

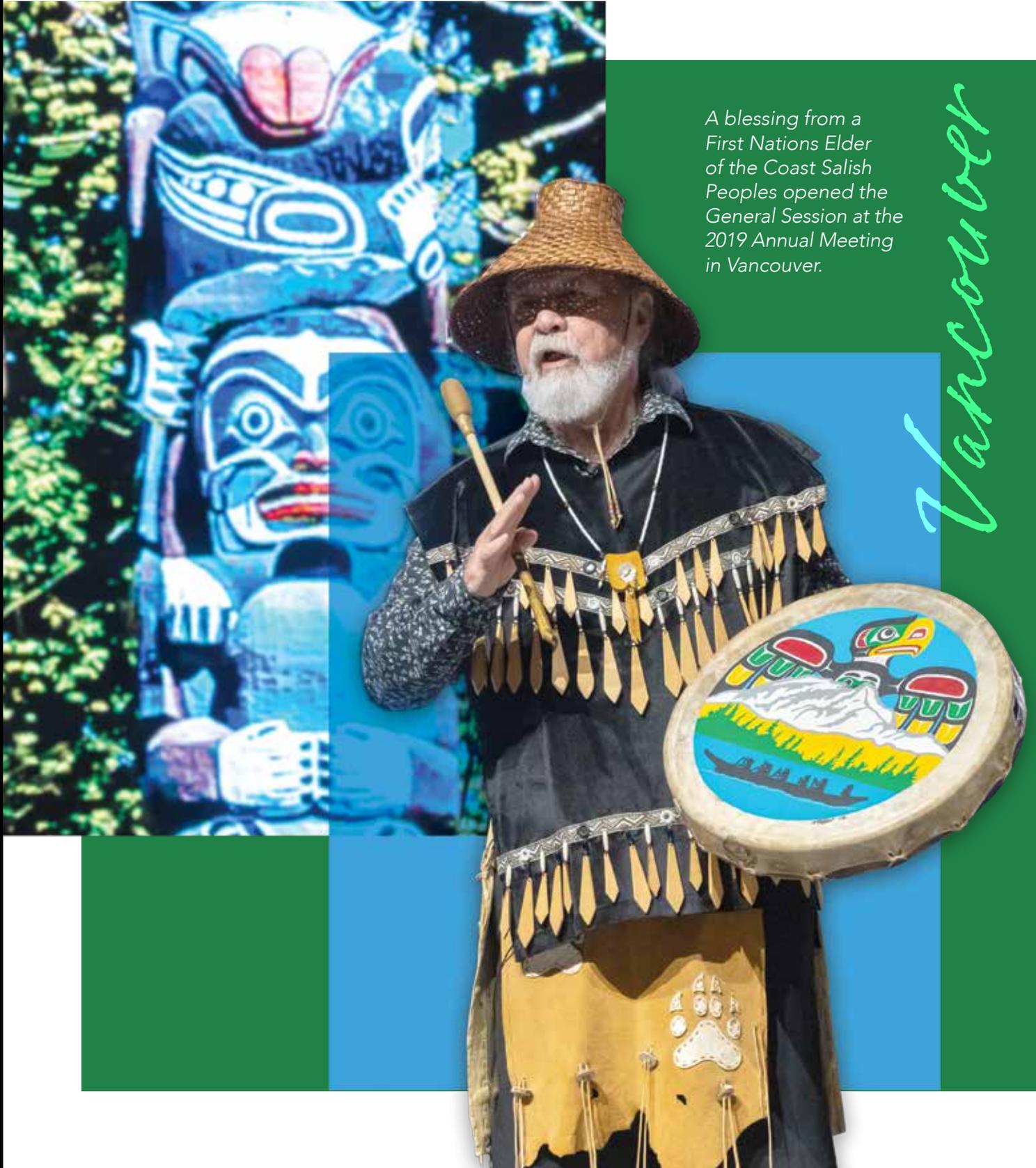
# JOURNAL

THE AMERICAN COLLEGE OF TRIAL LAWYERS

ISSUE 92 | SPRING | 2020

*A blessing from a First Nations Elder of the Coast Salish Peoples opened the General Session at the 2019 Annual Meeting in Vancouver.*

*Vancouver*



*Chancellor-Founder*

Hon. Emil Gumpert  
(1895-1982)

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# contents

## FEATURES

**2**

Letter from the Editor

**5**

President's Perspective

**77**

Never a Bad Seat –  
Heroes Among Us

**85**

History of Griffin Bell  
Award for Courageous  
Advocacy Award

## COLLEGE MEETINGS

**9**

2019 Annual Meeting  
Vancouver – Photo Recap

**13**

British Columbia  
Lieutenant Governor  
Welcomes ACTL

**17**

A Conversation with  
Author Jon Krakauer

**23**

Scholar Discusses 50  
Shades of Green

**27**

CEO's Perspective on  
Empathy, Theatre & Law

**31**

Pro Bono Students  
Canada – 2019 Emil  
Gumpert Award Recipient

**35**

Reconciling Differences  
Between Canadians &  
Indigenous Peoples

**39**

Cyberattacks, Russia,  
and the Justice System

**45**

Inaugural Beverly  
McLachlin Access to  
Justice Award

**49**

A Plea For Common  
Sense in Government

**53**

The Human Process of  
Good Judgment

**57**

Expanding the Envelope:  
Virgin Galactic's  
SpaceShip Two Program

**63**

Inductee Luncheon  
Remarks: Past President  
Fran Wikstrom

**65**

69 New Fellows Inducted

**67**

Meet Our New Inductees

**83**

College Elects  
New Leaders

**105**

Region 5: Regional  
Meeting Recap

## FELLOWS IN ACTION

**95**

Update: Access To Justice  
Distinguished Pro Bono  
Fellows Program

**100**

Foundation Update:  
Step Up To Justice

**103**

Committee Updates

## ANNOUNCEMENTS

**4**

2020 Spring Meeting  
in Tucson

**12**

Errata

**44**

2020 Annual Meeting –  
Washington, D.C.

**76**

Celebrate Your Fellowship

## IN EVERY ISSUE

**12**

Fellows to the Bench

**16**

Awards & Honors

**107**

In Memoriam

**130**

Calendar

# LETTER FROM THE EDITOR



PLEASE SEND CONTRIBUTIONS OR SUGGESTIONS TO EDITOR@ACTL.COM

The American College of Trial Lawyers was founded in 1950, with personal invitations to twenty prominent California trial lawyers. By 1953, the College had grown to about 300 members from twenty-seven different states. At the Annual Meeting that year in New York (that's my partner, Bert Jenner, in the far lower left corner, who would become President in 1958), roughly 230 – 80% of all Fellows – attended.

Now, look at the photo to the right. No dark liquids; only martinis. No dark faces; only old white men. No feminine faces; right, as I said, only old white men. We have far to go, but we are a far better and more diverse group now.

But what we did have going then was that we were a small group who actively participated, who were personally acquainted with what the College was doing. As we grew in size, the percentage of Fellows who actually attended meetings decreased in inverse order. And as a way to keep Fellows who were unable to attend meetings informed, the College began to publish the *Bulletin*. The first issue of the *Bulletin* was published in 1984.



By Issue 10, published in Autumn 1988 (when my partner Phil Tone was President), the *Bulletin* provided a whopping eight pages of information with all of the production value of a small-town church newsletter run off on the basement mimeograph machine. The *Bulletin* was created by volunteers who saw no need to designate anyone as “Editor,” since there was precious little editing involved.

The *Bulletin's* first formal editor was not himself a Fellow; after having written *Sages of Their Craft*, chronicling the first fifty years of the College, Marion Ellis assumed the role in 2001, under the general supervision of the Communications Committee, chaired by Past President Ozzie Ayscue.

At some point, the *Bulletin* began to take note of departed Fellows – by simply announcing the fact of a Fellow's death, and, for dignitaries such as departed Regents or ABA officers, a tease of detail. For instance, Issue 45, published in 2003 (all



Issue 10

twenty-four pages of it), contained a naked announcement of the passing of seven Fellows and deemed two of them remarkable enough to add a single additional sentence; the entire “In Memoriam” section in that issue consumed about a quarter of a page.

But Ozzie rightly felt that our departed deserve better send-offs. Issue 68, published in Winter 2012, is a good example. By then, Ozzie and Marion had turned the *Bulletin* into a hundred-page or so glossy, professional-looking publication; and Ozzie devoted twelve pages to genuine obits of each passed Fellow.

With Issue 70, published at the end of 2012, Past President Andy Coats and Future Regent Consort Stephen Grant became co-editors of the *Bulletin*; Ozzie continued the enormous effort of writing the *In Memoriam* section.

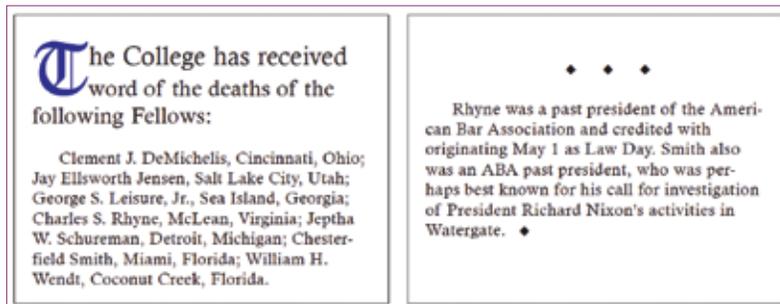
Issue 73 (Fall 2013) was the last issue of the *Bulletin*. Reflecting the evolution of the publication from crude to sophisticated, the Board of Regents decided that the *Bulletin* had earned a name with slightly more gravitas; so Issue 74 (Spring 2014) was published with the new and current appellation, the *Journal*.

Andy Coats stepped down as co-Editor in Spring 2017 as Stephen Grant stepped up to assume the mantle as sole Editor. Stephen co- or sole edited Issues 70 through 91, as Ozzie continued to write *In Memoriam*. Stephen and Ozzie have asked to be relieved, and I agreed to take these jobs for a while until we can find someone with the actual talent and credentials to do it properly. I’ll give it my best, but I have these big honking cliché ridden shoes to fill. Marion, Ozzie, Andy, and Stephen have made the *Journal* an informative, entertaining and relevant publication. Thanks to them all. I’ll try not to muck it up.

Eliza Gano and Amy Mrugalski, our Managing and Associate Editors, do all of the *actual* work, so there isn’t all that much muck for me to track in; we should be fine. Thanks, Eliza; thanks, Amy.

I hope you will continue to enjoy reading the *Journal*.

Bob Byman



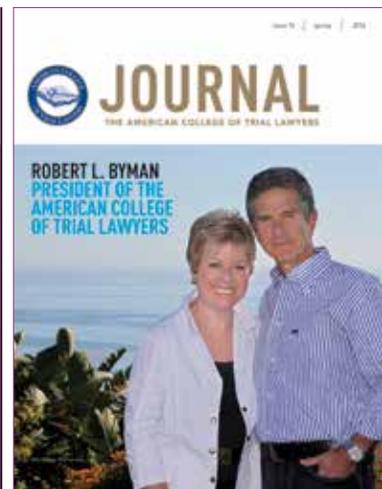
Issue 45



Issue 68



Issue 73



Issue 74

**NOTEWORTHY** 

An article by Judicial Fellow **Jerry McHugh** that appeared in Issue 88, “Completing the Mission – The Thalidomide Saga,” was recently selected by the National Association of Bar Executives (NABE) for its 2019 “Excellence in Authored Articles Small Bar Luminary Award.”

<https://www.nabenet.org/page/2019LuminaryWinners>

## **HURRY!**

Last chance to join Fellows and...

