called the New Plan was introduced and the class, now called Legal Methods and Materials, took on the description of a tutorial program. The writing tutorial class was part of a pioneer law school curriculum adopted toward broadening the objectives of legal education. In fact, in a 1938 proposal to extend the tutorial program, the motivation for the program is spelled out: “Lawyers widely agree that the most serious deficiencies of graduates of law schools lie in two fields. The first is the drafting of documents such as pleadings, contracts, conveyances, leases, regulations, and statutes. The other deficiency is in the ability to use knowledge of various fields of law in the analysis of a complicated situation so as to develop a constructive plan of action.”

The tutorial program assigned each member of the first-year class to a member of the faculty or one of the special tutors. The students were required to investigate topics selected in view of their interests and to organize the material in concise written form. The papers were then criticized in great detail and were required to be rewritten. The New Plan ended in 1949, and a revamped curriculum was adopted. But the writing tutorial was still an essential first-year class.

From the beginning, the writing and research tutorial program was taught by graduates of the world’s best law schools. In 1940, the program had three tutors, who hailed from Harvard, Oxford, and Cambridge. But by the middle of the decade, change was afoot. Professor Wilber G. Katz wrote to President Ernest C. Colwell to abolish the title of tutor from the writing and research program and replace it with the term Teaching Fellow, which would indicate that the program “is particularly important for the School and one needing support. Then too, we think the title will help to make the positions attractive.”

Consequently, the Harry A. Bigelow Teaching Fellowships were established in 1947 in honor of Harry A. Bigelow, the John P. Wilson Professor Emeritus of Law and dean of the Law School. In 1953, moot court exercises were introduced into the tutorials. Associate Justice Raya Dreben of the Massachusetts Appeals Court was a Bigelow Fellow in 1955–1956. A graduate of Harvard Law School, she had spent a year clerking for a federal district judge. “I did not want to be an academic, and I wasn’t required to do any research, but I very much enjoyed the teaching aspect of the fellowship,” Dreben says. “It was primarily one on one with students, and I still do that as I have mentored most of the new judges on the Massachusetts Appeals Court.”

Unsurprisingly for the time, Dreben was the only female Bigelow that year. After completing her fellowship, which at the time was still a one-year program, Dreben went on to become the first part-time attorney to become a partner in a major Boston firm. She also taught copyright law at Harvard and in 1978 was appointed to the court. During the fifties, the Bigelow program evolved, and the number of Fellows varied from year to year as the program changed. In 1952, there were five Bigelows; by 1955 there were nine, as second- and third-year research and writing courses were introduced. The third-year program only lasted for a year, but the second-year program continued through the 1965–1966 school year.

The Bigelow program continued with only small changes, such as the number of Fellows, for the next thirty years or so. In 1979, the number of Fellows was firmly established at six. Students still spent a year studying and writing, and their Fellows guided their research. Interestingly, the writing program has never been attached to a particular
subject matter, and for years the Fellows all selected the topics their students would write about independently. “We actually insisted on that,” explains Baird. “Otherwise, if they were all writing about one topic, there would be 180 students all trying to get the same book. But these days, the Bigelows coordinate together what the students will write about, which is fine, because students no longer research with books.”

Although the Bigelow program has always afforded the Fellows a tremendous academic opportunity, the prestige of the Bigelow program grew significantly in the late 1980s.

Garnering a position in the program steadily became more difficult. By the early 1990s, the program offered the possibility of a second fellowship year, which allowed the Fellows to have a year of teaching and research under their belts before putting themselves on the academic market.

The Fellows, who had long been included in most activities of the faculty, began to be chosen in much the same way as tenure-track teachers. Applications are reviewed, and the directors of the program select the candidates who are most likely to be successful Fellows to bring to the Law School. The candidates then spend a day interviewing—just as potential tenure-track faculty do—with members of the faculty, the dean of students, and, finally, the dean of the Law School.

“The law school hiring market has really changed,” Baird notes. “Today, it’s very unusual to be hired at any of the top 20 law schools if you don’t have a postdoc, a PhD in another field, or some kind of teaching fellowship. And the Bigelow program has emerged as the premier postdoctoral program for prospective legal scholars.”

Indeed, the fellowship program at the Law School has long had characteristics that hold it apart from those at other top law schools.

“There are lots of opportunities in academia to have an office to sit in for two years and write something,” Masur observes. “But here, the faculty really think of it as part of their responsibilities to help Bigelows with their scholarship, to nurture and bring them along. You have tremendous access to the faculty and the faculty is engaged in the work of the Bigelows. That is simply not the case at most other schools.”

Professor Lee Fennell, who now runs the Bigelow program with Masur, had already held a scholar-in-residence position at the University of Virginia—which gave her an office and access to a law library—before becoming a Bigelow in 1999. She completed two law review articles while a Fellow, but also learned a great deal from the teaching portion of her program.

“Chicago students are just terrific,” Fennell says. “I also learned an enormous amount from attending faculty workshops and reading the work of faculty and outside presenters who gave papers during my Bigelow stint. This was a side of legal academia I’d seen little of previously, and it opened my eyes to the kinds of scholarship and the range of methodologies being pursued.”

The combination of teaching and academic guidance makes the Bigelow Fellowship a marvelous introduction to academic life, and graduates of the program are evidence of that. Former Bigelows are now law professors at Harvard, Columbia, Northwestern, and other top programs, including the Law School. Those who have not pursued academic careers include judges, district attorneys, and other legal stars. But those who have gone on to teach have found the program to be a nearly perfect transition into academia.

“The Bigelow Fellowship was an ideal stepping stone to the entry-level teaching market,” notes Josh Bowers, an associate professor of law at the University of Virginia who was in the program from 2006 to 2008. “It provided me with so much more than just the opportunity to research and write. It immersed me in one of the most rigorous settings in legal academia, and it surrounded me with some of the best minds working today. And, to a person, the members of the faculty were generous with their time and support. They read my drafts, provided me with

The fellowship program at the Law School has long had characteristics that hold it apart from those at other top law schools.
constructive feedback, and helped me to recognize what constitutes original and interesting questions.”

The Bigelow program continues to evolve in myriad ways, such as adding prizes for student achievement and tweaking how the end-of-year moot court exercise is run. But Masur is understandably hesitant to tinker too much. “Lee [Fennell] and I inherited a program that we thought was in terrific shape,” says Masur. “Our goal was to continue it at the same level.”

In the fall, three new Bigelow Fellows will begin to teach first-year students the most essential skills they will need for their law careers. And by teaching the very fine students of the University of Chicago Law School, and working with its faculty, these Bigelows will no doubt become shining lights in the legal world, bringing with them the first-class research and outstanding teaching skills they honed while working at the Law School.

### JOB PLACEMENTS FOR BIGELOW FELLOWS, 2001 TO THE PRESENT

<table>
<thead>
<tr>
<th>Academic Years</th>
<th>Name</th>
<th>First job after completion of fellowship</th>
<th>Current institution</th>
</tr>
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<tbody>
<tr>
<td>1999-2001</td>
<td>Eric R. Claeyis</td>
<td>St. Louis University</td>
<td>George Mason</td>
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<tr>
<td>1999-2001</td>
<td>Lee A. Fennell</td>
<td>University of Texas</td>
<td>University of Chicago</td>
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<td>1999-2001</td>
<td>Robert A. Katz</td>
<td>Indiana University, Indianapolis</td>
<td>Indiana University, Indianapolis</td>
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<td>2000-02</td>
<td>James P. Madigan</td>
<td>Goldberg Kohn</td>
<td>University of Chicago &amp; Greenberg Traurig LLP</td>
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<tr>
<td>2000-02</td>
<td>Jonathan Nash</td>
<td>Tulane</td>
<td>Emory</td>
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<td>2000-02</td>
<td>Ryan Goodman</td>
<td>Harvard</td>
<td>NYU</td>
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<tr>
<td>2001-03</td>
<td>Adam Feibelman</td>
<td>University of Cincinnati</td>
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<td>Andrea Bjorklund</td>
<td>UC Davis</td>
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<td>Tom Colby</td>
<td>George Washington University</td>
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<td>2002-04</td>
<td>Adam B. Cox</td>
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<td>Jenia Iontcheva Turner</td>
<td>SMU Dedman</td>
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<tr>
<td>2002-04</td>
<td>Jide O. Nzelibe</td>
<td>Northwestern University</td>
<td>Northwestern University</td>
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<td>2003-04</td>
<td>Stephanie Stern</td>
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<td>Chicago-Kent</td>
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<td>Elizabeth Emens</td>
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<td>2004-06</td>
<td>Kirsten Smolensky</td>
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<td>2004-06</td>
<td>Lesley Wexler</td>
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<td>Rachel Brewster</td>
<td>Harvard</td>
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<td>David Fagundes</td>
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<td>2005-07</td>
<td>Jonathan Masur</td>
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<td>Jamelle Sharpe</td>
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<td>Joshua Bowers</td>
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<td>Robin Effron</td>
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<td>2007-09</td>
<td>Irina Manta</td>
<td>Case Western Reserve University</td>
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<td>2007-09</td>
<td>Shyamkrishna Balganesh</td>
<td>University of Pennsylvania</td>
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<td>2008-10</td>
<td>Adam Badawi</td>
<td>Washington University in St. Louis</td>
<td>Washington University in St. Louis</td>
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<td>Adam Muchmore</td>
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<td>Arden Rowell</td>
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<tr>
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<td>Mary Anne Franks</td>
<td>University of Miami</td>
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The 2011 Coase Lecture: Economics and Judicial Behavior

By Lynn Safranek

Students come to law school hoping to learn The Law, what they may assume is a set of complex rules or codes they’ll spend three years memorizing. After arriving, they soon learn that The Law isn’t so clear cut. The manner in which judges render decisions, in particular, can sometimes seem baffling to the point of frustration, giving students temptation to conclude that judges have free reign to rule however they want, despite what the law prescribes.

That is where economics can play an important role. In the annual Coase Lecture address, Professor Thomas J. Miles told students that by applying the empirical methods used in law and economics, the academic community has uncovered patterns that explain some judicial behavior. Miles, one of the Law School’s law and economics luminaries, enlightened his audience with an overview of recent research into judicial behavior.

Many alumni will recall that the Ronald H. Coase Lecture in Law and Economics, established in 1992, features a Law School professor delivering a law and economics–themed talk presupposing no background knowledge on the topic. Although anyone can attend, the lecture is intended to give first-year students an understandable sense of law and economics’ techniques and subjects. Speakers are drawn from the Law School’s faculty and have included such greats as professors William Landes and Richard Epstein, judges Frank Easterbrook and Richard Posner, and even Ronald Coase himself.

In this year’s talk, Miles cautioned students that judges aren’t as capricious as they might imagine. The earliest studies of judicial decision making almost always focused on the Supreme Court of the United States, a court that does not handle cases that are representative of a large majority of lawsuits. Still, this early work was important for providing empirical evidence that the characteristics of judges affected outcomes.

The next generation of scholarship, much of it by economists, shifted attention to the federal circuit courts. This was beneficial because the circuit courts handle a larger number of cases than the Supreme Court and there is no discretionary docket: circuit courts must consider all cases received. Another built-in benefit was that its cases are randomly assigned, which creates a perfect experimental condition for an empirical study.

A major discovery during the early study of circuit courts was the existence of panel effects, Miles said. Research found that a judge sitting on a panel with two judges who share the same political inclinations was more likely to vote in a predictably ideological way than a judge sitting on a panel with another judge who shares those political inclinations and one who doesn’t. Former Chicago professor Cass Sunstein called this “ideological amplification.” Another standard finding was that when a judge sits with two other judges who don’t share her worldview, that judge is less likely to vote in a predictably ideological way than when sitting with at least one judge who shares viewpoints. Sunstein called this “ideological dampening.”

The idea of panel effects is so accepted that it now is a standard finding in empirical studies of judicial behavior. But Miles said the causes of panel effects aren’t so understood. This is where recent law and economics studies of judicial behavior are making progress.

One example comes from Emeritus Professor Bill Landes and Senior Lecturer and Judge Richard Posner, the giants of

Researchers found that a sentencing judge is more likely to sentence in a predictably ideological way when the circuit court and sentencing judge share the same ideological preferences.
law and economics, in collaboration with Northwestern’s Lee Epstein, a political scientist and Supreme Court expert. Their research explained the cause of panel effects by studying what they called “dissent diversion,” Miles said. Dissent from other judges is time consuming—a judge must take time to write the dissent—and comes at a cost to the judge’s relationship with colleagues. An analysis of data from the circuit courts backed their hypothesis that judges in circuits with heavy caseloads and judges in small circuits, where judges were more likely to sit on the same panel in the near future, would dissent less frequently.

Economics was applied to federal district court judges in a study by Northwestern Law professors Max Schanzenbach and Emerson H. Tiller, published in 2008 in *The University of Chicago Law Review*. The two looked at how judges assign sentences to criminal defendants given the relationship between the sentencing judge’s ideological preferences and the ideological preferences of the appellate court above the sentencing judge. They found that a sentencing judge is more likely to sentence in a predictably ideological way when the circuit court and sentencing judge share the same ideological preferences. “In other words,” Miles said, “sentencing judges appear responsive to the preferences of judges who will review their decisions.”

Miles himself and his colleague Professor Adam Cox used empirical research to study how federal judges decide cases under Section 2 of the Voting Rights Act, the section that creates a private right of action by minority voters to secure their voting rights. These lawsuits often allege that electoral rules or practices dilute the vote of minority voters. The 1986 Supreme Court decision *Thornburg v. Gingles* established a doctrinal framework for analyzing these claims that required courts to apply both a rule and a standard. Miles and Cox studied how those doctrinal steps were applied in voting rights cases and found that ideological divisions in voting patterns were more pronounced in the standard step than in the rule step. Under the rule step, judges voted less often in an ideological way. Their results provided important support for the idea that rules limit judicial discretion.

The methods of law and economics are also being applied to assess judicial performance. In a study on judicial reputation, Professor Landes was one of the first to develop a metric by studying the number of citations of opinions authored by each judge. Now, other law and economics researchers are combining citation measures with other metrics of judges’ productivity to build metrics to rank the performance of judges. NYU Law professor Stephen Choi and Duke Law professor Mitu Gulati, along with Chicago’s own Kirkland & Ellis Professor of Law Eric Posner, produced several papers that applied this style of performance evaluation to state court judges.

Miles’s overview provided convincing evidence that the study of law and economics is being fruitfully applied to judicial behavior and thinking. First-year students were left with encouragement that while The Law isn’t as clear-cut as they might like, economics-based empirical studies help show some ways in which judicial decisions are predictable.
The American Way of Excluding

By Robin I. Mordfin

Modern America has an uneasy attitude toward exclusivity. Americans prefer to think of themselves as a loving family that welcomes the tired, the poor, and the tempest-tost rather than as a huge amalgam of elitists. But while American society is more inclusive than it was 20 years ago on issues like race, gender, and sexual orientation, there are still countless situations, both appropriate and inappropriate, in which exclusion takes place.

Lior Strahilevitz, Deputy Dean and Professor of Law, has written a book that looks at how Americans practice and experience exclusion. But rather than revisiting the most traditionally recognized methods—trespassing laws, quotas, and the like—he has chosen to concentrate on more subtle approaches to creating homogeneity.

In *Information and Exclusion* (Yale University Press, 2011), Strahilevitz argues that the amount of information available to excluders and those they exclude dictates which approach to exclusion will be taken. He further argues that by manipulating the information equation, governments can encourage or combat exclusion.

For example, Strahilevitz cites studies that show that employers who conduct criminal background checks are more likely to hire African American men than those who do not. African American men are more likely than Caucasian men to have criminal records, but employers in blue-collar industries systematically overestimate the magnitude of the racial differences. As a result, Strahilevitz argues that if the government makes accurate criminal conviction information freely available to employers, the job prospects of African American men as a group will improve. Privacy protection for criminal history information may create perverse dynamics. Other mechanisms for promoting the reintegration of ex-offenders into the workforce, like tax subsidies for employers, will be superior on this dimension.

“There are two parts to the book,” Strahilevitz explains. “The first part explains how both the accessibility of information and the sort of information that is available influence the mechanisms that people use to create exclusivity. The second part looks at how the state can alter the sorts of exclusivity that are created and the sorts of strategies that are chosen in the private sector.”

Strahilevitz is interested in a breadth of topics beyond race and criminal history. The book provides an entertaining and comprehensive review of various types of exclusion—from all-Catholic planned communities to nineteenth-century British workhouses to majority-deaf legislative districts.

The first part of *Information and Exclusion* explains three mechanisms for exclusion. The first, which Strahilevitz has called the Bouncer’s Right, is the landowner’s right to discriminate among various parties, permitting some to enter or use the land while keeping others off the property entirely. “Like the bouncer at a nightclub, the owner must exercise discretion as to who can utilize the resource, and the criteria for exclusion need not be transparent.”

One example he cites is that of prejudice against lawyers in New York City in the 1980s. Attorneys at that time regularly had difficulty finding apartments because landlords feared leasing to people who were likely to invoke their rights under New York’s laws, which were strongly protective of tenants. With little available information about individual prospective tenants, landlords engaged in statistical discrimination that imposed a collective sanction on all members of a group. New legal rules to prohibit discrimination against lawyers made little difference. It was only after commercial databases began providing landlords with cheap and quick access to information about prospective tenants’ involvement in previous litigation that discrimination against lawyer-renters abated. Prior involvement in lawsuits was a better proxy for future involvement in lawsuits than one’s profession.

Strahilevitz calls the second mechanism Exclusionary Vibes, which involves the landowner’s communication to potential entrants about the character of the community’s inhabitants. These communications tell potential entrants that certain people may not feel welcome if they enter the community in question, and may suggest to the potential entrant that the owner has the legal right to exclude them, even if that is not the case. The exclusionary vibe strategy predominates when it is difficult for the exclusion to determine which of the prospective entrants are desirable and which are undesirable. It essentially delegates the choice about who should be excluded to the prospective entrants themselves. It exists entirely independent of trespass law.
Naturally, exclusionary vibes can be communicated in a number of ways—from the choice of models in advertisements to the type of scenario selected for a massively multiplayer online game. Even seemingly innocuous items like the names chosen for institutions and communities can send out a vibe that welcomes some and repels others. For example, a college may change its name to attract a different mix of students. The University of the South recently decided to de-emphasize the “south” part of its name—in an effort to draw students from other regions of the country, who might have harbored negative stereotypes about the southern states. The university now emphasizes its nickname, Sewanee, in its marketing materials, and has moved its website to www.sewanee.edu.

Exclusionary vibes come in many shapes and sizes. Sometimes, they do not seem to sort people effectively: think of the new TSA queues for “casual travelers” and “expert travelers” at many American airports. Other times, exclusionary vibes can be as effective as bouncer’s exclusion. Strahilevitz’s book describes an exclusionary vibe mechanism in which he participated while attending college.

“I was president of the campus housing cooperative during my undergraduate days at UC Berkeley. Berkeley has two primary systems of communal student housing—the fraternity/sorority system and the cooperative system. The fraternities and sororities had a rush and pledge process that turned away many students who wanted to live in particular houses. The cooperative system took all comers, and assigned spots in the most popular houses on the basis of a lottery. A lot of people in the cooperatives took pride in how inclusive we were, in contrast to the Greek system. But it always struck me that the cooperatives houses were just as homogenous as the fraternities and sororities. Each house had a distinct image that it projected to the world, and students seeking a house tour might be welcomed enthusiastically or with disinterest, depending on the judgments that the person answering the door made about the student ringing the doorbell. That observation planted a seed that eventually grew into this book.”

The third mechanism of exclusion that Strahilevitz identifies in his book is the Exclusionary Amenity. An exclusionary amenity is an item or service that is expensive enough, and visible enough, to send a message that only those interested in paying for and using that amenity will be interested in becoming part of the community with which the amenity is bundled.

Perhaps the most striking example of an exclusionary amenity is the golf course that is part of a housing development. Golf was historically associated with racial exclusion because it was long played at clubs that had discriminatory policies. During the 1980’s and early 90’s, golf was the most racially segregated mass-participation sport in America. Thus, building a development around a golf course and mandating that all homeowners become members of the golf club could result in a racially segregated community. Strahilevitz discovered that a sizeable portion of the people who bought homes in mandatory membership golf communities played no golf, and wondered what it was they were purchasing.

Fascinatingly, African Americans’ participation in golf spiked almost overnight after Tiger Woods burst onto the professional golf scene. As golf courses became an amenity that increasing numbers of African Americans were willing to pay for, the mandatory membership golf community became a less powerful exclusionary amenity.