- ❖ Appreciate 11 celebrated speakers, each renowned in their field
- ❖ Encounter a Taste of the Ol' Pueblo
- ❖ Enjoy morning guided hikes in the local mountain park
- ❖ Sip tequila at the nightly tequila toast on the terrace
- ❖ Experience a traditional Dia de los Muertos event and fireworks display
- ❖ And of course.....Welcome the first 2020 Class of new Fellows

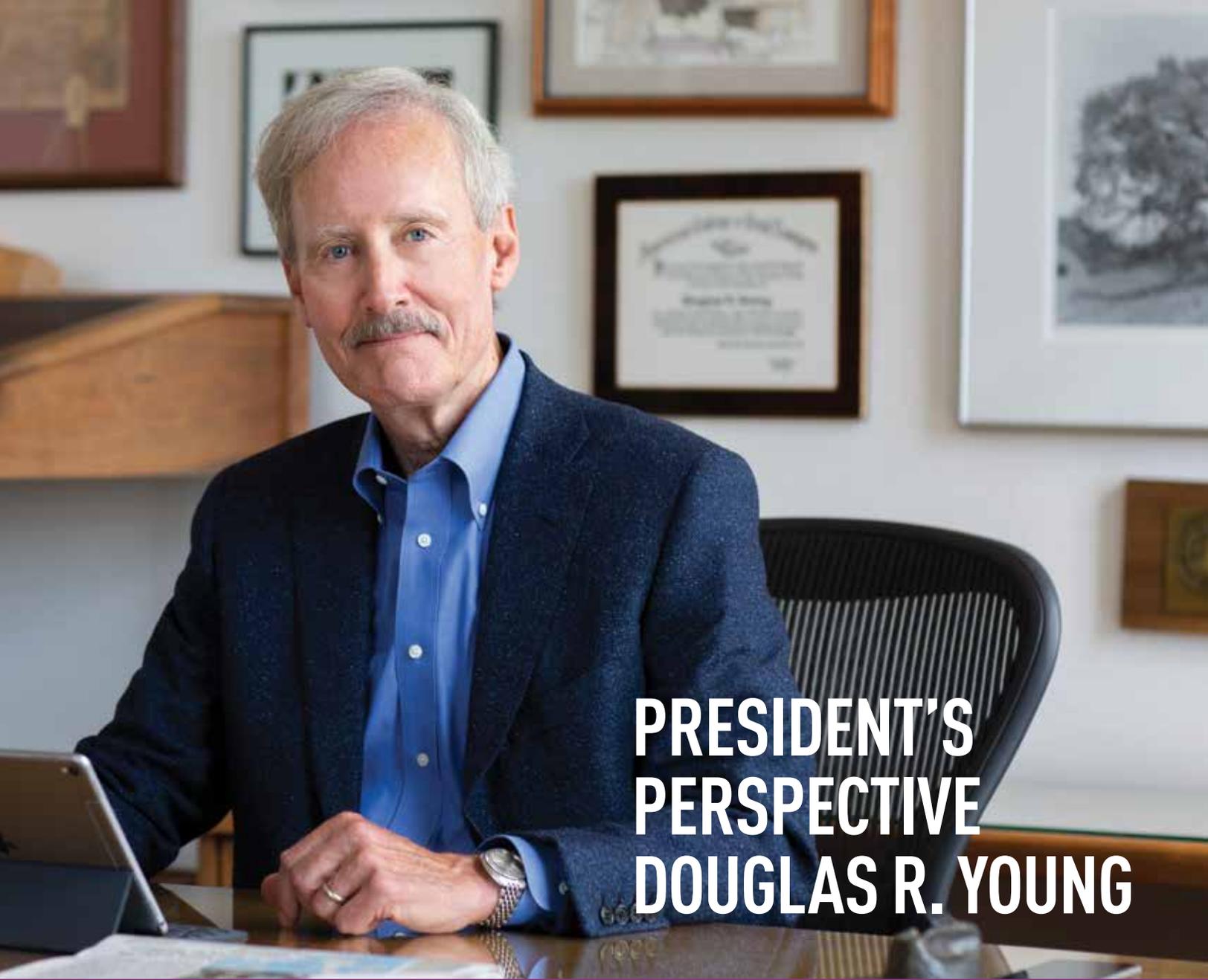
**Will you be there?**

**2020 SPRING MEETING, MARCH 5-8**

**JW MARRIOTT STARR PASS, TUCSON, ARIZONA**

Register now [www.ACTL.com](http://www.ACTL.com)





## PRESIDENT'S PERSPECTIVE DOUGLAS R. YOUNG

“Magnanimitas” — “greatness of spirit”—often refers to the privilege to be devoted to a cause greater than oneself. As trial lawyers, permitted through our state/province and federal bars to work in the wells of courtrooms across our great countries, we enjoy responsibilities to show such “greatness of spirit” in our works every day. The year 2020 promises to be consequential for many reasons, and “greatness of spirit” will be required on a variety of fronts. The year will also mark the seventieth anniversary of the College, offering opportunities to remember those upon whose shoulders we stand, individually and collectively: they were our sponsors and our examples, and we owe to the generation of Fellows that follow us the same leadership and support that our mentors offered to us.

---

It is in that spirit that we continue the efforts undertaken in recent years to prioritize the training of the next generation of trial lawyers. This will continue to be a focus in 2020, as will protecting the independence of our judiciaries, a key plank in the College Mission Statement.

**Diversity:** As one of the corporate in-house counsel for whom I work regularly puts it, “I want trial lawyers who are skilled in the art of advocacy and also look like the juries and judges who

are deciding my cases.” This is not a surprising sentiment. Indeed, the first sentence of our Mission Statement describes the College as “an invitation only fellowship of exceptional trial lawyers of diverse backgrounds from the United States and Canada.” In seeking to ensure that this statement is more than just aspirational, we have been seriously invested in increasing the diversity of our membership, and doing so without in any way modifying the standards by which Fellowship is earned. The College’s formal “Statement on Diversity” makes clear, in fact, that membership in the College is founded upon “a singular standard of excellence.” Under the leadership of Regents Rick Deane and Joe Caldwell, in coordination with the Admission to Fellowship Committee and the diversity liaisons in our State and Province committees, we have made measurable strides in identifying eligible diverse candidates and encouraging new inductees to become meaningfully involved in the work of the College. And, through the Teaching of Trial and Appellate Advocacy Committee, the College has also developed two new trial advocacy platforms: the “Diversity in the Courtroom Program” (designed to help develop the next generation of diverse and inclusive trial advocates), and the “In-House Corporate Litigation Attorney Program” (intended to focus on helping in-house lawyers in such tasks as selecting diverse trial counsel, managing trial theme development, and guiding trial and settlement strategies). These programs, both of which will be held in Chicago, will allow twenty-four diverse selected participants in each program to work with six diverse Fellows in hands-on settings where trial skills will be featured. I intend to follow the examples of Presidents before me by both highlighting these efforts at every meeting I attend and also by working with Regents Deane and Caldwell to speak personally with as many of the State and Province “diversity liaisons” as possible to learn about their successes and about the issues they have confronted in identifying qualified candidates for Fellowship.

**Mentoring, Opportunity, and Civility:** “Mentoring,” “opportunity,” and “civility” are, in my mind, closely linked. There is much we can do to help younger lawyers obtain experience

in our courtrooms and also help to ensure that they are proud of their work, buoyed by the responsibilities they have shouldered as advocates, and at the same time find satisfaction in their professional lives. Some of these challenges are being pursued by our Legal Ethics and Professionalism and Teaching of Trial and Appellate Advocacy Committees (including also the work of the Boot Camp Trial Training Programs Committee which has already planned several programs in both the U.S. and Canada in the coming months), and some are fulfilled by the moot courts (the Gale and Sopinka Cups in Canada, and the National Moot Court and National Trial Competitions in the U.S.), and the various CLE programs that are run by Province and State Committees.

But we can do more. We have consistently highlighted the importance of collegiality and civility in our relationships with one another, with the judges who preside over our cases, and with our clients. It is true, as the Mentoring White Paper notes, that “[o]ne of the great challenges of practicing law is learning how to balance zealous advocacy . . . with the responsibility to treat opponents in a civil, professional manner” and that “[u]nprofessional behavior can contribute to negative views of the legal profession as well as increased job dissatisfaction among good practicing attorneys.” The College has begun a Civility Initiative by creating working groups led by Fellows in Philadelphia, Denver, and Toronto designed to promote “public conversations . . . about . . . experiences with civility and incivility in the practice of law” and “action steps taken to enhance civility in the practice of law” and to promote eight parts of a framework for enhancing civility suggested by distinguished Canadian jurist Justice Eleanore Cronk of the Court of Appeals for Ontario. The Philadelphia working group held the first seminar at Temple University’s Beasley School of Law on November 1, 2019.

In addition, and while not something that can be empirically proven, a case can be made for the proposition that fear, insecurity, and the need to appear “in control” and “invincible” often either contribute to incivility or discourage



talented advocates from risking the challenges offered by the courtroom altogether. (After all, the heroism we sometimes attribute to trial lawyers can be attributed in part to the reality that victory is meaningful because of its proximity to defeat. As one of our Judicial Fellows noted, in a speech where he addressed his own feelings of anxiety, “There is little doubt that the culture of perfectionism, the rejection of the ‘right to be mistaken,’ the demands of productivity, the image of self-confidence and self-control that is so dear to lawyers and judges, and the climate of confrontation and adversity that is part of many people’s daily lives are all factors.”) I have asked the Teaching of Trial and Appellate Advocacy Committee and the Legal Ethics and Professionalism Committee to consider one of the initiatives suggested by the Mentoring White Paper by developing a program (perhaps called “confronting your fear of the courtroom”) to address these issues.

**Judicial Independence:** The College has defined “judicial independence” to mean that “judges should decide cases, faithful to the law, without ‘fear or favor’ and free from political or external pressures.” In the December edition of the *eBulletin*, I noted the formation of a new Judicial Independence Committee (successor to the Task Force on Judicial Independence) designed to help State and Province Committees navigate responses to unfair attacks on judges and work with the National Association of Women Judges on educational outreach about the role of an independent judiciary in maintaining the rule of law. I mention it again here, because the College has long supported the independence of the judiciary and respect for the courts in both the United States and in Canada, and its commitment to that concept as a non-political pillar in support of the rule of law is as important today as ever. The College has issued statements in support of judicial officers in appropriate moments over the last several years. Most recently, in October 2019 the Arizona State Committee issued a statement voicing concerns about the Arizona governor’s personal comments about a United States District Judge; and in July 2019, the Alaska Fellows issued a statement regarding the governor’s veto of a budget the Alaska legislature had enacted to fund the Alaska court system.

**Access to Justice:** Elsewhere in this issue is a report on the College’s expanding Access to Justice Distinguished Pro Bono Fellows Program, which represents only one of the ways in which the Col-

lege is committed to improving the lives of others in tangible ways. It is nice to begin the year with a recognition of this outstanding effort.

Access to justice underlies many of the activities undertaken by College Fellows. For example, through the Special Problems in the Administration of Justice Committee (U.S.), College Fellows recently filed an opening brief in support of the widow of a Vietnam Veteran who was denied Agent-Orange-related disability benefits. And the College’s Federal Criminal Procedure Committee published, in March 2019, a statement on Criminal Justice Reform. These are examples, just a few among many.

\*\*\*\*\*

The spirit of “magnanimitas” is evident among our Fellows, and I have found it everywhere I have traveled so far, including meetings in Burlington, Vermont; Indianapolis, Indiana; Seattle, Washington; Memphis, Tennessee; Philadelphia and Pittsburgh, Pennsylvania; Birmingham, Alabama; Portland, Oregon; Little Rock, Arkansas; Jackson, Mississippi; New Orleans, Louisiana; the Leadership Workshop at Squaw Valley, California; and with the Tri-State Regional in Sarasota, Florida; the Northern California (San Francisco) and Salt Lake City, Utah meetings are on the horizon as this issue of the *Journal* goes to press. Terry has accompanied me on many of the trips where spouses were included, and we have been welcomed warmly wherever we have gone. The photos here are partial proof of the fun we have been having, and a reminder that collegiality is an integral aspect of the College experience in addition to our commitments to maintaining and improving trial practice and protecting the rule of law.

\*\*\*\*\*

**Tucson.** The 2020 Spring Meeting will be held March 5-8 at the JW Marriott Starr Pass Resort & Spa in Tucson, Arizona. President-Elect Rodney Acker has been developing a substantive program that will be outstanding, and Executive Director Dennis Maggi and Senior Meetings and Conference Manager Suzanne Alsnauer have planned social events that should not be missed. We expect the meeting to be a sell-out and encourage you to sign-up through online registration or by mailing in your registration form. Terry and I look forward to seeing you there.



Seattle, Washington  
(with Fellow and Seattle Mayor Jenny Durkan)



On the road to Mississippi with Regent Pruitt and Chip



Jackson, Mississippi



New Orleans, Louisiana



Pittsburgh, Pennsylvania



Memphis, Tennessee



Birmingham, Alabama (including Past Presidents Franklin and Lightfoot and First Ladies Betty and Robbie)



Birmingham, Alabama



Philadelphia, Pennsylvania



At the National Office



Little Rock, Arkansas (with Regent Pruitt and State Chair Ken Cook)



Oregon with Past President Tom Tongue and Andrea and former Regent Paul Fortino and Carol



Scott Bailey and Daniel Huff of Atlanta, Georgia before the Induction Ceremony



Outgoing Regents Bob Warford of Riverside, California; Kathleen Flynn Peterson of Minneapolis, Minnesota, and Tom Hayes of Monroe, Louisiana

# 2019



Honourable Marion J. Allan (ret), former judge of the British Columbia Supreme Court offers remarks during the Women Fellows Luncheon.



Chief Judge Edward Earl Carnes of the 11th Circuit Court of Appeals leads the CLE program Effective Writing and Editing; Thomas Jefferson, Hank Williams, and Others



Inductee Fred and Alesha Yette of Washington, D.C.

The Thursday President's Welcome Reception offered a beautiful view of the Vancouver waterfront.