Strahilevitz points out that the law treats the different exclusionary mechanisms quite differently, even though they can be close substitutes for one another. “In the realm of racial discrimination, it appears that the law treats exclusionary vibes with great hostility, treats bouncer’s exclusion with substantial hostility and leaves exclusionary amenity strategies largely unregulated.”

“The payoff from the book is to show that the government has a lot of tools at its disposal, which are not necessarily the ones policy makers think of using,” Strahilevitz notes. “Traditional lawsuits used to enforce antidiscrimination laws have a very important role to play, but there are lots of false positives and false negatives associated with them. Where we encounter pernicious forms of racial discrimination, we shouldn’t be satisfied with these existing approaches. We should use a multiplicity of strategies to combat obnoxious misbehavior. That includes traditional antidiscrimination laws, but also government efforts to use information to mitigate the prevalence and consequences of racial exclusion. It also includes legal scrutiny of choices to bundle exclusionary amenities with jobs or houses. It may even require using government subsidies to help landlords, employers, or real estate developers get beyond the crude proxies that no longer make sense in the information age.”

Information and Exclusion will be available from Yale University Press in June.
Globalized world, which increasingly leads to questions of accountability and It examines the consequences of the fact that law making now takes place in a This timely book explores the relationship between private law and globalization. (edited with André van der Walt)

Globalization and Private Law: The Way Forward
Michael Faure, ’85

Francesca moves next-door to live with her aunt, and suddenly nothing’s the same.

Life has been predictable for Evie, and she doesn’t expect seventh grade to offer

Betray—for fame, money, and power.

In this screenplay, two young sisters from Iowa embark on their lifelong dream to

The Baffled Parent’s Guide to Great Basketball Plays
Clifford L. Johnson, ’65

This concise and student-friendly study aid offers a big-picture view of administrative law that looks at how all of the essential elements fit together as part of a coherent framework of theory and practice.

Mary Jane Checchi, ’70

Checchi provides up-to-date information and advice about choosing and caring for a dog to match canine companionship with the lifestyles of Americans entering their golden years. The topics covered are especially relevant to any senior and include travel, housing, cost of care, and equipment, as well as the numerous health benefits linked to dog ownership.

The 50+ Dog Owner: Complete Dog Parenting for Baby Boomers and Beyond
The 50+ Dog Owner: Complete Dog Parenting for Baby Boomers and Beyond (TFH Publications)

Checchi provides up-to-date information and advice about choosing and caring for a dog to match canine companionship with the lifestyles of Americans entering their golden years. The topics covered are especially relevant to any senior and include travel, housing, cost of care, and equipment, as well as the numerous health benefits linked to dog ownership.

Mary Jane Checchi, ’70

Bubble Catcher
Lawrence J. Conneke, ’71

In this screenplay, two young sisters from Iowa embark on their lifelong dream to become actresses in New York City. But their aspirations change dramatically as they meet and team up with an Eastern European mobster in a story that challenges the lengths to which we’re willing to go—and those we’re willing to betray—for fame, money, and power.

This Is Me from Now on (Aladdin)
Barbara Dee, ’87

Life has been predictable for Evie, and she doesn’t expect seventh grade to offer many surprises for herself or her longtime best friends, Lily and Nisha. Then Francesca moves next-door to live with her aunt, and suddenly nothing’s the same.

The Lazy Gourmet: Real Food, Real Easy (Watchword Press)
Marjorie Gelb, ’70

A lazy cook does not want to be chained to the kitchen, understands the virtues of advance preparation, and simplifies at all costs. A gourmet cook values fresh produce, vibrant herbs and spices, and the best and freshest fish, chicken, and meat. The Lazy Gourmet cookbook marries these two culinary bents in 127 recipes.

The Assassination of Fred Hampton: How the FBI and the Chicago Police Murdered a Black Panther
Jeffrey Haas, ’67

On December 4, 1969, Fred Hampton, the 21-year-old chairman of the Illinois Black Panther Party, was shot dead in his bed during a police raid. This book tells the story of Hass, his perpetually underfunded People’s Law Office, and the decade they spent fighting to prove that Hampton had been shot not in self-defense, as the police advocates claimed, but as the result of an FBI assassination.

The Small Business Contracts Handbook
Dr. Steven E.M. Hartz, ’74

The book helps small-business owners in the U.S. to understand hundreds of standard contacts, from partnership agreements to lease agreements. The book also helps them to create their own contracts by providing standard contract clauses on the CD-ROM. Using everyday language, Hsieh takes readers step by step through hundreds of standard clauses and explains their meaning.

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This book helps small-business owners in the U.S. to understand hundreds of standard contacts, from partnership agreements to lease agreements. The book also helps them to create their own contracts by providing standard contract clauses on the CD-ROM. Using everyday language, Hsieh takes readers step by step through hundreds of standard clauses and explains their meaning.

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In this book, Morgan discusses the legal profession and the need for both law

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only 52, suffered a stroke which rendered him unable to play the piano and led to

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stories upon which Liberman bestows a mature perspective that raises questions

relevant to our times.

The four plays in this collection were all written after Liberman reached her eighties.

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his severe depression. The other three plays were inspired by Old Testament

stories upon which Liberman bestows a mature perspective that raises questions

relevant to our times.

Maria Costa Neves Machado, ’09

Direito a deferenta cultural (Uruá Editora)

In Direito a deferenta cultural (Right to cultural difference), Machado examines the

anthropological, philosophical, and theological recognition of cultural diversity

of human beings and the historical affirmation of their equality and inequality. She

analyzes the multicultural movement today, including the conflict between the

liberal and communitarian conceptions of the recognition of cultural groups in a

democratic state.

Rose Melikan, ’86

The Mistaken Wife (Touchstone)

Set in 1797, Melikan's third historical thriller featuring Mary Finch takes the British

spy to France, where she poses as the wife of an American artist. With England

and France at war, spymaster Cuthbert Shy asks Finch to befriend U.S. envoys in

Paris, to foster “disagreement, confusion, and enmity” between France and America

and plant the seeds for an alliance with Britain.

Thomas D. Morgan, ’65

The Vanishing American Lawyer (Oxford University Press)

Over 4,000 lawyers lost their positions at major American law firms in 2008 and

2009. In this book, Morgan discusses the legal profession and the need for both law

students and lawyers to adapt to the needs and expectations of clients in the future.

Lawrence G. Newman, ’72

The Complete Guide to Nonprofit Corporations (Knowles Publishing)

This book is designed and written to present in one volume all the basic federal

and state law on nonprofit corporations. It also contains the tools necessary for the

formation, operation, and termination of a nonprofit corporation and many examples

documents that are often needed for nonprofit corporations.

Michael A. Rosenhouse, ’74

New York Pattern Jury Instructions Companion Handbook (Thomson/West)

This book is a companion to New York Pattern Jury Instructions Civil, providing

guidance on using that resource as a research and case-planning tool. It contains

examples of jury instructions given by New York judges and requests for

instructions submitted by attorneys for parties in a wide variety of cases, including

motor vehicle accidents, construction accidents, premises liability, products liability,

medical malpractice, breach of contract, and intentional torts.

Peter Schlechtriem, ’65


Edition (Oxford University Press) (with Ingeborg Schwenzer)

This third English edition is based on a broad comparative analysis of decisions and

scholarly contributions from all states which have enacted the Convention. The

contributors to this book base their analysis on the conviction that understanding

and interpretation of the Convention requires close comparison and careful

consideration of judicial and scholarly views from all jurisdictions.

Richard F. Scott, ’52

The International Legal System: Cases and Materials, 6th Edition (Foundation

Press) (with Mary Ellen O’Connell and Naomi Roht-Ariaza)

In this thorough revision and update of a classic international law casebook, you

will find a comprehensive introduction to the international law of today. The authors

have written a highly teachable text that ensures students learn the foundations as

well as the latest developments in international law—from the law of piracy to the

law of cyberspace. The authors are noted specialists with years of experience in

both the practice and teaching of international law.

Geoffrey R. Stone, ’71

Speaking Out!: Reflections on Law, Liberty, and Justice (Lulu.com)

This book is a compilation of Professor Stone’s op-eds and blog posts addressing a

range of controversial issues, including government-authorized torture, electronic

surveillance, military tribunals, religion and the law, same-sex marriage, freedom of

speech, freedom of the press, Supreme Court nominations and confirmations, and

the role and responsibilities of the Supreme Court in our democratic society.

Rob Witwer, ’96

The Blueprint: How the Democrats Won Colorado (and Why Republicans

Everywhere Should Care) (Speaker’s Corner) (with Adam Schnager)

This is the inside story of one of the most stunning reversals of political fortune in

American history. In 2006, the GOP dominated politics at every level in Colorado;

after the 2008 election, the exact opposite was true. This is also the story of how

it will happen—indeed, is happening—in other states across the country.

The preceding list includes only the 2010 alumni publications brought to our

attention by their authors. If your 2010 book is missing from this list, or if you

have a 2011 book to announce, please send a citation and brief synopsis to

m-ferziger@uchicago.edu. We will include these books in the next Alumni

News column (Spring 2012).
The Maurice Walk Scholarship: A Legacy of Generosity

When Maurice Walk, ’21, reached his one hundredth birthday in 1999, more than one hundred and fifty friends and members of his extended family gathered from around the world to celebrate it with him. His daughter, Margot Walk, recalls, “The photograph that was taken on that day meant a great deal to my father, representing the importance of connectedness and continuity. It brought him many smiles and warm memories in the last period of his life.”

To honor Mr. Walk, his family created the Maurice Walk Centennial Scholarship in 2002. Walk Scholars receive a full-tuition stipend for all three years of their studies at the Law School. “We had many reasons for endowing this scholarship,” Ms. Walk says, “but one of them was related to what that photograph conveys: We are hoping that the Walk Scholars might become a group of people who matter to each other in a special way, providing mentoring, support, and networking over the years.”

The family’s other reasons for creating the scholarship are also reflected in aspects of Mr. Walk’s biography. The youngest of nine children in a poor family, he was only able to attend the University of Chicago and then the Law School because he received financial assistance, and after graduation he was able to pursue the job opportunity that interested him most—a position in the United States Foreign Service—because he was not weighed down by debt.

He went on to a diverse career that included teaching at the Law School (“the pinnacle of intellectual achievement for him,” in the words of another of his daughters, Cynthia Walk), a private practice specializing in corporate mergers and reorganizations, and further government service that included working for the influential brother of President Dwight Eisenhower and helping to draft the speech that first introduced the Marshall Plan on the floor of the United States Senate.