Linda Grobman and Fellow Mike Mustokoff of Philadelphia, Pennsylvania and Ellen Huyett of Reading, Pennsylvania



President Jeff Leon prepares for the Induction Ceremony and Annual Banquet



# VANCOUVER



An audience of 807 welcomed the 69 new Fellows during the Induction Ceremony and Annual Banquet.

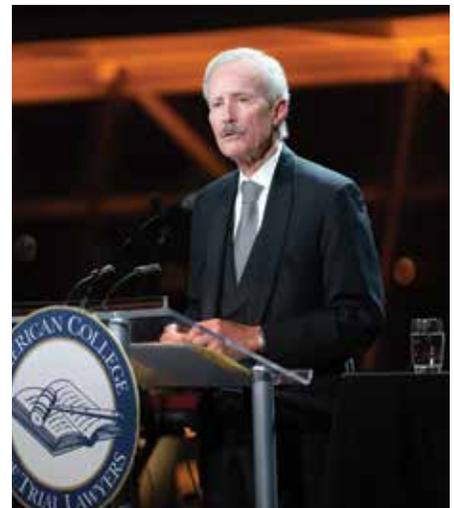


Past President Mike Stout of Wichita, Kansas reads the Induction Charge while the Past Presidents face the newest group of inductees.



Jeff Leon installs Doug Young as the 2019-2020 President

President Young offers his first remarks as president





The band draws a lively crowd.



Jo and former Puerto Rico State Committee Chair David Indiano and Catin Sanchez Cortes and Puerto Rico State Committee Chair Enrique Mendoza Mendez



Appreciating the undersea delights at the Vancouver Aquarium



Inductee Lee and Alida Roberts of Las Vegas, Nevada



Fellow Eddie Castaing and Dot Isacks of New Orleans, Louisiana



Fellow Chris Paliare of Toronto, Ontario, Quebec Province Committee Chair Bernard Amyot of Montreal, Quebec, and Justice Robert Sharpe



Inductees Skip Utsey and Jay Davis of Charleston, South Carolina; Kevin Barth of Florence, South Carolina; John Kassel of Columbia, South Carolina, and Marian Scalise of Myrtle Beach, South Carolina



Fellow Linda Dale Hoffa and Jerry Berenson of Philadelphia, Pennsylvania

## FELLOWS TO THE BENCH

The following Fellows have been elevated to the bench in their respective jurisdictions.

**Michael J. McAuliffe**

Rockville, Maryland

Associate Judge

Montgomery County Circuit Court

December 27, 2019

**David M. Porter**

Toronto, Ontario

Justice

Ontario Court of Justice

December 17, 2019

**Collins J. Seitz, Jr.**

Wilmington, Delaware

Chief Justice

Delaware Supreme Court

November 7, 2019

\* Justice Seitz has served on the Court since 2015 and was elevated to Chief on November 7.

The College extends congratulations to these Judicial Fellows.

## ERRATA

In the Fall 2019 issue, we erroneously referred to our deceased Fellow, Senator **Howell Thomas Heflin**, as a “Southern conservative from Mississippi.” [Fall 2019, p. 50.] Senator Heflin was, indeed, a Southern conservative (a conservative Democrat), but he was not from Mississippi. Born in Georgia, he was educated in Alabama, taught at the Alabama Law School, served as Chief Justice of the Alabama Supreme Court, and represented Alabama in the U.S. Senate from 1979 to 1997. Not only was Sen. Heflin not from Mississippi, there is no record he ever visited there, unless it was on his way to the Pacific Theater in World War II, where Sen. Heflin served with valor as a Marine, earning two Purple Hearts and a Silver Star. Sen. Heflin’s death in 2005 was a loss to the entire country, including Mississippi, but all the more so to Alabama.

We also stated, in our memorial to Judicial Fellow **William Albrecht**, that he had been a surviving crew member of the *USS Franklin*, which, we said, was “sunk off the Sea of Japan.” That is incorrect. On the morning of March 19, 1945, a “Judy” dive bomber eluded the fleet’s air defenses, dumping two bombs on the *Franklin* while its decks were crowded with fully armed, fully fueled aircraft preparing to raid sites on Kyushu. For five hours, the crew, including Judge Albrecht, valiantly fought the fires and ancillary explosions from cooked off ammunition and ignited spilled fuel. Nearly 800 of the crew’s 3,400 personnel perished. But the *Franklin* did not sink; thanks to Judge Albrecht and his crewmates, the ship was able to return to New York for repairs. According to James Holmes, Professor of Strategy at the Naval War College, the *Franklin* became the most decorated naval warship in U.S. history.

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# LIEUTENANT GOVERNOR OF BRITISH COLUMBIA DISCUSSES DEMOCRACY, ENGAGEMENT, CIVILITY



Introducing British Columbia's Lieutenant Governor, **Her Honour The Honourable Janet Austin**, British Columbia Province Committee Chair **William B. Smart, Q.C.** noted that Ms. Austin is not a lawyer or politician. She is a community leader who has made a positive difference for many of the less fortunate. Prior to her appointment as Lieutenant Governor she was the CEO of the YWCA, one of the largest non-profit organizations in the province, serving the 2.5 million residents of Metro Vancouver.

Though the title "Lieutenant" conjures, for many Americans, "assistant," Ms. Austin is actually the most senior state officer of the province, serving as the direct representative of Her Majesty, the Queen of Canada, who happens to also be the Queen of England. She is the Queen's lieutenant, not an assistant to some governor.

After her appointment as Lieutenant Governor in 2018, she was asked by the media: "What do you consider your greatest achievement?" Despite all of the awards and honors that she has received, she replied: "The work I did with my colleagues at the YWCA. We delivered critical front-line services, housing, childcare, food programs, legal services, employment and undertook advocacy on critical social issues such as early child development and violence against women."

The Honourable Janet Austin began her remarks during the 2019 Annual Meeting in Vancouver by describing her position. "As you heard, the role of the Lieutenant Governor in a constitutional monarchy is very different from the role of Lieutenant Governor in the United States. I serve as the direct representative of Her Majesty, the Queen of Canada, and act as a unifying link between the executive, the legislative, and the judicial branches of our provincial government. I also have the honor of recognizing the accomplishments and achievements of British Columbians who have contributed to the economic, the social, and the cultural life of our province, and the opportunity to bring profile to contemporary issues of my choosing.

"When I was appointed last year, I identified three themes that I want to champion during my time as Lieutenant Governor. The first is to advance the cause of reconciliation with Canada's indigenous peoples; the second is to promote inclusion, diversity, and equality in all facets of our society; and the third is to defend our democracy and our public institutions while encouraging constructive engagement in civil society. It is this third theme that I would like to speak to you about today, particularly with respect to the vital role that our justice system and all of you here today play in protecting and upholding democracy.

"I think like many of you, I find myself increasingly concerned about the fragility of democracy in the current global context, the erosion of respect for democratic conventions and the public institutions that support them, and the decline of civility in public and political discourse. I worry about the online echo chambers we now inhabit, that insulate us from views that are different from our own, and that contribute to a culture that is less open-minded and more fearful of differ-

## “ QUIPS & QUOTES ”

Though the title "Lieutenant" conjures, for many Americans, "assistant," Ms. Austin is actually the most senior state officer of the Province, serving as the direct representative of Her Majesty, the Queen of Canada, who happens to also be the Queen of England. She is the Queen's lieutenant, not an assistant to some governor.

*William Smart, in his introduction of Lieutenant Governor Austin*



ence and new ideas. I'm concerned that people are increasingly disengaged from systems that require too much political management, too much inflexible and combative rhetoric and not enough thoughtful and nuanced discussion, and I'm deeply concerned about the trend away from the rule of law that we are witnessing in locations around the world.

"It should be alarming to all of our citizens that we increasingly see the concept of the independent judiciary under threat. I was pleased to see that the ACTL has released a white paper on the need to promote and defend fair and impartial courts. It concludes that the threat level to fair and impartial courts in the United States has risen over the past decade, not surprisingly, due to the escalation of political polarization, a steep decline in civil discourse, and the diminishment of thoughtful dialogue in this era of social media and the fifteen-second soundbite. Here in Canada, we are certainly not immune to these challenges, although I must say that I

believe our system of governance has so far withstood some of the discord that we see emerging elsewhere in this increasingly fractious world.

"As Lieutenant Governor, I've pledged to do my best to promote appreciation for our democratic conventions in our public institutions, including using my position to build respect for the independent judiciary and the rule of law. These are foundational cornerstones of our society that must be defended.

"Fair access to legal representation is also essential to ensuring that Canadians trust our justice system, and I know you share this with us. As someone who has seen, through my previous work, the challenges

faced by many people who lack the resources to obtain legal advice, I'd like to acknowledge and thank the ACTL for your strong support

for fair and just representation of all parties to legal proceedings. And thank also The Right Honourable Beverley McLachlin for her leadership in this respect here in Canada. Before I conclude, I do want to mention briefly a collaboration between my office and one of our local universities, Simon Fraser University, that we're planning to launch later this fall.

"One element in it is a project that we're calling Conversations on Democracy and Belonging. We'll be asking British Columbians throughout the province to convene kitchen table and community conversations to explore what it means to live in a democracy. What makes a society function well or not, and who belongs here? How do we deal with those very complex issues with respect to things like immigration, and the place of indigenous peoples in our society? How do we grapple with the tsunami of technological innovation that is changing everything? And how can we reach out across the boundaries that divide people in society to engage in the kind of real conversations that deepen public understanding and move us to those places of compromise between the extremes of public opinion. For the Canadians in the audience, I'm hopeful that you will help me by connecting us with leaders and organizations in your community that can convene and host these very important conversations.

"I believe that we can be more thoughtful and more considerate of each other, more conscious of our duty, not as individual actors focused on our own concerns, but as citizens who share responsibility for each other, for the future of our countries and, frankly, for the planet.

"In conclusion, I'd like to commend all of you for your leadership and your contributions to the legal profession and for your commitment to your communities. It's truly an honor to be among you today, and I do hope you have a wonderful time here in Vancouver."

**William B. Smart, Q.C.**  
Vancouver, British Columbia

## “ QUIPS & QUOTES ”

I believe that we can be more thoughtful and more considerate of each other, more conscious of our duty, not as individual actors focused on our own concerns, but as citizens who share responsibility for each other, for the future of our countries and, frankly, for the planet.

*Her Honour The Honourable  
Janet Austin*

## AWARDS & HONORS



**A. Clifford Edwards** of Billings, Montana, was installed as President of the International Academy of Trial Lawyers in London, England. He has been a Fellow since 2002.



**Saul B. Simmonds, Q.C.** of Winnipeg, Manitoba, received the 2019 Richard J. Scott Award from the Law Society of Manitoba. The award, created in 2013 in honor of former Chief Justice of Manitoba and Fellow Richard J. Scott, O.M., Q.C., is presented annually to a person who promotes the rule of law through advocacy, writing, or education. Simmonds is Vice Chair of the Manitoba Province Committee and has been a Fellow since 2016.



**John R. Wester** of Charlotte, North Carolina, received the John B. McMillan Distinguished Service Award, the only honor given by the North Carolina State Bar. North Carolina State Bar Past President and Fellow Gray Wilson presented the award to Wester at the Mecklenburg County Bar's annual Law & Society Luncheon. The Award honors members of the North Carolina State Bar who have demonstrated exemplary service to the legal profession. Wester is Chair of the Judicial Independence Committee and has served as Chair of the North Carolina State Committee. He has been a Fellow since 1994.