“If this fund enables a promising student to choose the University of Chicago and receive the quality of education that my father received, and if it opens opportunities for students to serve the legal profession and their country as my father did, we will consider it a great success,” Margot Walk says.

The Walk Scholars that have been selected thus far show that the family’s generosity is already achieving its intended purposes. A diverse group, from colleges that include Stanford, Wesleyan, and Arizona State and with degrees that include computer science, classics, and journalism, they share one common characteristic—they were highly sought-after candidates who wanted to come to Chicago but might not have been able to, were it not for the Walk Scholarship.
For example, Jenni James, ’12, and her husband were able to pull up stakes from their established life in California so that she could come to the Law School. “My heart was saying Chicago,” she says, “but I couldn’t see how to make it work until I received this amazing gift, for which I am thankful every single day.” Chloe Williams, ’11, had interned at the State Department in Washington, D.C., and in China after graduating from college (at the age of 19), but she was working as a doctor’s office receptionist when her Walk Scholarship came through. “When I visited Chicago, I so much wanted to be part of this great community, but there’s no way I could have afforded it without this scholarship. The Walk family has changed my life,” she says.

The prospect of graduating with relatively little debt means that James can seriously consider pursuing her dream of practicing environmental or animal law (this summer she’ll work at the Animal Legal Defense Fund), and Williams, who last summer worked in Delhi at the South Asia Human Rights Documentation Center, will be able to continue her interest in international law. For Nathaniel Love, ’09, relative debt freedom meant that even though he and his wife had a baby on the way during his final year of law school, he could nonetheless seek out and accept a court of appeals clerkship with Judge Richard Posner instead of going directly to a law firm.

Joshua Macleod, ’08, who was the first person in his family to graduate from college, may be speaking for many current and future Walk Scholars when he says, “The Walk Scholarship meant that I could advance confidently in the direction of my dreams. It’s hard to overstate what the Walk Scholarship has meant to me. The donors have, and will always have, my sincerest gratitude.”

A Message from the Annual Fund Chair

As we enter the final quarter of the Law School’s fiscal year, I remain committed to helping the Law School meet its goals and raise the funds required for the operation of the school. Unfortunately, the dollars raised have remained flat over the past two years. Tuition alone has never sustained the Law School—alumni support is vital.

This issue of the Record focuses on our students—an extraordinary group of individuals who are poised to make a true impact in an increasingly challenging world. The Law School continues to remain a world-class institution, with a consistent emphasis on academic rigor and the value of ideas, and continues to attract the best and the brightest students. An unrestricted gift to the Annual Fund will help sustain the life of the Law School, including the intense academic training that only our Law School can deliver, the financial aid to allow students from all backgrounds to attend, and the public interest program for our students who choose a career in public service.

Your support makes Chicago special for all students and maintains the prestige of this institution. Let us maintain the traditions and strengths that we experienced as students and give back to an institution that has given us so much.

Please join me in supporting the Law School Annual Fund before our June 30, 2011, fiscal year end. We still have time to make this a great year if we all contribute our best efforts. I look forward to sharing the news with you about our collective Annual Fund success at the end of the fiscal year.

Thank you.

Steven B. Feirson, ’75

Make your gift to the Law School at www.law.uchicago.edu/give or call Laurel Lindemann at the Law School (773-702-9629) to make a credit card gift over the phone.
The Power of a Scholarship: Thanks from Students

Some of the Law School’s students wouldn’t be where they are without the support of generous alumni—and they know it. Every year, students write notes of appreciation to alumni for gifts they have made to support student scholarships. We’d like you meet some of those students and hear about their gratitude.

**Evan Berkow, ’11**

Evan was sold on attending the Law School as soon as he got a taste of the atmosphere. The professors were fully committed to students. The students were down-to-earth, witty, charming, and intellectually curious. And he thought Chicago as a city was fantastic.

“Simply put, without this scholarship, I doubt I would be attending this law school. In that regard, I have nothing but an enormous feeling of gratitude towards those who made this scholarship possible through their donations. When I made the transition from the film industry to law school, I did not know what I would face. What I found was a study that I find fascinating and one that I am talented in, a dawning career that holds nothing but endless possibilities, some of the greatest academic and social experiences of my life, and some friends whom I will cherish as long as I live. Thank you so much.”

**Juliet Summers, ’11**

Before starting law school, Juliet taught for two years on the Rosebud Indian Reservation with Teach for America. She realizes the legal education she is receiving is one of the best in the world, and she hopes to use it to empower those who are voiceless in the legal system.

“I strongly believe that the indigent deserve stellar legal representation as well as the more privileged. The financial aid that I’ve received has enabled me to pursue my legal education at one of the best institutions in the world, and I look forward to putting that education immediately to work in the public interest after graduation. Being able to graduate relatively free from the burden of immense debt is empowering and frees me to use my degree to help the communities for whom I came to law school. Thank you so very, very much.”

**Yulia Fradkin, ’12**

Yulia came to the Law School thirsting for whatever knowledge she could squeeze out of the school, her classmates, and professors. What she found here has been more than fulfilling. Knowledge radiates from every corner of the building, she says, and it covers more areas than simply the law.

“I know it sounds cliché to say this, but you have literally changed my life. Coming from a family who has lived on welfare for a substantial time, financial considerations were extremely important to me in making a law school decision. I absolutely loved Chicago, but I do not think that I would have come here if it were not for this scholarship. I am really happy here and have found everything I was seeking. I love my professors, love my classmates, and love how much I am learning. None of this would be possible if it was not for you. I do not know how to adequately express my gratitude, but it should be noted that I am tearing up a bit as I am writing this. THANK YOU for making my life as wonderful as it is.”
**Shareese Pryor, ’11**

Inspired by the tumultuous life of a childhood friend, Shareese arrived at the Law School with plans to pursue a career in family law and child advocacy. She has used her time here to soak up every course, clinic, or experience that will assist her down that path. When she graduates in June, a Skadden Fellowship will allow her to follow her passion.

“I am truly grateful for your generosity. Without it, I would not have the opportunity to attend the University of Chicago Law School and take advantage of all the resources and opportunities it has to offer. I have dreamed of attending law school ever since I was young, and as a recipient of your scholarship, my dream is becoming a reality. I am glad to have the opportunity to thank you personally for your generosity. Without scholarship patrons like you, there would be many students such as myself unable to pursue the career they’ve dreamed of.”

**Michael Leonard, ’11**

At the Law School, Michael found a home where his writing and critical thinking skills could thrive. He is managing editor of the *Law Review* and spent his 1L summer working for the Federal Defender Program on a project involving jury selection. Michael spends his spare time with his wife and son.

“...I was very torn when I was trying to decide on a law school. I was seriously considering accepting a full-tuition scholarship from the University of Minnesota. This was extremely attractive because I knew that my expenses would be significantly higher than those of a single student. Receiving scholarship assistance made the difference in convincing me that the University of Chicago was the right choice. I haven’t regretted that since. Thank you!”

**Adam Barber, ’12**

As a high schooler, Adam shied away from studying law, his father’s profession. Later, in college, the more he learned about philosophy, history, and economics, the more he wanted to pursue an examination of the legal structures that are so determinative of the outcomes of people’s lives. It is no surprise that he was drawn to the Law School for its commitment to the “life of the mind.”

“I would like to work in the area of public law after graduation, and any reduction in my debt load will be a tremendous benefit. I thank you for assisting me with this goal. The readiness of alumni of the Law School to donate to scholarship funds made me realize what a special place it must be. I realize that the Law School is a place where the students are happy, one that they remember fondly, and one that they wish to encourage others to experience. THANK YOU for your support. Although I have only been a student here for a short time, this place has already become special to me. I could not be at a better law school. I feel like I was made to be a student here. And your support helped make that possible.”
Students Take the Research Reins

by Lynn Safranek

The University of Chicago Law School has long been established as a leader in producing influential and breakthrough legal scholarship. But Chicago Law faculty members aren’t the only contributors. The Law School encourages students to develop their ideas into academic papers that have been entered into competitions and presented at conferences, sometimes with great success. Two University of Chicago JD/MBA students’ scholarship on bankruptcy law was recently honored with a national award for paper they wrote about debtor-in-possession financing and the credit crisis.

Nikhil Abraham, ’11, and Aditya Habbu, ’10, were recognized by Turnaround Management Association (TMA) in the nonprofit’s 2010 Carl Marks Student Paper Competition. Their paper, “The Death of Emergence,” documented a new trend in bankruptcy lending in light of the financial crisis, specifically, that senior lenders of debtor-in-possession (DIP) loans are more often seeking sales of businesses than bankruptcy emergence.

Habbu and Abraham were students together in the University of Chicago’s JD/MBA program when they wrote “The Death of Emergence.” Abraham had been working under the Law School’s Olin Student Fellowship, which he credits, along with the Law and Economics Workshop, for building his confidence to apply for the competition. This school year, Abraham was awarded the Law School’s Kauffman Fellowship to write a paper on venture capital and entrepreneurship.

“With the Kaufman and the Olin, and the faculty support that goes into each of those fellowships, the Law School has been phenomenal in creating an environment that helps students become scholars, contributing to the discussion at a high level,” he said. “Participating in the workshop and seeing faculty critique scholarly papers helped us write a better paper.”

The Olin and Kauffman fellowships are two of three fellowships that support students in academic scholarship. Olin Fellowships are awarded to two students in law and economics research, while Kauffman Fellowships, funded by the Ewing Marion Kauffman Foundation, are awarded to two students researching entrepreneurship. The Lynde and Harry Bradley Student Fellowships supported five students last year in the study of limited government in a legal regime that fosters a dynamic marketplace for economic, intellectual, and cultural activity.

In addition to the fellowships, Law School professors play a big role in encouraging student scholarship. Professor Douglas Baird, the Harry A. Bigelow Distinguished Service Professor of Law, advised Abraham and Habbu during their research and writing process, acting as a cross between a sounding board and a cheerleader. The best way, generally, to help students pursue scholarship is to include them in classroom conversations and the workshops that benefited these two so much, Baird said.

“Working with students on their papers is something of a balancing act,” he said. “On one hand, you want to help them identify big and important issues. On the other hand, the thrill and fun of doing scholarship is lost unless the ideas and insights are your own. In the case of Nik and Adi, we had a number of initial conversations about the question and the various strategies they might use to approach it, but the heavy lifting was, as it should have been, entirely their own.”