A CONVERSATION  
WITH  
JON KRAKAUER





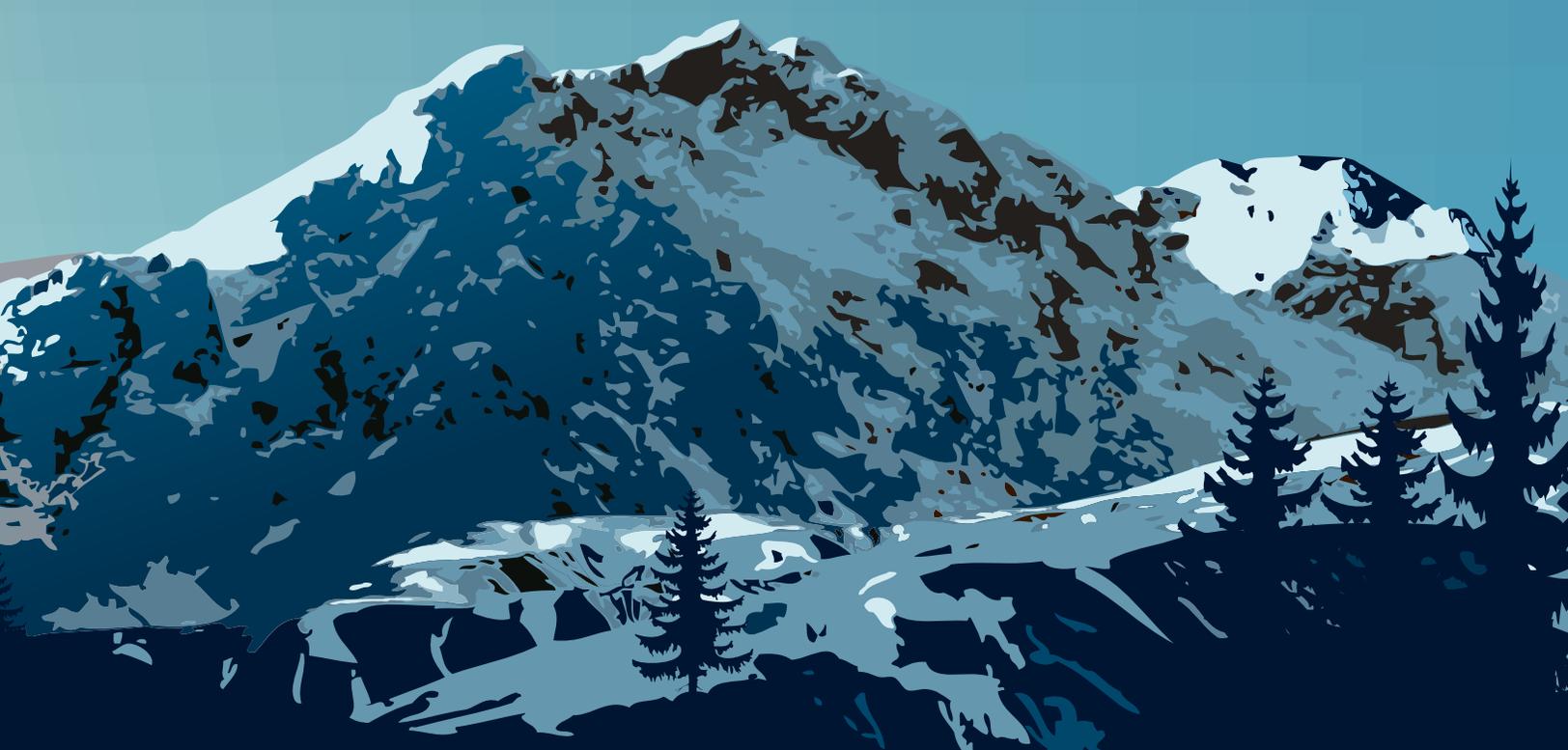
**Jon Krakauer** is an author and mountaineer, well known for his multiple books and essays that cover a wide range of topics. Born in Brookline, Massachusetts, in 1954, his parents moved to Corvallis, Oregon, when he was two. Krakauer's father, Joseph, introduced eight-year-old Jon to mountaineering. Jon describes himself as a climbing bum who, after college, supported himself as a carpenter and commercial salmon fisherman, while he also tried journalism.

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By 1983, Jon was able to give up his day jobs as a carpenter and fisherman and work as a freelance writer when he was not climbing. He was a regular for *Outside Magazine*, and his articles appeared in *Architectural Digest*, *National Geographic*, *Rolling Stone*, and *Smithsonian Magazine*.

His first two books, *Into the Wild* (1996) and *Into Thin Air* (1997), grew out of articles originally written for *Outside Magazine*. *Into the Wild* is a narrative about a young man whose remains were found in August of 1992 after he died of starvation in Alaska. The book spent two years on the *New York Times* bestseller list and was later adapted into a film of the same name in 2007.

*Into Thin Air* describes Krakauer's experience on an expedition to Mount Everest in 1996, in which all the other members of his climbing party, including their guide, perished. The book reached the top of the *New York Times* best-seller list, was honored as Book of the Year by *Time Magazine*, and was one of three books nominated for the Pulitzer Prize in General Non-Fiction in 1998. In 1999, the American Academy of Arts and Letters awarded Krakauer an Academy Award in Literature for *Into Thin Air*, commenting that he “combines the tenacity and courage of the



finest tradition of investigative journalism with the stylish subtlety and insight of the born writer.” His account of an ascent of Mount Everest has led to a general reevaluation of climbing and of the commercialization of what was once a romantic, solitary sport. The book led to a TV movie and feature film entitled *Everest*.

*Under the Banner of Heaven* (2003) explored fundamentalist Mormons and their practice of polygamy, the marriage of young girls to older patriarchs, and the murder of a young woman and her infant daughter by the leaders of the group.

Pat Tillman was a highly prominent and successful NFL football star who took leave from football at the height of his career to enlist in the U.S. Army, eventually being selected as an Army Ranger. *Where Men Win Glory: The Odyssey of Pat Tillman* (2009) describes Tillman’s death by friendly fire in Afghanistan and the Army’s cover-up of the details of his death.

His latest book, *Missoula: Rape and the Justice System in a College Town* was published in 2015. The book follows several case studies of women who reported that they had been raped in Missoula, Montana. Two of the cases involved accusations against members of the university’s football team. Those cases were heard by Judicial Fellow **Karen S. Townsend**, and ultimately led to Krakauer’s appearance at the 2019 Annual Meeting in Vancouver B.C. for a “fireside chat” with Judge Townsend.

Judge Townsend began by asking him how he chooses the subjects for his books. “It’s not really conscious. I’m a self-taught writer. . . . I became a writer because I was broke. There was a recession. I needed to pay bills. So, I wrote, at first, whatever anyone asked me to write until I was in a position where I could stop writing magazine articles and start writing books.

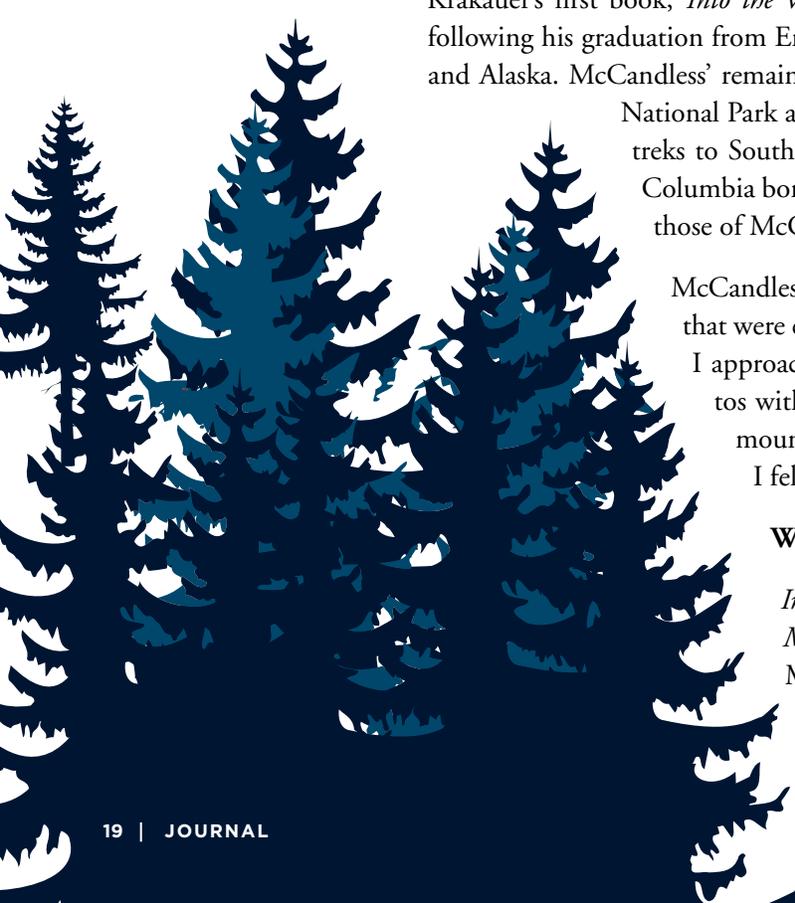
“So basically, I write about what I find interesting, and what I can’t stop thinking about. And I don’t take writing a book lightly. I really dislike writing. I love the research. I’m a slow, painful writer. So, I’ve researched ten times as many books as I’ve written. It feels great to spend a year or two researching an idea for a book and say, ‘Nah, not going to do that.’ That feels really good. But if a book doesn’t let you do that, if you keep obsessing over it, that’s when I decide to write it.”

Krakauer’s first book, *Into the Wild*, documents the tragic journey of Christopher McCandless following his graduation from Emory University in 1990 through portions of the American West and Alaska. McCandless’ remains were found in August of 1992 near Lake Wentitika in Denali National Park and Preserve. In the book, Krakauer describes one of his own solo treks to Southeast Alaska where he climbed a mountain on the Alaska/British Columbia border, and draws parallels between some of his own experiences and those of McCandless.

McCandless reminded Krakauer of himself. “When I was young, I did things that were even more reckless than him, and I luckily survived. . . . So when I approached his parents to see if they would share his journals and photos with me, I sent them an article I’d written about [solo climbing the mountain]. . . . [T]hat’s what allowed the whole book. They saw that I felt like I understood something about him. I had some sympathy.”

## WRITING THAT RESULTS IN ACTIVISM

*Into Thin Air* likewise grew out of an article written for *Outside Magazine*. *Outside* paid the \$65,000 cost of Krakauer’s climb of Mount Everest. The idea behind the article was whether it is a good idea for people to be allowed to pay \$65,000 to be guided up a very dangerous mountain. But Krakauer was in way over his





head; he was an experienced technical climber but was not a high-altitude climber; yet he accepted the assignment because he “really wanted to climb Everest, something I could never have afforded to do.”

But it became the greatest regret of his life. “I wish I had never gone. It was a terrible experience. I was complicit in the deaths of at least eight people that day. All of us were, the crowding, the arrogance, the hubris. Having gone, I’m glad I wrote it, but it was a terrible mistake. I suffered from PTSD for decades. I didn’t even realize it until recently. Yeah, it was a horrifying experience. No other way to put it. I think the book makes that fairly clear.”

Townsend asked Krakauer to reflect on the most recent 2019 Everest climbing season where twelve individuals died, and how his book impacted the crowds who come to climb. He acknowledged that friends of his who make their living guiding such expeditions criticized him for writing the book, fearing that the book would ruin their livelihood. As Krakauer explained, “[T]hat turned out not to be the case. My book was the best thing that ever happened to their business; . . . guided climbing on Everest took off after my book.”

Krakauer pushed back on the notion that Nepal needs to more tightly regulate the numbers of climbers on Everest, pointing out that Nepal

is a very poor country with lots of corruption; the last thing they worry about is twelve foreigners dying on the mountain. Krakauer also explained that the Sherpas who act as guides during the two months of the climbing season earn between \$2,000 and \$8,000, which, in a country where the average annual income is \$600, allows them to send their kids to private schools so they don’t have to grow up to be climbing guides.

Krakauer donated significant portions of the royalties from *Into Thin Air* to the American Himalayan Foundation in San Francisco. He said that the foundation does excellent work and “helped save my soul. It was a way to feel less survivor’s guilt.” He explained that he really didn’t need much money, having spent much of his life as a “climbing bum living on nothing. Most of these books have an activist component, and I use the royalties from these books to fund that activism.”

Krakauer grew up in Oregon among Mormons; they were his close friends who he really admired, having been raised in a home without religion. He spent five or six years researching what became *Under the Banner of Heaven*, published in 2003. He had originally intended to write about polygamists, some of whom he had come to admire while completing his research. But while driving across Southern Utah on a climbing trip, he came across a city of 10,000 - 15,000 people living in the desert, in huge ▶

houses with many wives and children, and the subject of the book changed to fundamentalist Mormons. The book tells the story of two brothers, Ron and Dan Lafferty, who murdered a woman and her infant daughter because, they said, they received a commandment from God to kill them. His original publisher declined to publish the book when he turned in the manuscript, asking: "Where are the mountains?" Another publisher accepted it.

In 2009, Krakauer published *Where Men Win Glory: The Odyssey of Pat Tillman*. The book draws on Tillman's journals and letters, interviews with his wife and friends, and conversations with the soldiers who served with him. Krakauer grew up a football fan, and admired Tillman because he played college ball in the same conference as did his home football team, the Oregon State Beavers. Krakauer never served in the military, so before deciding to write the book, he embedded with the army in Afghanistan with combat troops. He ended up with a Special Forces unit on the Pakistani border, on their combat missions, living in the dirt. He embedded twice, two months before starting the book, and three additional months after beginning the work.

The book tells the story of how Tillman was celebrated by the Army as a symbol of heroism and sacrifice. Tillman was killed by friendly fire, by a still unidentified soldier. The Army covered up the circumstances of his death, claiming that he died fighting the Taliban. Despite numerous open records requests, Krakauer was unable to discover the "smoking gun," the true details of Tillman's death.

Krakauer came away from his experiences with tremendous respect for those who serve. He was appalled by the gulf between the majority of the country, and the 1% of Americans who have actually served in the wars in Iraq and Afghanistan. He began supporting a local veterans group in Boulder whose members convinced him to participate in therapy for the PTSD he suffered from as a result of his experiences on the Everest climb. He stated that he went to therapy with these veterans for seven years, and "It really helped me. So, I have even more re-

spect for veterans, and it pains me, the struggles they're still having, the suicide rates. They make these incredible sacrifices that most of us can't even comprehend and are often judged unfairly."