The two used a $5,000 grant from TMA’s Chicago chapter to write the paper and tailored it for entry in the national student competition. TMA, an international nonprofit dedicated to corporate renewal and turnaround management, selected the students’ paper as the best in the theoretical/conceptual category, a prize that came with a $3,000 award. Students in the University of Chicago’s Booth School of Business have placed twice in the competition in the past, including a first-place win in 2005. However, Abraham and Habbu are the first Chicago Law students to be recognized.

“The grant money from TMA made this possible,” Habbu said. “It is vital that law and business students keep applying for this money and entering this contest.”

Baird said the two selected a timely topic to explore, given the dramatic increase in the number of cases in which a company files for Chapter 11 bankruptcy in order to sell its assets rather than reorganize. Questions abound over why this shift occurred, and Abraham and Habbu chose to approach the debate empirically.

In researching the paper, the two spent months collecting DIP lending data through news sources, DIP databases, court filings, and Lexis and Westlaw. Then they painstakingly coded each variable of the data in order to run statistical/
regression analysis. “It took hours and days to run all this analysis then recheck it,” Habbu said. “Professor Baird provided fantastic insight along the way to ensure our data was saying what we thought it was saying.”

“Even after we found a generalized database, we spent time reviewing the original court documents to understand how the interest rate and other loan features were structured,” Abraham said.

Their research uncovered a significant difference between bankruptcy successes and failures before and after the credit crisis for those debtors that sought DIP loans. Those businesses were less likely to emerge from bankruptcy— and were more likely to be sold—in a post-crisis world.

As they wrote in “The Death of Emergence”: “Companies who can obtain a DIP loan in these turbulent economic times are the most likely to be strong companies who are merely suffering from an overly onerous debt load. If even these companies are no longer heading towards emergence, we believe this is strong evidence that emergence is no longer the end goal of the bankruptcy process.”

The findings, Baird said, “document a significant change in lending practices in the wake of the financial crisis showing that senior lenders, particularly hedge funds as opposed to traditional banks, were using DIP lending as a lever of control to push for early sales.”

After graduating in June, Habbu left Chicago to clerk for Judge Robert E. Gerber in US Bankruptcy Court for the Southern District of New York, but he also found an opportunity to share with others some of what he learned while researching the paper. In the spring, he was an adjunct professor at Fordham Law School teaching Bankruptcy Valuation, Hedge Fund Participation, and Modern Trends in Restructuring Litigation, a course that combines the valuation skills he learned at the Booth School of Business with the legal skills of the Law School.

“It would clearly not have been possible for me to design and be allowed to teach such a course if not for the incredible education I received from both the Law School and Booth programs,” he said.

Patrick LaGrange, chairman of Turnaround Management Association, and Lisa Poulin, Turnaround Management’s president, presented the award to Nikhil Abraham, ’11, and Aditya Habbu, ’10.
...has always been through their stomachs. Some things never change. But our new Dean of Students, Amy M. Gardner, ’02, has filled those stomachs with more than just the usual deep-dish pizza. During Fall Quarter, she inaugurated two delicious new traditions: Pre-Thanksgiving Pie and Reading Period Late-Night Breakfast. While the vittles were different, the concept at each was the same—reduce stress and have a little fun while the faculty and staff serve comfort food. As you can see, both events were highly successful.
Law School Family Loses Three Philanthropists

David Logan, ‘41

David Logan, AB’39, JD’41, a longtime supporter of the arts and investigative reporting who left an enduring legacy at the University of Chicago, died January 22, 2011. The prominent Chicago attorney and investor was 93.

“David Logan was an extraordinary man,” said Dean Michael Schill. “I feel very privileged that in the last year of his life we became friends. I learned a lot from him about the heritage of our University and about the City of Chicago. As two real estate guys, we talked for hours about his experiences.”

Logan left a living legacy on campus in the form of the Reva and David Logan Center for the Arts, the future hub for the University’s robust arts scene, slated to open in spring 2012. In addition, his support has been felt across the entire University, through gifts supporting the Medical Center, the Biological Sciences, the Humanities, the College, and the Law School.

Providing a catalyst for the arts was the Logan family’s goal in 2007 when David Logan, his wife Reva, their three sons, and their nine grandchildren, gave the University a $35 million cash gift—one of the largest single donor gifts to the University in its history.

A devotee of jazz music, he also was the initial funder of The Jazz Loft Project, featuring photographs and music taped by W. Eugene Smith, of the Center for Documentary Studies at Duke University. The Reva and David Logan Foundation also co-funded Ken Burns’ documentary series “Jazz” on PBS.

Journalism is another of the Logans’ longstanding passions. Their foundation endowed a chair in investigative reporting at the University of California-Berkeley’s Graduate School of Journalism. The foundation also sponsors the annual Logan Symposium, the leading international conference for investigative reporters and students, in addition to supporting the PBS investigative news program “Frontline.” Logan called investigative reporting “the guardian of the public interest.”

David Logan is survived by his wife, Reva; three sons, Dan, Richard, and Jonathan; as well as nine grandchildren and two great-grandchildren.

B. Mark Fried, ‘56

B. Mark Fried, ’56, a real estate developer in Northern Virginia whose ventures included a residential community for developmentally disabled adults and a program to help foster children pay for community college, died December 18 at his home near Charlottesville, Virginia. He was 78.

Mr. Fried met his wife, Barbara Fried, ’57, while they were both at the University. Mr. Fried was a very active alumnus, and served as a member of the Law School Visiting Committee, a reunion committee volunteer, and a class volunteer. In 2002, the Frieds established the Mark and Barbara Fried Professorship, to be held by a professor who takes special responsibility for a Chicago Policy Initiative or whose teaching, research, or direction of students is otherwise focused on an impact of the law on a pressing social problem. The chair is currently held by Professor Emily Buss.

“It is a tremendous honor to hold the chair that bears the names of Mark and Barbara Fried,” said Professor Buss. “Their interest in keeping legal scholarship relevant to...
the world serves as an ongoing source of inspiration and discipline for my research. Mark was especially supportive of the work I did with students to develop proposals for legal reform in the foster care system.”

After graduating from the Law School in 1956, Mr. Fried joined the Army and served for several years in the Judge Advocate General Corps. After finishing his military service, he practiced real estate law in Springfield, Virginia, for more than two decades before turning full time to development in the 1980s with Mrs. Fried as his business partner. Over the years, the Frieds built many residential and commercial projects throughout Northern Virginia.

The Frieds, whose son Jonathan was born with a developmental disability, also had played a key role in joining with other families to start Innisfree Village, a private residential community for disabled adults in Albemarle County. Founded in 1971 on 400 acres of farmland at the foot of the Blue Ridge Mountains, Innisfree is staffed largely by volunteers. It is home to several dozen intellectually disabled adults, including Jonathan Fried, who work in the village’s gardens, weaving center, woodshop, and bakery. The Frieds had moved about a decade ago from Northern Virginia to a farm adjacent to Innisfree, where they started a therapeutic horseback riding program for children and adults with physical and mental disabilities.

“Mark was a generous man in every respect,” said Buss. “He was a philanthropist, a host to an endless stream of houseguests from all over the world, and a devoted father and husband. And he never stopped thanking the University of Chicago for giving him the two things that mattered most to him—his family and his education.”

Dean Michael Schill noted, “Mark and Barbara Fried are very special alumni. They fell in love at our school and then took what they learned here, achieved great success, and became philanthropists. We are very proud of them and we will miss Mark tremendously.”

Besides his wife of 53 years, survivors include three children, Jonathan Fried, Adam Fried, and Leah Fried Sedwick; a sister, Rosalie Lesser; and five grandchildren.

Charles M. Jacobs, ’56
Charles M. Jacobs, AB’53, JD’56, a founding member of the Compass Players improvisational troupe who went on to invent a quality-control methodology that made evidence-based health care widely available, died October 25, 2010, in Boston. He was 77.

Jacobs won a scholarship to the University of Chicago at the age of 16. This launched a lifetime of innovation, punctuated by spectacular failures and equally spectacular successes. As Jacobs once said, “the University of Chicago saw something in me that no one else saw — they bet on this unknown kid.” He was a long-time supporter of both the University and the Law School and had recently joined the Law School Visiting Committee.

“Charles Jacobs was a man who found joy in every aspect of his life… in work, food, the arts, his home, in the opera, in his wonderful wife Cerise, and in our University,” said Dean Michael Schill. “I feel very fortunate that in my first year as dean I got to know Charles well and share in some of his passions.”

Jacobs’ curiosity and willingness to explore all possibilities — “put everything down on a whiteboard” he would say, “don’t say ‘no’ to anything” — resulted in an eclectic career. As an undergraduate, he worked with Paul Sills and David Shepherd to form the “Tonight at 8:30” repertory company. He was one of the initiators of Compass Players, the country’s first improvisational theater and the predecessor of Second City.

Although trained as a lawyer rather than a doctor, Jacobs was among the first to realize in the 1970s that health care quality and efficiency could be improved by using aggregated evidence-based clinical data to evaluate the appropriateness of medical care and the effectiveness of treatment. In 1976, Jacobs founded InterQual (now owned by McKesson Robbins) to implement this concept. The InterQual system is now used in the majority of U.S. hospitals, as well as government agencies and private health care plans, to evaluate the level of services required by each patient.

Jacobs’ last creative project was to inspire and help produce Madame White Snake, an opera based on a 1,000-year-old Chinese legend. The opera, commissioned by Opera Boston and the Beijing Music Festival, was a birthday gift from his wife Cerise Lim Jacobs, who wrote the libretto. Acclaimed American Chinese composer Zhou Long composed the music. Directed by Robert Woodruff, Madame White Snake had its world premiere in Boston in February 2010.

In addition to Cerise, Jacobs is survived by his brother, Frank; his children, Emily MacKean, Jessica Jacobs and Pirate Epstein; and his grandson, Dashiel Jacobs MacKean.
1932
Sidney J. Hess, Jr.
September 1, 2010

Hess, an attorney and leader in the Jewish community, died in Chicago. He was 100. A past board chair of the Jewish United Fund/Jewish Federation of Metropolitan Chicago (JUF/JF), Hess began his career with the Jewish Federation as its legal counsel in 1968. He then joined the board, serving for more than 20 years and guiding the organization through its 1974 merger with the Jewish Welfare Fund. Hess held several other leadership positions, including past president of the Schwab Rehabilitation Hospital board and the Standard Club, board member for the Michael Reese Foundation, and executive committee member of the Hebrew Immigrant Aid Society. He received the Jewish Federation’s highest honor, the Julius Rosenwald Memorial Award, and was appointed to both the Jewish Community Center Hall of Fame and the City of Chicago Senior Citizens Hall of Fame. He was a graduate of the College.

1939
Stewart R. Winstein
June 15, 2010

Winstein, an attorney and public official, died in Davenport, Iowa. He was 96. A resident of Rock Island, Illinois, he founded law firm Winstein, Kavensky & Cunningham, where he was the senior partner. Winstein spent nearly 30 years as the 17th District Democratic State Central committee man and also served as Illinois State Democratic Party treasurer, a public administrator of Rock Island County, and a finance officer for the State of Illinois. He acted as commissioner for the Metropolitan Airport Authority and sat on the board of Marycrest College. A frequent speaker and instructor for legal and civil organizations, including the Illinois Institute for Continuing Legal Education, Winstein wrote for the Illinois Bar Journal, Illinois Family Law, and other publications.

1940
Frances Corwin Gray
February 1, 2011

Frances Corwin Gray, age 92, was one of the most trusted and treasured members of Chicago’s pro bono and legal aid community with a career spanning seven decades; she devoted her life to public interest and helping the less fortunate; beloved wife of the late Harold R. Corwin and Henry Gray; loving mother of Steven Corwin, Joel (Linda) Corwin, and Robert (Marle) Corwin; cherished grandmother of Michael (Christine) Corwin, Jonathan Corwin, Alexandra Corwin and Joshua Corwin and the late Nicholas Corwin; great-grandmother of Claire and Thomas Corwin; dear sister of Edna (the late Carl) Waisberg and Dr. Harold (Dr. Caroline) Brown; adored aunt to many nieces and nephews.

Robert B. Cook
May 8, 2010

Cook died in Evanston, Illinois. He was 83. He was also a graduate of the College.

1942
Lorenz F. Koerber, Jr.
October 22, 2010

Koerber, a corporate attorney, died in Northbrook, Illinois. He was 89. A World War II veteran who served on the Pacific front, Koerber worked at the Philadelphia Securities and Exchange Commission before joining then-fledging law firm McDermott, Will & Emery. There he helped build the firm’s international presence and retired in 1983. Dedicated to helping those less fortunate, he served as secretary of the United Way/Crusade of Mercy of Chicago for 25 years. An avid traveler known for his joie de vivre, Koerber skied the Alps, sailed Lake Michigan, and played golf his entire life. He was a member of St. Norbert’s parish in Northbrook.

1944
Joseph A. Renihan
December 15, 2010

An attorney and civil liberties advocate, Renihan died in Paducah, Oklahoma. He was 97. A World War II veteran, he started his legal career in Grand Rapids, Michigan, where he practiced for 60 years. During this time, Renihan served several public roles, including chair of the Kent County Board of Supervisors, prosecuting attorney for Kent County, and president of the Grand Rapids Bar Association and Torch Club. A candidate in the 1961 Michigan state legislature race, he was a longtime member of the NAACP and the Michigan chapter of the ACLU. A golfer and pool player, he placed fourth at a 1954 national tournament for three-cushion billiards.

Richard F. Watt
November 30, 2010

A labor attorney, Watt died in Chicago. He was 93. A Rhodes Scholar who studied at Oxford University, he pursued his law degree, then served as an Office of Strategic Services (OSS) officer in World War II. After the war, he founded a labor law firm in Chicago and practiced there until 1995. A member of the Chicago Bar Association and Chicago Council of Lawyers, Watt was part of the ACLU, the Rhodes Scholar Association, and the Japan American Student Committee.

1946
Louis W. Levit
January 1, 2011

Levit, an attorney, died in Northbrook, Illinois. He was 87. Levit practiced law in Chicago for 63 years. He was a graduate of the College.
Basset Hunt, a local hunting master of the Spring Creek with his wife served as a joint interest in hound hunting and fifties, Kenney developed an retirement in the 1990s. In his Winston & Strawn until his corporate real-estate law at World War II. He practiced Burma-India region during Kenney served in the China- A graduate of the College, Heyworth, Illinois. He was 89. A real-estate attorney and Hyde Corporation. A graduate of the College, Kenney served in the China-Burma-India region during World War II. He practiced corporate real-estate law at Winston & Strawn until his retirement in the 1990s. In his fifties, Kenney developed an interest in hound hunting and with his wife served as a joint master of the Spring Creek Basset Hunt, a local hunting club. During this time, he also took up horseback riding and fox hunting. Kenney directed the National Beagle Club for a decade.

Frank Hubachek, Jr. January 21, 2011
Frank B. “Bill” Hubachek, Jr., a resident of Glenview, Illinois, passed away on January 21, 2011. Bill is survived by his wife, Beverly Creigh Hubachek, his son, Steven (Julee) Hubachek, of Thornton, Colorado; his daughter, Dorothy H. (Ted) VanAalsburg, of Highlands Ranch, Colorado; his sister, Marjorie H. Watkins; grandson, Dillon W. Rasmussen, of Chicago, Illinois; and granddaughter, Mckinzee L. Hubachek, of Thornton, Colorado; and many friends and colleagues. Preceded in death by his former wife, Imogene (Chancellor), and his son, William Flank Hubachek. Bill’s legal career was interrupted by World War II, when he served as a navy fighter pilot. Bill’s legal career of 60 years began with the law firm founded by his father, Hubachek & Kelly, and finished with 28 years as a Managing Partner of Chapman and Cutler LLP. Bill’s greatest love and devotion was for his family.

James C. Mosher October 11, 2010
Mosher, an attorney, died in Rockford, Illinois. He was 89. After serving in the US Army during World War II, he joined the Economy Fire and Casualty Company in Freeport, Illinois. He worked there for 35 years, retiring in 1984 as head of the firm’s legal department.

Richard Siegel August 2010
Siegel, an attorney, died in Minneapolis. He was 86. A Navy lieutenant during World War II, Siegel built a civil practice at Siegel, Brill, Greupner, Duffy & Foster, where he worked for 47 years. An outdoorsman and traveler, he enjoyed cycling, windsurfing, skiing, and spending time at his cabin. He and his wife frequently attended opera, symphony, and theater performances.

Fred J. Dopheide June 5, 2010
Dopheide died in Media, Pennsylvania. He was 86. He was the loving father of Kennett B. Dopheide (Anne) and Diana L. Dopheide, beloved grandfather of Julie A. and Diana M. Dopheide.

Sheldon Belofsky April 10, 2008
Belofsky, an attorney, died in Deerfield, Illinois, at age 80. He ran a private legal practice. Belofsky was also a graduate of the College.

Robert G. Clarke, Jr. October 23, 2010
Clarke, an attorney, businessman, and Peace Corps administrator, died in Charleston, West Virginia. He was 88. A Marine Corps World War II veteran, he served as a meteorologist from 1942 to 1946 with stations in Hawaii, Guam, and Texas. He studied at Mexico City College for a year before earning his law degree, then ran a private practice in New Haven, Connecticut. He was later named corporate secretary at Ohio Valley Electric Corporation, then secretary vice president at Cosco, Inc. In 1982 he and his wife, Elizabeth, joined the Peace Corps and moved to Fiji. Clarke later served as a Corps country director in the Federated States of Micronesia, then moved to Charleston, where he worked part time with the state legislature and other government agencies. A member of several book clubs, he was an amateur beekeeper and gardener.

Jack T. Whorton December 26, 2010
An attorney and painter, Whorton died in New Orleans. He was 87. Whorton served as an Army aerial photographer during World War II, earning three medals and a ribbon for conduct and
valor. He then founded the Whorton Law Office in Alamogordo, New Mexico, where he practiced for 40 years. In 1995, he moved to New Orleans and started painting after a long absence from the arts. Several of his paintings were featured in show at the Hildebrand Gallery. During this time, he also wrote Notes from the Territory, a personal memoir.

1954
Alan R. Brodie
October 18, 2010

Brodie, an attorney, died unexpectedly in Chicago. He was 79. An Army veteran, Brodie was admitted to the Illinois bar in 1954. He practiced law at Chicago firm Bell, Boyd & Lloyd LLP for 30 years.

1958
Eugene P. Heytow
August 26, 2010

A leader in the local business community, Heytow died in Chicago. He was 76. Heytow owned and headed several Chicago institutions during his career, including Amalgamated Bank of Chicago and McCormick Center Hotel. Known for supporting Chicago’s labor organizations, he held civic roles as chair of the Metropolitan Fair and Exposition Authority and was a member of the Illinois Capital Development Board. A vocal advocate and fundraiser for Israel, Heytow received the 1980 State of Israel Bonds Man of the Year award. He remained chair of Amalgamated Bank until his death.

1959
Courtland H. Peterson
November 1, 2010

Peterson, a law professor, died in Boulder, Colorado. He was 80. After serving as an Air Force lawyer, Peterson joined the University of Colorado (CU) Law School, where he was named Nicholas Doman Professor of International Law and served as dean from 1973 to 1979. He earned a doctorate of laws in comparative law and conflict of laws from Germany’s University of Freiburg in 1964. Peterson held visiting appointments at the University of California, Los Angeles; the University of Texas; and the Max Planck Institute for Foreign and International Law. Recipient of many CU Law School honors, he held several leadership roles, including Honorary President of the American Society of Comparative Law. Peterson retired from teaching in 1996 but continued to consult to Denver law firms, mostly on international litigation issues. He enjoyed golf, gardening, fly-fishing, and woodcarving.

1960
John J. Bonsignore
August 16, 2010

Bonsignore, a professor emeritus of legal studies, died in Amherst, Massachusetts. He worked as a Navy attorney and grocery store owner before starting his teaching career at St. Cloud State University in 1963. Bonsignore then taught at Western Illinois University and the University of Massachusetts Amherst, where he served until his retirement in 1998. Coauthor of several editions of the textbook Before the Law, he helped create the school’s first program in legal studies, eventually turning it into a full department. Bonsignore wrote Law and Multinationals: An Introduction to Law and Political Economy and was an avid traveler and book collector.

1961
Stephen J. O’Neill
April 27, 2010

O’Neill died in Southbury, Connecticut. He was also a graduate of the College.