## SEXUAL ASSAULT AND COLLEGE ATHLETES

The conversation then shifted to his last book *Missoula: Rape and the Justice System in a College Town*. Judge Townsend asked why Krakauer settled on Missoula for his book when, during the same time that the events portrayed in the book occurred, there were 182 separate investigations currently underway on college campuses involving sexual assaults and college athletes across the country.

"Well, I got interested in the subject because of a young woman who was like a daughter to my wife, and all of a sudden she ended up in rehab in Arizona, and we had no idea why. I was there when she was born, and turns out she'd been sexually assaulted when she was 14. . . . I knew nothing about sexual assault. I was one of those clueless white dudes who doesn't know anything. So, I started educating myself. And the more I learned, the more appalled I became. And I was following sexual assault cases in universities in thirty cities. And I like Missoula."

Krakauer came to Missoula to attend a sentencing hearing for one of the defendants, Beau Donaldson. Donaldson had entered a plea of guilty to the charge of sexual intercourse without consent, the Montana statutory term for rape. The victim was a childhood friend of Donaldson; she was home for the holidays from an out-of-state university and attended a party at Donaldson's campus residence. As the party wound down, she fell asleep on the living room couch. She woke up to find Donaldson on top of her having intercourse with her. He finished, got up and left the room. She immediately called her mother, asked her to come get her immediately, and she put on shoes and a coat and ran out of the house and down the alley to meet her mother. Donaldson became aware of her leaving and chased her. The next day or two Donaldson made contact with her, asked to come see her and apologize. He did come to her home, admit to her that he had forced himself

upon her. She secretly taped this statement, ultimately turned over this tape to the police and the charge and his plea of guilty followed.

The sentencing hearing lasted most of a day. Before the hearing, Judge Townsend received a pre-sentence investigation, two psycho-sexual evaluations, a chemical dependency evaluation, and a sentencing memorandum from Donaldson's defense counsel seeking a probationary sentence. At the hearing, the victim and her father made statements and the victim recounted the events. Her father lit into Donaldson about the impact his actions had had on his daughter and her family. Another young woman also testified about a similar sexual assault Donaldson inflicted on her at a party that did not lead to charges. The two psycho-sexual evaluators also testified, as did the chemical dependency evaluator. Donaldson was given an opportunity to make a statement and he apologized to the victim.

Krakauer had come to Missoula to attend the hearing, not expecting much to come of it: "I'll fly up there and if nothing comes of it, I'll spend a few days and go into the mountains."

But "I was riveted from the moment that hearing opened, which as you remember very well, the victim's father got up, and using profane language, not unlike my own just now, just lit into Beau Donaldson . . . and it was riveting. And I saw the young victim . . . and her dad and the whole thing . . . by lunch break I was like, 'I'm going to write about this.'"

Krakauer's research for the book included cooperation from the young victim, attendance at the jury trial of the football quarterback who was also accused of rape (which resulted in an acquittal), acquisition of the transcript of the various court proceedings, interviews with jurors, university officials, and pursuit of the university disciplinary proceeding against the quarterback, which had found him guilty and expelled him before the trial. That expulsion was subsequently overturned by the Commissioner of Higher Education for reasons still unknown.

Krakauer sought to find out the reasons for the overturn by filing a Freedom of Information request, relying on Montana's Right to Know Constitutional provision and their implement-

ing laws. Although Krakauer prevailed at the trial court level, the trial court's decision to disclose was reversed by the Montana Supreme Court this past summer, in a finding saying that the quarterback's privacy rights prevailed over the Right to Know.

Krakauer addressed the topic of burden of proof in college disciplinary hearings when students are accused of a sexual assault. The standard applied by the University Court in the quarterback's case was preponderance of the evidence, the standard recommended by the Department of Education Office for Civil Rights in 2011.

Krakauer noted the *White Paper On Campus Sexual Assault Investigations* issued by the College in March 2017 that makes the case for a more stringent standard – clear and convincing – in campus adjudications. Krakauer argued against the College's position.

"The number of men who are falsely accused of rape is miniscule [as compared to] the number of women who do not receive justice when they really have been raped.

And sure, when you're falsely accused, that can ruin you, but if you're raped, the harm to a woman who is not believed is at least as great to a man who was falsely accused. I absolutely believe this. Suicides. Ruined lives. Lifelong depression. So you have to get it right. It's not a zero-sum game really. You have to be fair to all parties. And you're going to fail sometimes for sure, but just sort of covering your ass by saying: 'Well, we're just going to make sure we don't falsely expel anyone, someone who didn't do it by stacking the deck against accusers,' that's just not right. It just isn't."

**Honorable Karen S. Townsend**  
Missoula, Montana

**“ QUIPS & QUOTES ”**

[When] you're falsely accused, that can ruin you, but if you're raped, the harm to a woman who is not believed is at least as great to a man who was falsely accused. I absolutely believe this. Suicides. Ruined lives. Lifelong depression. So, you have to get it right. It's not a zero-sum game really. You have to be fair to all parties. And you're going to fail sometimes for sure . . .

*Jon Krakauer*



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# FIFTY SHADES OF GREEN

## THE INTERSECTION OF ECONOMY AND ENVIRONMENT

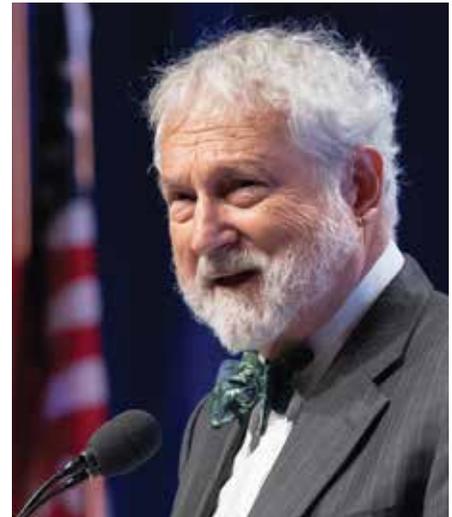
The installation in August 2019 of the monument to Okjokull, the first Icelandic glacier lost to climate change, serves as an apt introduction to the remarks of Professor **Dan Magraw**. A Senior Fellow at the Foreign Policy Institute at John Hopkins School of Advanced International Studies and President Emeritus of the Center For International Environmental Law, he spoke during the College's 2019 Annual Meeting in Vancouver, British Columbia.

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Fresh off his appearance earlier in the week at the widely publicized United Nations Climate Summit in New York City, Magraw reviewed the importance of a healthy environment and its relationship to human rights; and he sounded the call about what environmental change is doing: “Nine million people a year die of air and water pollution. . . . We know now that the oceans are warmer, they’re higher, they’re more acidic, they’re less productive and they have less oxygen than we thought was happening. One of the reports indicates that by 2050, there’ll be more plastic in the oceans than fish, if we continue this business as usual. In terms of biodiversity, we’ve lost three billion birds in the United States since 1970.... That’s 29% of our bird population.”

Magraw described the origin for the title of his remarks, “Fifty Shades of Green.” Immediately upon graduation from Harvard University in 1968, he spent four years with the Peace Corps in India as an economist and business consultant. During that time, in which his environmental interests were formed, he lived on a small farm up against the Nilgiri mountains, a lovely, very steep set of mountains that runs along the Southwest of India. The slopes there are covered with magnificent forests of teak and different kinds of tropical fruit and rosewood and pine, and it is the home of wild boar, deer, leopards, tigers, elephants and monkeys – Magraw suggested the audience could probably imagine just how beautiful the place was. Each morning, as the sun rose, it would gradually illuminate the blues and greens of this mountain range, and there were literally more than fifty shades of green displayed.

The one exception was a ridge behind his farm up to the mountains, which was brown, barren, and had nothing on it in terms of vegetation except thorn bushes and very few animals. That contrasting scene was caused by overgrazing and over harvesting of firewood, and the social and environmental impacts from that activity were stark. The water table dropped, and women in particular had to walk further to get firewood and water, obviously affecting their livelihoods. The lives of their children were also impact-



ed, as children were taken out of school to help their mothers get firewood and water. Magraw learned two important lessons from this:

“One was that environmental issues really do affect economic and social conditions. One cannot consider those other things separately. The other lesson was that you cannot have a good economy, you cannot have a good social system without a healthy environment.”

### NATURE THE INFRASTRUCTURE OF SOCIETY

He then turned to an explanation of what an ecosystem service is:

#### “ QUIPS & QUOTES ”

Each of us has to think about are we willing to be accomplices to the destruction of our children's world? That's really what's happening here. They are not going to have our world . . . I want to invite each of you to think about 'what do you pay attention to?' How do you want to be defined, and what do you want your legacy to be?

*Dan Magraw*

“And it turns out that nature provides us a lot for free: fuel, fiber, food, building materials. Those are the easy ones to think about. Pollination of our fruit crops by insects, water purification, areas where we can have recreation, can have spiritual experiences, religious experiences, aesthetic experiences. The list goes on a long time. And when one thinks about that list, one realizes that nature is actually the infrastructure of our society.”

Magraw, known as an “environmental warrior” who served in politically appointed positions under four different

U.S. Presidents, then described in non-partisan language how nature, the actual infrastructure, is in trouble. Oceans are warmer, higher, more acidic, and less productive. Three billion birds have been lost in the United States alone since 1970.

Continuing to describe how these changes impact human society, Magraw noted that climate change causes human migration and pointed out that by 2040, only two decades from now, there will be 143 million internal migrants

– people forced from their homes to seek better conditions within the borders of their own countries. And the numbers for external, trans-boundary migration are worse. Continuing to describe the problems with climate change, Magraw pointed out that if there is sea level rise, it will impact 680 million people around the world who live in low lying areas next to the sea; there will be increased frequency and severity of storms, increased flooding, increased wildfires, and interference with agricultural productivity; and clean water is going to be harder to find. In his words: “So the story is not good.”

After setting this context, Magraw then proceeded to make five points. First, the reports upon which his summary remarks are based are not written by “hacks,” but come from among the best scientists in the world. He emphasized that there is very little uncertainty about these particular conclusions and referenced the rule of law of nature: “And Leonardo da Vinci said, ‘Nature never violates her own laws.’”

Second, these issues are interrelated in terms of the causes, the effects, and the solutions. Simply by helping one thing, it can help the other things as well, and they do not necessarily have to get a political consensus to do one thing.

Third, there is a need for both local and global action.

“There is an old thought that you should think globally and act locally. You probably have heard that. It's not enough anymore. We also have to think locally and then act globally, because what I described were global problems in large part. No one country can deal with them, and really not even usually a small set of countries. It takes a larger group.”

Fourth, these things are happening now, and it is not simply about the rights of future generations. Currently, today's generation and their children are experiencing these events, it is not simply a problem for the future, there is a need to resist today.

## HUMAN RIGHTS AND A HEALTHY ENVIRONMENT

Fifth and finally, Magraw, who is also a scholar on Magna Carta and the rule of law, noted that these same issues are all related to the rule of law.

“The protection of the environment requires the exercise of human rights, like the right to access to information, the right to participate, the right to express your opinion, equal protection, due process. To protect the environment, you need to have those rights. Conversely, to enjoy many human rights, like the right to life, you need to have a healthy environment.”

He emphasized the importance of having the international community recognize the relationship of environmental issues to human rights. Briefly recounting adverse experiences of the Inuit people in Canada, the United States, and Norway caused by global warming who were forced to move, and people who live in the Maldives, where their physical land along the coasts is being destroyed, he emphasized the right to a healthy environment and urged all of in the audience to get involved in what can be done to foster and protect that right.

As noted by Magraw, some progress has been made:

“Los Angeles’ air is a lot cleaner. The Cuyahoga River does not catch on fire anymore. The num-

ber of nesting bald eagle pairs has gone from 50 to 50,000 because of the banning of DDT.”