1962
David B. Goshien
June 2010

Goshien, a professor emeritus of law, died in Cleveland Heights, Ohio. Goshien taught many years at Cleveland-Marshall College of Law before retiring in 2003. Known for his challenging courses, he insisted students address him by first name. A life member of the American Law Institute and Phi Beta Kappa, he led fundraising efforts for several charities and served many decades as a volunteer usher for the Cleveland Orchestra. He traveled often and played trumpet in jam sessions with friends for more than 30 years.

1963
George R. Berns
February 20, 2010

Borns, an attorney, died in San Francisco. He was 70. Berns started his legal career with Legal Services for the Poor in Chicago, where he convinced judges to release protesters during the 1968 Democratic Convention and the Martin
Luther King demonstrations. He then joined California’s Office of Economic Opportunity/Legal Services Corporation, continuing to help underserved populations. He later started a private practice. An outdoorsman, Berns enjoyed fishing, photography, and camping in Yosemite and Oregon’s Cascade Mountains. He was also a graduate of the College.

**Robert U. Dini**
*September 1, 2010*
Dini, an attorney, died in Lincolnshire, Illinois. He was 72. Dini began his legal career clerking for Judge Hugo Friend. He then practiced law in Winnetka for 40 years, also running Electronic Entry Systems, a security firm, with his son. A past president of the Winnetka Chamber of Commerce and member of the Lions Club, Dini supported organizations such as Little Brothers of the Poor.

**Michael J. Marks**
*October 5, 2010*
Marks, an attorney and business leader, died in Cherry Hills Village, Colorado. He was 72. A longtime Honolulu resident, Marks practiced law at transportation and real-estate firm Alexander & Baldwin for 28 years, rising to vice president and general counsel. At the time of his retirement in 2003, he was the longest serving general counsel for any publicly traded company in Hawaii. Marks also spent many years in private practice in Honolulu and New York. In 2010, the University of Hawai’i’s William S. Richardson School of Law established the Michael J. Marks Distinguished Professorship in Business Law in his honor.

**1969**
**Ronald Page Sweet**
*July 15, 2010*
Sweet, an attorney, died in Bolinas, California. He was 72. Early on in his career, Sweet was a union organizer and steward for the International Longshoremen and Warehousemen Union in San Francisco. He then spent several years as a research criminologist before practicing law in Oakland for the next 20 years. Sweet served on a criminal appeals panel prior to his retirement. President of the Bolinas Road and Boat Club, he built a house in Humboldt County and enjoyed cooking, gardening, and creating stained glass.

**1977**
**Ronald Taylor Astin**
*July 24, 2010*
Astin, a corporate attorney, died in Salt Lake City, Utah. He was 63. After earning his law degree, Astin practiced in San Francisco before joining the Washington and Houston offices of Vinson & Elkins. He also taught law at the South Texas School of Law. A book collector, Astin enjoyed nautical history and collected model ships.

**1983**
**Ronald Alan Schy**
*August 2010*
Schy, an attorney, died unexpectedly in Glenview, Illinois. He was 51. Schy ran a private legal practice in Glenview.

**1985**
**Daniel Roy Gravelyn**
*October 9, 2010*
Gravelyn, an attorney, died of leukemia in Grand Rapids, Michigan. He was 51. An antitrust specialist, Gravelyn was a partner at Barnes & Thornburg, where he cochaired the firm’s Antitrust and Trade Regulation Practice Group and chaired the Grand Rapids office litigation team. Recognized in the 2007–2010 editions of *The Best Lawyers in America*, he was a leader in the Michigan legal community, including past chair of the Michigan Bar Association Section on Antitrust, Franchising, and Trade Regulation. Gravelyn was a director and member of the executive committee of the Grand Rapids Symphony Orchestra. He enjoyed hiking, mountain climbing, biking, and hockey.

**1988**
**Richard A. Nagareda**
*October 8, 2010*
Nagareda, a law professor, died in Nashville, Tennessee. He was 47. A class-action specialist, he authored *Mass Torts in a World of Settlement* and wrote for the *University of Chicago Law Review* and other journals. In 2001, after practicing in the US Office of Legal Counsel and law firm Shea & Gardner, Nagareda joined the University of Georgia School of Law. He then moved to Vanderbilt University Law School, where he was named the David Daniels Allen Professor of Law and director of the Cecil D. Branstetter Litigation and Dispute Resolution Program. He held the Tarkington Chair for Teaching Excellence and was also a repeat winner of the student-selected Hall-Hartman Award for Teaching Excellence.

**1993**
**Elizabeth W. Korrell**
*November 13, 2010*
Korrell, an attorney, died of cancer in Seattle. She was 42. After earning her law degree, she clerked for the Sixth Circuit Court of Appeals and excelled in her professional endeavors. She and her husband, Harry Korrell, ’93, traveled frequently with their two children, including a trip to Ireland last summer.

**1996**
**Linda Yosef Sherif**
*August 29, 2010*
Sherif, an attorney and community organizer, died in Berkeley, California. A leader in the Bay Area Arab community, Sherif helped shape the direction of the Arab Resource and Organizing Center, formerly known as the American Arab Anti-Discrimination Committee (ADC). Following the 9/11 attacks, she left her career as a lawyer to join the organization full time, leading outreach efforts to fight backlash against the local Arab community. Her initiatives included Know Your Rights trainings at mosques, churches, and community centers and the development of a continuing education program to teach attorneys about hate violence and immigration issues.
Class Notes Section – REDACTED

for issues of privacy
Loving the Law School Is a Family Matter

Charles “Chuck” Wolf, ’75, says that he learned important lessons from his parents, who experienced substantial hardships in their younger lives. “They didn’t dwell on the past,” he says. “They lived in the present and looked to the future.”

Wolf’s career and contributions show how well he adopted that wisdom. Focusing on his daily responsibilities as an attorney, he has established himself as a go-to expert in his field, looking to the future, his leadership has affected not only his professional discipline but also his organization, the future of his profession—and the law school he loves.

His practice at Vedder Price, where he has been since he graduated from the Law School, focuses on labor, employment, and employee benefits law and litigation. He has been recognized by National Law Journal as one of America’s top benefits lawyers; he’s perennially listed as an Illinois “Super Lawyer”; and this year, for the fourth year in a row, he was named one of Illinois’s top one hundred attorneys. He also has served Vedder Price in a leadership capacity, as a longtime member of its executive committee.

In addition to having handled many landmark cases in his practice, he’s a senior editor of the BNA (Bureau of National Affairs) book Employee Benefits Law and coauthor of the treatise ERISA Claims and Litigation. He is the current cochair of the Employee Benefits Committee of the ABA’s Labor and Employment Law Section, and a former cochair of two important ABA subcommittees.

In honor of his parents, he created the Hilde and Ludwig Wolf Teaching and Research Scholar position at the Law School to help supplement support for younger faculty members. As president of the Walter S. Mander Foundation, he endowed a similar position in memory of Mr. Mander, his late uncle. His parents and uncle all escaped Nazi Germany in the years just before the Holocaust, settling in Hyde Park, where Mr. Wolf and his sister were born. His father and uncle served in the US Army during the Second World War, before beginning careers in the Chicago stockyards. His father’s parents and sister died in a Nazi concentration camp.

The funds that Wolf endowed are helping the Law School secure its future, but he has gone farther to help in that regard by serving two terms on the Visiting Committee, which he currently chairs. He is a very active reunion chair and volunteer.

“I’m glad to give back what I can to the Law School, which prepared me for a wonderfully satisfying career,” he says. “But I also continue to benefit from my involvement. It provides a great opportunity to learn about where our profession is headed and to see important new ideas and viewpoints evolving. I’ve learned a great deal from my interactions with faculty, administrators, and students—I think alumni who don’t stay connected are missing out on something very valuable.”

He can be credited, at least in part, for another contribution that will positively influence the legal profession in the years ahead—his son, Peter, who is now practicing at Drinker Biddle, graduated from the Law School last year.
Through Life’s Twists and Turns, a Constant Commitment to What Matters

Carla Volpe Porter, ’82, is now in her second decade as general counsel at Renaissance Technologies, the hugely successful New York City–based investment management firm that the *Wall Street Journal* recently called “one of the most successful hedge-fund companies ever.” “I love working with such brilliant people,” Porter says. “Life at Renaissance is never boring.”

She readily acknowledges that the stability of her current position is not characteristic of her previous legal experiences. “I figure my career should give a lot of people hope,” she says. “It certainly didn’t follow a typical trajectory.”

It was not typical, for example, for a young woman just out of college to earn a degree in canon law in the Vatican, surrounded almost entirely by priests as her classmates, as Porter did in 1979. It was not typical for a second-year University of Chicago law student to be taking her final exams while eight months pregnant, as she did after meeting and marrying Tim Porter, ’80. (“I got there early for those exams so I could grab a seat near the door,” she recalls. “That baby was taking up a lot of my internal real estate.”)

After three postgraduation years as an associate at Rosenman & Colin (now Katten Muchin Rosenman), she found that she needed to spend more time with her son, and she was permitted to become the firm’s first part-time lawyer. A few years after that, a former Rosenman partner hired her into a more conventional position, as counsel to the corporate finance department at Drexel Burnham Lambert. Within months after she started that job, Drexel went into bankruptcy.

After staying on at Drexel to work out various transactions relating to assets in its portfolio, she became general counsel at Drexel’s successor company, New Street Capital. She also had her second child during Drexel’s breakup, and when New Street was sold she received payments that allowed her to take some time off to be with her daughter. She thought that would be about six months; it turned into three years. Then she was invited to come back to Rosenman, and she did so, again as a part-timer. It was from there that she went to Renaissance.

Amid all those transitions, three things have remained constant. She’s still married to Tim and devoted to her family (son Andrew recently graduated from Yale’s School of Management and daughter Tori is in her first year at Tufts). She is still committed to her faith, serving among other things as a trustee and Eucharistic minister at her church, and as an advisor to the Franciscan Sisters of the Poor. And she maintains a longtime commitment to charitable work, having recently been elected board chair of the Cancer Support Team, which provides free nursing care and other assistance to cancer patients, and having served for several years as board chair of The Resource Foundation, which supports local development activities in Latin America and the Caribbean.

Her commitment to the Law School is strong, too: she’s currently serving a term on the Visiting Committee, and she’s a generous donor. “Two great things happened to me in Law School, and I suppose they were kind of paradoxical,” she recalls. “First, even though I was dealing with a lot of things that most of my peers weren’t, nobody cut me any slack; no exceptions were made for me. It was tough, but the result was that I knew that I could come through no matter how challenging things became. On the other hand, even though I’m a focused and intense person, it was clear that I wasn’t going to make law review or graduate at the top of my class, so I learned to relax and really enjoy the whole learning experience. I didn’t even look at my grades—I knew that Dick Badger would find me if I was in any kind of trouble.”

“At many turns in my life,” she says, “I looked back on that experience and knew that not only would I make it through whatever was challenging me, but that I could find a way to enjoy it and become better from it. That life lesson is one of many reasons why I’m so very grateful to the Law School.”

Claire Weiler (Chicago) brings us up-to-date on our classmate Jim Santelle (Milwaukee), who told us last year that he had been named as the United States Attorney for the Eastern District of Wisconsin. Claire attended his investiture and shares her reflections on the event, which was held at the Historic Federal Courthouse in Milwaukee.

Wrote Claire, “It was a delight to see Jim’s service to our country honored by hundreds of government officials, family, and friends. A career employee of the office he now leads, Jim distinguished himself by serving two tumultuous years at the US Embassy in Baghdad, where he helped Iraq establish a functioning legal system. I wish everyone could have heard Jim’s remarks, which made me even more proud to say that Jim is a good friend from our Law School days.

“With Gatsbyesque graciousness, Jim hosted both a joyous reception in the courthouse atrium and a lighthearted musical celebration of America at sunset on Lake Michigan, in the spectacular winged Windhover Hall of the Milwaukee Art Museum.”

Claire’s has been busy, too, as she notes . . . “Since 2009, I’ve been working on staff at the Ravinia Festival to support music education in the Chicago Public Schools, which has also been a volunteer pursuit for 15 years.”

Claire Weiler (Chicago) brings us up-to-date on our classmate Jim Santelle (Milwaukee), who told us last year that he had been named as the United States Attorney for the Eastern District of Wisconsin. Claire attended his investiture and shares her reflections on the event, which was held at the Historic Federal Courthouse in Milwaukee.
Breaking Barriers by Seeking Challenges

When James Cole, ’95, was growing up in a neighborhood not far from the Law School, his family was often strapped for cash. “We were on welfare more than we were off of it,” he recalls. “I remember having big blocks of government cheese delivered to our house.” As a youngster he sold candies at his church, and he liked the feeling of making a contribution to his family’s well-being. He dreamed of becoming a businessman one day, maybe owning his own company.

As a teenager, he found himself at Chicago’s Dunbar Vocational Career Academy, a public high school whose graduation rate didn’t rise far above 50 percent. He kept his dream alive, though, making it to the University of Illinois where he earned a finance degree, after which it was off to the business world, as a financial analyst at General Electric.

A couple of years into that position, he concluded that an advanced degree would accelerate his business career. Thinking that the coursework for an MBA would be redundant with much of what he had studied in college, he decided on law school instead, and the University of Chicago held a lot of appeal for him: “I had been working hard for a long time and I intended to continue doing so, and Chicago in effect promised me that it would honor my hard work and pay it back in knowledge. I was interrupting my career, and I didn’t want to waste any of that time—again, Chicago promised that I’d have the same challenge, the same depth, the same rigor, in the last course I took as in the first one. All that, plus the fact that my sister had been accepted to the College, made it an easy choice for me. And the Law School kept all its promises—and then some.”

He earned a clerkship with US Court of Appeals Judge Stephanie K. Seymour, but since that didn’t begin until the fall, he took a postgraduation summer associate job at Wachtell, Lipton, Rosen & Katz. After his clerkship (“an extraordinary experience with a great mentor,” he says), he decided that it wouldn’t hurt to get a few years of law practice under his belt before he went back into the corporate world, so he returned to the prestigious Wachtell in its corporate department, specializing in mergers and acquisitions.

When Wachtell dispatched him to Japan in 2002 to head up the legal team for Walmart’s $1.9 billion purchase of a controlling interest in one of Japan’s largest supermarket chains, it reoriented his life. He recalls: “It was the first time I was put in charge of a major transaction, with direct client responsibility. It was a pretty complicated transaction, too, since Japan wasn’t fully open to outside investment then. I was managing the Japanese legal team as well as ours. I loved it, and I finally recognized that being a lawyer was in fact how I wanted to spend my professional life.” The next year he was made a partner (the first African-American partner in the firm’s history).

His outside interests correspond with his deep passions. He’s on the board of trustees of Prep for Prep, which prepares minority youth for educational success. “Education was paramount in my family, and it was my route to the wonderfully fulfilling life I’m privileged to enjoy now,” he observes. “I want to help others obtain the same opportunities I have had.” He’s on the board of directors of the NAACP Legal Defense Fund: “As far as America has come, there’s still too much educational disparity, economic injustice, and denial of equal opportunity in this country. I’m committed to working to change that.”

And he serves on the Law School’s Visiting Committee. He says that when he received the phone call asking him to serve, “I felt like I had won a great award. To be able to give back with more than money to this fantastic school, to be intimately involved in helping to shape its future; sure, it’s a big responsibility—but what an honor it is, too.”

Access Living was instrumental in the drafting and passage of the Americans with Disabilities Act and in getting 100 percent of Chicago busses lift-equipped for wheel-chair access. Access Living initiated a disability housing coalition that was responsible for creating the Office on Disability Policy at the United States Department of Housing and Urban Development (HUD).

“I am incredibly proud and honored to be joining Access Living. Unfortunately, I have to wait until the end of February to start at AL because I have a federal court jury trial starting on January 18. It has been an absolute pleasure to work at Sperling & Slater with classmate Rob Cheifetz. I don’t know how I will get through a week without his unique (some say bizarre) take on things. I am looking forward to doing a case or two with Rob and my friends at Sperling & Slater. I can’t believe I am finally going to be a full-time civil rights lawyer!”

Amy Manning continues to rise in the ranks at her law firm, McGuire Woods. She was recently elected to the firm’s Board of Partners. Amy and husband, Paul, still live in Illinois with their three amazing kids, Christopher, Nicolas, and Anna.

Laurel Miller is busy and doing well: “I am still, and happily, living in Washington, D.C. Started a new job about a year ago, working on national security and foreign policy issues at a nonprofit think tank, the RAND Corporation. Just before joining RAND, I was adjunct teaching at Georgetown Law School while finishing a book on constitution-making processes. My daughter, Bronwyn, is now in first grade, and some of her dearest friends are among our classmates’ kids—

James Cole, ’95
Law School Pushed Her Beyond “That Girl Who Skis”

For Sarah Horvitz, ’05, coming to the Law School marked a major transition. “I wasn’t ‘that girl who skis’ anymore,” she recalls. “I was finding a new future for myself.”

She had been “that girl who skis” for most of her previous life, beginning competitive freestyle skiing when she was eight years old and continuing into her senior year at Wellesley in 2001. She was selected to the United States Ski Team, the training ground for future Olympians, and her sights were set on the 2002 or 2006 Olympic Games.

Early in her career she competed in ski ballet, a choreographed performance set to music, much like figure skating on skis down a smooth slope. Although ski ballet was an Olympic demonstration sport in 1988 and 1992, its popularity waned and was supplanted by aerial freestyle skiing, characterized by sensational in-air flips and twists.

So as a teenager she learned to be a freestyle aerialist. The transition was not easy for her—“I’m an athlete, but not a natural acrobat,” she says—and it required intense training (and mastery of fear) for her to develop the move that brought her to a highly competitive level in international freestyle competitions, a double airborne back flip with a spinning twist on each flip.

Her training repertoire had expanded to triple back flips when her competitive career was cut short in 2001 by severe damage to her knee, suffered when she landed a simple warm-up training jump. The injury required multiple complex surgeries, ending her time as “that girl who skis,” but initiating a new, different foray into the world of sports that is likely only beginning its upward trajectory.

At the Law School she was active in the Sports Law Society and she served as a teaching assistant in an undergraduate course about sports law that was organized by Dennis Hutchinson. After graduating, she worked for a while at a New York firm but was lured away to the Colorado Springs office of Holme, Roberts & Owen, where she could focus her practice on sports law. She participated in representing the governing bodies of Olympic sports organizations, and was involved (because of the firm’s close outside-counsel relationship with the United States Anti-Doping Agency) in prosecuting cases related to the notorious Bay Area Laboratory Co-Operative (BALCO) steroid laboratory and to the doping accusations against Tour de France cyclist Floyd Landis.

In 2009 she accepted the counsel position she now holds, at MLB Advanced Media (MLBAM), the interactive media and Internet company owned by the 30 Major League Baseball clubs. Among other things, MLBAM operates the official website of Major League Baseball, where fans can access a broad range of information and watch or listen to live game broadcasts. The site draws an average of eight to ten million visitors per day during the season. Horvitz’s work at MLBAM focuses largely on intellectual property issues and privacy and consumer protection matters.

Reflecting on her time at the Law School, she remembers, “I was drawn to Chicago because more than the other law schools I considered, it seemed congruent with values that had motivated me when I was combining skiing and academics—demanding expectations, a commitment to learning and growing, and a sense that you could choose what you wanted to become and aspire to become world-class at it. There were also great benefits that I hadn’t expected—for example, the quarter system really enabled me to become versed in a lot of aspects of the law that have turned out to be important to my career.”

Last year she achieved a major milestone in recovering from her knee injury when she completed the ING New York City Marathon. “I haven’t told my doctors yet, because they didn’t think my knee could handle it,” she reports. “But I guess they’ll be glad to know that their technology works better than they thought it would.”

Sarah Horvitz, ’05

emergencies] through Saint John’s University (Collegeville, Minnesota) working towards a master’s in monastic studies. I only got access to e-mail last year (because of my class), so I have not been able to keep in touch with classmates except for Lindsey Spencer (Papp), Matthew Powers, Carl von Merz, and Bill Ford. It is a great life dedicated completely towards the one who created us all and who lives for ever and ever— God alone.”

As for your loyal correspondent, he is happy to be back in Tokyo after nearly six months away from his wife this past year. Work kept me busy through the end of the year, but the New Year brought with it a welcome, if brief, respite. For those who wish to visit, winter is a wonderful time to be here. Tokyo is cool, not cold (at least when compared to Chicago!), with beautiful blue skies nearly every day. In addition, you have world-class skiing little more than an hour away on the train—so long, of course, as you don’t run into yours truly on the mountain. Until next time, sayonara!

2003 LLM

Eduardo Diaz de Cossio reports: “As of January of 2011 I am in charge of the New York City office of Forastieri Abogados, SC, the Mexico City firm with which I have been a partner since 2008.”