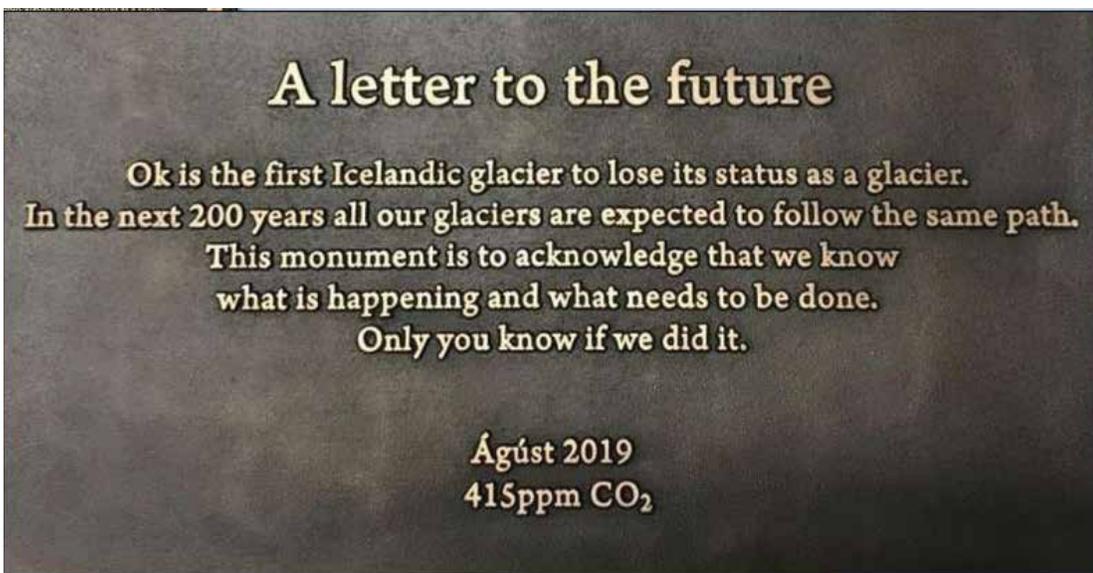
Eventually through a lot of work by Magraw and others, the 2015 Paris Agreement on climate, for the first time in any multilateral environmental agreement included human rights language. But what is needed is action at the federal level, not just in this country but in other countries as well.

Referencing the American philosopher William James, who said that a man is defined by what he pays attention to, Magraw closed his remarks:

“The question really is what each of us wants to do, and I’m going to paraphrase here, the Secretary General of the United Nations, Antonio Guterres and he said essentially that each of us has to think about are we willing to be accomplices to the destruction of our children’s world? That’s really what’s happening here. They are not going to have our world. . . . I want to invite each of you to think about ‘what do you pay attention to?’ How do you want to be defined, and what do you want your legacy to be?”

And just as the words on the monument to Okjokull state below let’s acknowledge that we know what is happening and we know what needs to be done.

**Samuel H. Franklin**  
Birmingham, Alabama



# EMPATHY: WHERE THE LAW AND THEATRE INTERSECT



**Gideon Arthurs** is the young and influential CEO of one of Canada's premier cultural institutions, the National Theatre School of Canada ("NTS"). The school, founded in 1960, was the first institution teaching all crafts of theatre from acting, playwriting, directing, production and set and costume design, in both of Canada's official languages. **Bernard Amyot, Ad. E.**, Quebec Province Committee Chair and Canadian Foundation Director, was Chair of the Board of Directors of NTS when Arthurs was appointed as its CEO in 2014.



"In his 30s, perfectly bilingual, with a proven track record at administering arts institutions in Toronto, such as the Tarragon Theatre and the Fringe Festival, Gideon was a bold choice for a venerable institution such as NTS, moored in its age-old traditions that were considered untouchable," said Amyot in his introduction of Arthurs. Since his appointment, Arthurs has managed to transform NTS into a vehicle to effect social change for the betterment of Canadian society, nurturing empathy as opposed to just making art for the sake of making art.

Arthurs' father, Harry Arthurs, former Dean of Osgoode Law School in Toronto, who later became president of York University, is royalty in the Canadian legal community. Harry and his wife Penny had the visionary foresight to enroll young Gideon in a French primary public school in Toronto. Gideon went on to Brown University, where he obtained a BA in theatre and focused on social engagement.

Arthurs began his remarks at the 2019 Annual Meeting in Vancouver by saying that as a theatre school administrator, he felt highly qualified to address Fellows "because no larger assembly of wannabe actors has ever been gathered than a room full of trial lawyers."

On a more serious note, Arthurs asserted that the worlds of theatre and the law intersect in a true commitment to defending the institutions of civil society and working to improve the standards and ethics of our respective professions.

## EMPATHY AS A DRIVING FORCE

Arthurs focused on the paramount role of empathy in both the legal and artistic community as a driving force to solve the world's most complex issues. Both bring about a debate that "calls on stories from the past to help us evaluate what should be done about it. All while an audience forms their own opinion, based on the persuasiveness of the arguments, on emotion, sympathy, and a common understanding of the rules that govern us.

"In fact, if we were to go back a few millennia to ancient Greece, I think we would see the line between dramatist and jurist as being quite slim indeed. Aristotle, Plato, Socrates, all philosophers, legal scholars, and artists, set the foundations for the moral codes that still guide us today. These connected tools, the law, and the performing arts, have long allowed us to deal with our most complex problems.

"They are both governed by a set of rules that are to be constantly interrogated and adapted to the changing world around us. And most importantly, they allow us to explore the consequences of our actions, to make the right choices, to learn from other's experiences, and to discuss and adjust the forces that shape our lives. These tools are so powerful because they have an unexpected common ancestor, like two offshoots of a family or an evolutionary tree.

"At the root of both is a vast, complicated, and oft misunderstood force - empathy, the ability and



## “ QUIPS & QUOTES ”

Because in study after study, it has been found that young people who have access to artistic experiences, who practice empathy on a regular basis, are not only more empathetic, but also have better learning outcomes, are markedly less stressed than other children. . . . More opportunity to exercise empathy, to work that muscle out, to walk further and longer in another's shoes, equals more resilience and capacity to navigate the complexities of our times.

*Gideon Arthurs*

utility of being able to project ourselves into the experience of the other. The power of being able to feel as the other feels. Without empathy, there is no rule of law. Why would there be if we could not feel what our fellow citizens feel? And there is certainly no theatre.”

Cultural institutions must be preoccupied by the need for empathy, as must all the pillars of civil society, including the legal system, Arthurs told the audience. Describing what could be a day in court or a night at the theatre, Arthurs pointed out that both involve storytelling with characters, a setting, circumstances, motivations, and actions that lead to a certain outcome, and then a moral debate.

### EMPATHY DEFICIT

Arthurs related that in his address to the graduating class of Northwestern University, then Senator Barack Obama said: “There’s a lot of talk about the federal deficit, but I think we should talk more about our empathy deficit.” He went on to speak about how cultivating empathy is harder with our culture’s emphasis on wealth, fame, and power as measures of success. That was 2006, thirteen years in real life, but eons ago in the Internet age. Putting whatever political opinions we have aside, Arthurs suggested that we must admit that Obama’s prophecy has come true.

“It feels to many of us on all sides of the political spectrum that we’re living in a more fractured, less whole society, that we’re less compassionate towards each other, and that radical ideas are taking hold of our communities. Even with all the technological tools at our disposal to bring us closer together, we feel lonelier, more separate, less empathetic.”

Arthurs went on to give examples of how our lives today make it less likely to show empathy. “There can be little

doubt, that with the acceleration of our lives in the post-industrial era, the ability to feel into something else, to walk a mile in someone else’s shoes, is harder than ever. And this is an incredibly dangerous thing. We are faced today with problems of a magnitude that most of us are unable to understand. The best way I can describe this is to bastardize a term invented by the environmental philosopher, Timothy Morton.

“He speaks about hyper objects, forces that exceed human apprehension, but are constantly impacting our lives. Objects so large, that they challenge our assumptions of human mastery over the material world. Take global warming, or all the styrofoam ever made, or the 23,000-year lifespan of plutonium, all things that affect us, but are beyond our capacity to truly grasp. Going beyond Morton’s environmental frame of references, these hyper objects are multiplied exponentially.”

### DARK EMPATHY

Arthurs reckons that our empathy deficit has led to a situation which people on both the left and right of the political spectrum are exacerbating, what he referred to as “dark empathy, an empathy based on picking sides in a fight. Empathy but just for your own team. In his book about dark empathy, Frans Breithaupt goes even further. He argues perhaps even terrorists would not do what they do if they could feel the pain that their violence causes. Or he suggests, we could possibly try to imagine that they feel the suffering of their own people to such a degree, they have such an excess of empathy, that they simply cannot see past it to feel for the victims of their actions.

“This dark empathy is further encouraged by a new force, we have sometimes called the attention economy, a hyper accelerated, algorithmically driv-

en economic era, that runs not on oil or coal, but on the attention we give it. The emotions, memories, anxieties, and behaviors we share online. The biggest companies in the world are all developing artificial intelligence that will predict what we want to know, to hear, and of course to buy, when we're feeling anxious, or sick, or angry, or dizzy.

“But they are certainly not designing ways for us to walk a mile in each other's shoes. What's at stake when we lose that ability? Well, if empathy is a foundation of the way we have organized our society, then it's all at stake. And first in line are our civic institutions. The young people I know won't vote. Not because they're lazy, but because nobody's speaking to their concerns.”

## **EXERCISING THE EMPATHY MUSCLE**

Arthurs spoke about the incredible training offered at the National Theatre School of Canada and how its students exercise empathy as a muscle; they “work without cease to give themselves the skills they need to summon characters, conceive of worlds of color and costume, find meaning in text, write in the voice of another, evoke emotion in an audience. In other words, wield the powers of empathy.

“And the training works. Our students have gone on to have amazing careers, yes. But I can also tell you that they are the future we want. Engaged, compassionate, passionate, hardworking young people, who want nothing more than to get us all into a dark room, laughing and crying together, as we feel into their stories. And we aren't stopping there. As part of the transformations that Bernard mentioned, we now have close to 15,000 young people participating in the National Theater School Festival, from coast, to coast, to coast in Canada, creating works, interacting with professional artists, and sharing their stories with each other.

“Because in study after study, it has been found that young people who have access to artistic experiences, who practice empathy on a regular basis, are not only more empathetic, but also have better learning outcomes, are markedly less stressed than other children. In fact, a Boston College study found that children were 10% more empathetic after only ten months of theatre classes. Another at the University of Arkansas, found that students who attended one play, one performance, scored higher on empathy tests than those who did not see a play.

“Other studies show decreased crime rates in neighborhoods with adequate cultural infrastructure, or better literacy rates for kids served with cultural experiences. Others still speak to better social integration, less stigmatizing, the impact of drama therapy on people suffering from trauma, and on, and on, and on. All these outcomes speak to some basic arithmetic. More opportunity to exercise empathy, to work that muscle out, to walk further and longer in another's shoes, equals more resilience and capacity to navigate the complexities of our times.

“And the challenge for civil society, for us artists, and you jurists, is to exercise that muscle as much as possible. We've spoken today about empathy as a foundation for the work of artists and jurists, about the empathy deficit and the very real consequences to our civic institutions, and about how art is one way for us to navigate our troubled times. And most importantly, about the value of exercising the empathy muscle.”

**Bernard Amyot, Ad.E.**

Montreal, Quebec





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# GUMPERT AWARD GIVEN TO PRO BONO STUDENTS CANADA

**Brittany Twiss**, the National Director of Pro Bono Students Canada (PBSC), accepted the 2019 Emil Gumpert Award at the Annual Meeting in Vancouver.

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The \$100,000 Gumpert Award, funded by the Foundation of the College, is given to make a game-changing difference in the administration of justice. In a typical year, the Emil Gumpert Award Committee considers thirty or more applications; it narrows the field to three finalists and conducts on-site visits to those three, and, with the approval of the Foundation and the Board of Regents, the recipient is chosen. Of the thirty-six applicants in 2019, PBSC's Indigenous Human Rights Program was deemed best situated to promote the administration of justice in an innovative, thoughtful, and replicable manner, likely to impact Indigenous peoples throughout Canada and perhaps someday in the United States as well.

Brittany Twiss is a 2011 graduate of the University of Ottawa Faculty of Law. As a law student, Brittany worked as a human rights advocate in Tanzania and in Thailand. After a year practicing family law in Toronto, Brittany was appointed Executive Director of Level, a Canadian organization which seeks to level the playing field while combatting systemic injustice. At Level, Brittany led an innovative, nationwide, justice education program for Indigenous youth in Canada. That work has been the source of considerable acclaim by Canadian leaders and prepared Brittany to lead PBSC and implement the Indigenous Human Rights Program. PBSC is the largest pro bono organization in Canada. It combines the experience of practicing lawyers with the energy and talent of law students in assisting people and communities facing systemic barriers to justice. The Indigenous Human Rights program will use this model at Ontario Federation of Indigenous Friendship Centres to address the discrimination that Indigenous peoples disproportionately experience in many aspects of their lives as explained by Brittany below in excerpted portions of her address to the College in Vancouver.

Here is what we learned from Brittany:

“In Canada the term Indigenous refers to three distinct and diverse groups, First Nations, Métis, and Inuit peoples, each of whom had unique histories, languages, cultural practices, and spiritual beliefs. According to a 2016 national census, there are over 1.6 million Indigenous peoples in Canada, which make up approximately five percent of our population. Pro Bono Students Canada was graciously awarded the American College of Trial Lawyers Emil Gumpert Award to design, implement, and pilot a first-of-its-kind Indigenous Human Rights Program, which will initially involve two specialized legal clinics in Toronto and Ottawa, two of Canada's largest city centers. This program presents ▶

an unprecedented opportunity to advance access to justice by assisting First Nations, Métis, and Inuit peoples in seeking redress for the overt and covert forms of discrimination they experience in their daily lives.

“As lawyers, we know that discrimination is not always obvious. It’s deeply ingrained in the fabric of our society, and it manifests itself in many ways, including through stereotyping, exclusion, hateful comments, and violence. Many Indigenous peoples living in cities and towns in Canada describe these experiences as persistent and normalized. And yet, our provincial and federal human rights tribunals do not receive correspondingly high numbers of applications. There are many complex reasons for this, including a lack of culturally appropriate information and affordable legal assistance, as well as the deep mistrust that many Indigenous peoples have in our justice system.

“Canada has a dark history when it comes to the treatment of Indigenous peoples. The legacy and impact of colonization and the Canadian government’s failed attempt to eradicate Indigenous culture and society through residential schools, and later child welfare agencies, continues to devastate Indigenous communities. From the 1840s to the 1990s, approximately 150,000 Indigenous children were forced to leave their families and communities to attend residential schools run by Christian churches, a state-sponsored policy, which is now understood to constitute cultural genocide. They were stripped of their Indigenous culture, practices, and languages, and it is well documented that students suffered horrific physical abuse, rape, neglect, and other atrocities. It is estimated that over 6,000 Indigenous children died in residential schools, the last of which closed in 1996.

“I first learned of Canada’s true history in my first year of university during a Canadian histories course. I will never forget the moment when my naïve understanding of Canada as a peaceful and inclusive country was shattered. I, like many of my peers, grew up in an education system that systematically hid our country’s shame. Until very recently, many children in Canada have grown up believing that deep racism in the form of segregation, genocide, or slavery only happened in far-away places. The purpose and im-

port of residential schools was hidden for most of Canada’s history, until survivors of the system were finally able to find the courage and support to bring their experiences forward through what would become the largest class action lawsuit in Canada’s history.

“This class action settled in 2007, establishing a multi-billion dollar fund to help former students in their recovery. This settlement also mandated the creation of the Truth and Reconciliation Commission of Canada, or TRC, which was created in 2008 for the purposes of documenting the history and lasting impacts of the residential school system on survivors and their families. The TRC spent six years traveling all over Canada and heard from over 6,000 witnesses. In 2015, it released a final report documenting the survivor’s experiences, as well as ninety-four specific Calls to Action designed to guide the process of reconciliation between Indigenous peoples and non-Indigenous Canadians.

“While there is no doubt that the TRC’s findings have increased collective empathy toward the experience of Indigenous peoples, the urgency to answer their Calls to Action has never been greater. Today, statistics show that Indigenous peoples are disproportionately more likely to live in poverty, to have lower life expectancies, to experience food insecurity and restricted access to safe drinking water, and to have their children apprehended by the state, or to be imprisoned. In some Indigenous communities, young people are more likely to go to jail or commit suicide than graduate from high school.

“The TRC calls on us to understand, and I quote, ‘That the most harmful impacts of residential schools have been the loss of pride and self-respect of Indigenous peoples and the lack of respect that non-Indigenous peoples have been raised to have for their Indigenous neighbors.’ It calls on us to address systemic racism and discrimination in our country and to cast a new vision for reconciliation based on mutual respect.

“With the College’s generous support, this is precisely what we intend to do with the Emil Gumpert Award. PBSC will create and test a model for connecting Indigenous peoples who have or are experiencing discrimination to lawyers and law students who can assist them at no charge, and in a culturally empowering clinical

setting. In line with the TRC's Calls to Action, and prior to the launch of these clinics, our volunteer lawyers and law students will undergo rigorous, Indigenous cultural competency, human rights, and anti-racism training.

"With the support of Indigenous elders and knowledge-keepers, they will then assist clients to identify, draft, and file human rights complaints with provincial and federal human rights bodies; provide pro bono representation to clients in mediations or at hearings before human rights tribunals; develop and deliver public legal education workshops for members of Indigenous communities and front line staff; and assist community organizations to document systemic human rights abuses, hopefully over time creating evidentiary foundation for advocacy, law reform, and litigation with and on behalf of Indigenous communities.

"A central feature of these clinics is that they will be housed in Indigenous Friendship Centers through our primary partner in this initiative, the Ontario Federation of Indigenous Friendship Centers, or the OFIFC.

"The OFIFC is the largest urban Indigenous service network in Ontario, and its mission is to help Indigenous peoples thrive by creating safe, cultural centers, where Indigenous peoples can access the support and services they are entitled to. The pilot human rights clinics will launch at the Toronto Council Fire Native Cultural Center, in the Odawa Native Friendship Centre in Ottawa in 2020. In addition to the OFIFC, we are proud to be partnering with many other preeminent organizations, including the Canadian Human Rights Commission, Ontario Human Rights Commission, the Human Rights Legal Support Center, McCarthy Tétrault, Thomson Reuters, the faculties of law at Osgoode and the Universities of Toronto and Ottawa, as well as the Law Foundation of Ontario.

"To ensure the program is responsive and accountable to our Indigenous clients, the program will be guided by an advisory council composed of members of the Indigenous communities we aim to serve, as well as a representative from each of our partner organizations. We appreciate that this is going to be a complex and challenging process. It is our hope that after a thorough evaluation, these clinics could be replicated in PBSC's twenty-two chapter locations across the country. We are fortunate to be working with the brightest and most compassionate law students and lawyers in the country, which have included many Fellows of the College over the years. We continue to welcome your involvement, as we aim to create a new chapter in Canada's history, where the dignity, worldview, and human rights of Indigenous peoples are celebrated and upheld.

"Thank you to the American College of Trial Lawyers for this extraordinary honor and opportunity.... We will endeavor to create this ambitious and innovative program in a manner that honors the memory, impact, and leadership of the late, honorable Emil Gumpert. As I was told by a First Nations youth in Toronto, this program will create an opportunity to share truths, and light the pathway for taking action. Indeed, we hope our training and clinic model centered on empathy and mutual respect, will help guide similar programs throughout Canada, the United States, and beyond."

As President **Jeff Leon** remarked following Brittany's comments, it is we who should thank Brittany, PBSC, and the effort of Canada to confront and address this dreadful past and present of both of our nations.

**Judith A. Wahrenberger**  
Westfield, New Jersey

## “ QUIPS & QUOTES ”

With the College's generous support, this is precisely what we intend to do with the Emil Gumpert Award. PBSC will test and create a model for connecting Indigenous peoples who have or are experiencing discrimination to lawyers and law students who can assist them at no charge, and in a culturally empowering clinical setting.

*Brittany Twiss*



# FORMER NATIONAL CHIEF OF CANADA'S ASSEMBLY OF FIRST NATIONS DISCUSSES CHALLENGES FACED BY INDIGENOUS PEOPLES

Gale Cup Committee Chair **Brian J. Gover** of Toronto, Ontario, introduced **Chief Phil Fontaine** at the 2019 Annual Meeting in Vancouver by describing him as someone whom Canadians regard as “a transformational figure, who has led us all on the path toward reconciliation, and coming to grips with our colonial past.”

Born on what was still called an “Indian Reserve” in Manitoba, Fontaine had eleven siblings. Like many Indigenous children, he was taken from his family and forced to attend one of Canada’s infamous Indian residential schools, where he was deprived of his culture and traditions, and where he suffered sexual abuse. But after his widowed mother became the first Indigenous woman in Canada to be elected to a band council, Fontaine was inspired by her example and was elected Chief of his First Nation while still in his twenties.

A decades-long career in Indigenous politics followed. Fontaine rose to be Manitoba’s Vice-Chief to Canada’s Assembly of First Nations, Grand Chief of the Assembly of Manitoba Chiefs, and ultimately, National Chief of the Assembly of First Nations for three terms, concluding in 2009.

In October 1990, Fontaine put the issue of Canada’s Indian residential schools on the national agenda when he spoke publicly about the abuse that he and other students suffered at the Fort Alexander Indian Residential School, which was operated by a Roman Catholic missionary order. Fontaine shocked Canadians by disclosing on national television that every one of the boys in his grade three class was sexually abused, but no one was held accountable. As he put it, “We were dealing with an institution that represented the highest moral authority in our community, and we did not question what went on.”

In 2005, while he was National Chief, Fontaine negotiated the Indian Residential Schools Settlement Agreement. It has provided financial compensation of more than \$5 billion to residential school survivors, and programs to promote their healing. At Fontaine’s insistence, it included a truth and reconciliation commission. The settlement agreement still stands as Canada’s largest class action settlement.



Fontaine’s work on behalf of Canada’s Indigenous peoples continued. Two years later, he and then Prime Minister Harper announced the establishment of an independent tribunal to adjudicate what are termed “specific claims” by Canada’s Indigenous peoples – claims arising out of Canada’s failure to honor its treaty and fiduciary obligations.

In the course of his remarks, Fontaine addressed five broad challenges faced by Canada’s Indigenous peoples: (1) ensuring that treaties are honored; (2) the discriminatory provisions of the *Indian Act*; (3) the legacy of Indian residential schools; (4) overcoming poverty; and (5) achieving reconciliation.

### ENSURING THAT TREATIES ARE HONORED

Fontaine described treaties as “sacred agreements between sovereign nations and governments.” He explained that “in our case, the abrogation of this special relationship really has to do with land and how our lands have been alienated.”

In the 500 years since contact with Europeans—what Fontaine termed a “short period of history”—“where once we were the proud possessors of all of what is Canada, much of that land has been taken away from us. It’s been alienated, often illegally, stolen.” Treaties have been abrogated. “So, to this day, we own and possess less than one-half of one percent of this landmass.”

Fontaine said, “Think of that for a moment: less than one-half of one percent. And so, one of our biggest challenges, has been to convince successive Canadian governments to be fair and just to our people, to return those lands that rightfully belong to us.”

Where efforts to persuade government have failed, Canada’s Indigenous peoples have turned to the law and to the courts. “We’ve come to rely on the law to protect our interests, to advance our interests, to ensure that we are treated fairly and justly. We’ve scored some impressive legal victories in the last number of years.”

### “ QUIPS & QUOTES ”

In the 500 years since contact with Europeans – what Fontaine termed a ‘short period of history’ – ‘where once we were the proud possessors of all of what is Canada, much of that land has been taken away from us. It’s been alienated, often illegally, stolen.’ Treaties have been abrogated. ‘So to this day, we own and possess less than one-half of one percent of this landmass.’

*Phil Fontaine*



In fact, approximately 200 court cases have been favorable to the rights and interests of Indigenous peoples here in Canada. Many of them are related to land issues.

Turning to treaties, Fontaine remarked that “there are all kinds of treaties” covering much of Canada. Most were land cession treaties, but some were peace and friendship treaties.

But there were overlaps. Fontaine explained that “the general underlying theme of every single one of these treaties had to do with peace and friendship, and the sharing of the wealth of our land. They were never about depriving anyone of the right to a livelihood. We ensured that every single person who was affected by these treaty relationships was given an ample opportunity to create a future for themselves. But sadly, the opposite was true for Indigenous peoples.”

Because of Canada’s failure to abide by its treaty obligations, Fontaine said, “Our enormous task has been to negotiate a fair and just settlement of many of these outstanding claims.”

There are two types of claims. “Specific claims (the kind of claims that are now determined by an independent tribunal in accordance with the announcement made by Fontaine and Prime Minister Harper in 2007) have to do with treaties, treaty violations where land has been alienated, illegally stolen, or there’s been a breach of the federal fiduciary duty.” The vast majority of Indigenous peoples’ claims in Canada are specific claims.

But there are areas in Canada where no treaties have ever been negotiated, including large parts of British Columbia. Consequently, for years in the part of the country where Fontaine was delivering his remarks, First Nations have been negotiating a new treaty relationship.

Fontaine described treaty negotiation as “a long, long, long process.” He continued, “It’s been a costly process. And many nations here in British Columbia have gone into debt trying to negotiate a new relationship with Canada.”

In his view, “The treaty relationship has been one difficult proposition. But it gives our people hope, because we see treaties as living on. They’re living documents. They’ll go on forever regardless of the government in place, and they represent enormous, enormous obligations on the part of government, and represent enormous opportunities for our people. The treaty relationship is really very important.”

In discussing the pursuit of claims, Fontaine referred to his involvement in the recent settlement of a claim in western Manitoba that dated to 1881. Canada’s first Prime Minister, Sir John A. Macdonald, was involved in the decision to appropriate prime farmland that belonged to Indigenous people. Litigation had proven unsuccessful. Fontaine convinced the Government of Canada to agree to mediation. When the time came to choose a mediator, he turned to the **Honorable Frank Iacobucci**, the retired judge of the Supreme Court of Canada and Honorary Fellow, who as the federal negotiator had negotiated the Indian Residential Schools Settlement Agreement with Fontaine. Ultimately, they were able to settle a claim that had existed for 138 years.

### **DISCRIMINATORY PROVISIONS OF THE INDIAN ACT**

One issue that has complicated this relationship is the *Indian Act*, which Fontaine described as unique legislation because it deals with a specific race. Enacted in 1876, it remains the law today. It is the only legislation that deals with a specific race of people. “And,” Fontaine added, it ignored the distinctions among First Nations in Canada. “We were all lumped into one.

“It was racist, it was part of the colonization experience in Canada. The *Indian Act* was really designed to eradicate any sense of ‘Indianness’ in Canada.” From the mid-1880s until 1951, this policy of assimilation was reflected in the *Indian Act’s* prohibitions on Potlatch (a practice of Pacific Northwest Coast Indigenous peoples involving gift-giving, feasting, spirit dances, singing, and theatrical demonstrations) and the Sundance ceremonies (a Plains Nations’ traditional dance and related music). As Fontaine put it, “Our people were denied their cultural expression, things that were the most meaningful in our lives. Our people were imprisoned for practicing something that was so central to their essence as Indigenous peoples in Canada.”

The *Indian Act* contained other discriminatory provisions.

“Women couldn’t hold public office until 1952 in our community. We didn’t have the federal vote until 1960.”

Fontaine pointed out that achieving settlement of the more than century-old claim in Manitoba that he discussed earlier in his remarks would not have been possible until the mid-twentieth century because of a prohibition in the *Indian Act* that prohibited Indigenous people from retaining lawyers to represent them in land-related disputes. “That only changed in 1952.”

As Fontaine put it, the legislation contained “so many prohibitions that made it very clear that we weren’t regarded as human. We were less than human.”

Fontaine explained that the *Indian Act* governed every single aspect of the lives of Indigenous peoples in this country. He continued, “And the *Indian Act* was given the fullest expression by the Indian agent. The Indian agent represented the power and might of government. Indian agents were present in every community, in every part of the country.

“In our community, the last time we saw an Indian agent was when I was elected chief in 1973. Up until that point, the Indian agent was still the power in our community. I chose to ignore the Indian agent completely. Until one morning he came to me and said, ‘Chief, I don’t feel very welcome here. I think I’m going to leave.’ And I said, ‘Okay, Jack. We’ll see you.’”

## LEGACY OF INDIAN RESIDENTIAL SCHOOLS

The Canadian government’s policy of assimilation was not only expressed in the *Indian Act*, Fontaine explained. “Our government was going to shape and mold us in their eyes as to what they preferred us to be. And the thing that drove this was the Indian residential school experience that lasted in Canada for over 150 years, over 150,000 students. I was one of them.

“Interestingly enough, the residential school experience here was modeled on the U.S. experience. Most of you probably have heard of Carlisle Indian Industrial School in Pennsylvania. Experts from Canada [went] down to Carlisle to see how that was being managed. The most outstanding athlete in the United States in the first half-century, Jim Thorpe (Olympic gold medalist in the decathlon and pentathlon and professional football, baseball, and basketball player), was a student there. And his coach at Carlisle was Pop Warner, Pop Warner (the legendary football coach).”

Fontaine attended two residential schools, for a total of ten years. He elaborated, “I told my story publicly, the first time in October 1990. And it drove this process forward to the point where we were able to negotiate the largest settlement in Canadian history. It’s about \$6 billion and counting today.” But in Fontaine’s view, the most

important legacy is not the money. “When we first were involved in negotiations, we said we wanted something for posterity. We wanted this history recorded so that all Canadians would come to know their history, so all Canadians would come to know what their governments did on their behalf with our people.”

That was the genesis of the Truth and Reconciliation Commission. From Fontaine’s perspective, that became the most important part of the Indian Residential Schools Settlement Agreement – which he described as “historic” – and, as he put it, “why the conversation that ensued between the commissioners and Canadians was so incredibly important. Because for the first time in Canadian history, Canadians finally had an opportunity to learn about themselves, to learn about the hidden past of this country, to learn first-hand the single darkest, saddest, most tragic chapter in Canadian history.

“This chapter was virtually unknown until 1990. It wasn’t something that was ever talked about. And yet, there were 130 residential schools in all parts of the country. 130. Sometimes they were right smack in the middle of major metropolitan areas. For example, the second residential school I attended was in Winnipeg. And it was situated in the poshest part of Winnipeg, believe it or not. We were never out. We were confined to the school grounds.”

## OVERCOMING POVERTY

Fontaine pointed out that at the height of the residential school experience, there were 12,000 students in all of the residential schools. But, he said, “Today in the child welfare system, we have 30,000 of our kids that have been taken by governments.”

Fontaine explained the cause of this phenomenon. “It’s a direct conse-

quence of poverty. When we talk about reconciliation, when we talk about relationships, when we talk about fixing things, the single biggest challenge is the eradication of mass poverty.”

For poverty to be overcome, Indigenous people must be given a greater share of the wealth. “We have these court decisions, we have the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP, adopted by the General Assembly in 2007). We—and this is a challenge for most resource-based countries—we happen to sit on some of the most valuable real estate in Canada, whether you’re talking about oil and gas, mining, forestry, water, it’s all on Indian land. Resource companies and governments are going to have to come through us to realize this wealth.”

## ACHIEVING RECONCILIATION

Toward the conclusion of his remarks, Fontaine returned to what he termed “this conversation with Canadians.” In it, he said, “All the talk became about reconciliation, how to reconcile the differences between Canadians generally, and Indigenous peoples. Reconciliation can be complicated, it can be straightforward, and it is all entirely achievable. But reconciliation in its most basic form has to do with relationships.”

For Fontaine, reconciliation is about repairing relationships with Indigenous peoples, some of which have been broken. “Really, when you talk about relationships and reconciliation, you’re talking about relationships that have to be fixed. And that is really the largest single most important challenge we face as a country, is what do we do together to fix these relationships.”

**Brian J. Gover**

Toronto, Ontario

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# CYBER ATTACKS AND THE EROSION OF FAITH IN OUR JUSTICE SYSTEM

**Suzanne Spaulding** opened the Saturday morning General Session on September 28, 2019, with a “wake up call” in which she described in detail the Russian government’s continuing attempts to undermine our democracy, specifically our faith in our justice system. Spaulding was the presidentially appointed, Senate-confirmed Under-Secretary for what is now known as the Cybersecurity and Infrastructure Security Agency (“CISA”) from 2011 to 2017. As a lawyer, she has worked for the CIA and Congressional committees on both sides of the aisle; she chaired the ABA Standing Committee on Law and Natural Security and was the founder of its Cybersecurity Legal Task Force.





Spaulding described in detail why and how Russian state sponsored disinformation campaigns operate. Russia, she said, is a determined adversary working to undermine the U.S. public's faith and confidence in our democratic institutions. Their cyber activity in the attempted hacks of voter registration databases was not only to interfere with our elections, but also to undermine the public's confidence and faith in the credibility of that process and the legitimacy of the outcome it produced.

“The Russians’ activity around the elections was just part of a broader campaign that has been going on for quite some time, long before the 2016 elections, to undermine our democracy and to undermine the public’s faith in democracy both in the U.S. and around the world where we compete for influence.”

Now out of government, Spaulding has been appointed by Congress to a commission charged with developing a comprehensive U.S. Cyber Policy. She said, “As I thought about this after I got out of government and had the luxury to actually think, I decided to do a little red teaming...I thought, ‘If I were Putin and my goal is to undermine [American] democracy and to end public faith in democratic institutions, where would I go next? What other institution is, like elections, so dependent upon public faith and confidence in the credibility of the process in order to protect the legitimacy of final outcomes?’ I immediately thought about our justice system and our courts.

“I thought, how could you use the techniques that they used in the context of elections to go after the public’s faith and confidence in the courts? Hack and leak sensitive court documents, altering data, court orders... preventing access to information, which of course we’ve seen in the ransomware attacks in cities...affect[ing] at least municipal courts. Those kinds of things over and over again either enabling and facilitating information operations combined with propaganda can undermine a sense of confidence in the impartiality and the dependence of the courts and/or the competency of the court. ▶

“I started looking and ...as we began to look into this, I initially will say that I thought maybe for once we were getting out ahead of something, which never happens in Washington. You're always playing catch up. I had never heard of anybody talking about Russia going after the justice system. Of course, as we started to look into it, we found we were not getting ahead of anything. The Russians were there and had been for some time. They were using information operations to undermine various aspects of the justice system.”

Spaulding put out several examples. The first was in Germany. It was followed by one in Twin Falls, Idaho, where there were false allegations that a young girl had been raped at knife point by Syrian refugees.

“The authorities quickly determined that none of the rumored facts were true. There were three young people in the basement of a building, something untoward happened. They took the boys into custody. There were no Syrian refugees. There was no knife point.” Nevertheless, Russian trolls at the “Internet Research Agency” in Saint Petersburg put out false and misleading tweets, replete with links to phony sites, such as

@RedLANews

“Three Syrian refugees rape girl at knifepoint in Idaho. Liberals still want accept refugees? #WorldRefugeeDay <https://t.co/GljTTBpHuBKI>”<sup>1</sup>

The prosecutor in the Twin Falls case, Wendy Olson (a College Fellow), urged people not to spread false information. So, the trolls went after her as well:

@PatriotRaphael

“Don't forget, Obama-appointed U.S. attorney for Idaho, Wendy Olson, also threatened to prosecute Idahoans who spoke out about this crime.... <https://t.co/b6dnTT6wJbVT>”

Spaulding observed, “What we saw in Twin Falls, and what we would come to see over and over again, is the Kremlin using three propaganda

channels to pursue its information operations: social media, state-sponsored media outlets, and statements made by top Russian officials.... Russian-backed outlets like RT, which stands for Russia Today, and Sputnik, and of course social media [from the Russian Internet Research Agency] have been unrelenting in their attempts to promote messages that undermine the justice system.

“As we poured over eleven million tweets and the Facebook posts identified as being affiliated with Russian accounts, we pulled out four key narrative frames that the Kremlin is pushing in its information operations to undermine public confidence in our justice system.”

These false narratives go to the independence and impartiality of our justice system:

- The justice system tolerates protects, and covers up crimes committed by immigrants
- The justice system operationalizes the institutionally racist and corrupt police state
- The justice system directly supports and enables corporate corruption
- The justice system is a tool of the political elite

The power of these narratives, Spaulding noted, is that they are based on legitimate grievances. However, the Kremlin portrays these not as problems to be remedied but as inherent in a system that is irretrievably broken. “Judicial reform advocates are patriots who seek to improve justice to make us stronger. That is not Putin's goal,” said Spaulding.

Spaulding reminded us of the attacks that were levied against Judge Robart (a Judicial Fellow) following his ruling on the refugee ban. Russian affiliated accounts, posing as American groups, Tennessee GOP and Texas Lone Star, tweeted out such things as:

@Ten\_ GOP

“It's sad and pathetic that Judge Robart puts his personal ideological preferences over safety of American citizens. ‘Judge in Seattle’”

@SouthLoneStar

“RETWEET if you think that Judge James Robart is the swamp that Trump must drain! #9thCircuit #MuslimBan”

Another example is the disinformation surrounding the Kate Steinle case. “This was the tragic incident in San Francisco near Embarcadero where the young woman Kate Steinle was shot on a pier and an undocumented immigrant was picked up and charged with the shooting. The jury ultimately determined that it had been an accident.” Subsequently there was a huge, off the charts, spike in Russian bot activity generated by Russian trolls pretending to be Americans “talking about how the justice system has failed us so many times and is still broken.”

“Russia has accused the United States of being a racist state... [This accusation] has potency because there are legitimate concerns and grievances about racial justice in our country.”

She referred to the Alton Sterling case, an African-American man who was shot by the police. “Black Lives Matters US” was the name of the affinity group that Russia created. Russia plays both sides of an issue and also weighed in on Black Lives Matter.

“They are trying to stir up a sense of anger and frustration that grows not out of a hope for change, but out of a sense that the system is irrevocably broken. They do this by pitting groups against each other trying to sow discord and division. They’re trying to erode our resolve, the ability of our nation to act with the public behind it because we are so divided, and they are really focused on getting Americans to tune out, to give up on democracy.”

Spaulding’s “favorite” (irony intended) is a weekly Russia Today (RT) television program called “America’s Lawyer,” hosted by a trial attorney in Pensacola, Florida. A typical opening of the program is “to say that the justice system in the United States is broken would be a gross understatement. Corporations and corrupt politicians have taken control turning the once im-

partial judiciary into a tool for the elite to use for their own gain.”

So, Spaulding explained, every week the program is about how broken the justice system is. It is in the hands of corrupt corporations and politicians. But the Russians don’t have to always make this stuff up. They just have to be incredibly one-sided in the portrayal that they put out there every week. And then, because Spaulding exposed what the Russians are doing, she found herself on RT.

“They did this whole fifteen-minute segment going after me. That’s when I realized they actually do make stuff up...I realized, for example, don’t tell my husband, but they said I’m being paid a million dollars (sorry honey, been hiding it away) by defense contractors. [The truth is] Not a penny from defense contractors; we’ve been funded by the Hewlett Foundation and the Democracy Fund. They called me a war pimp. I’ve been thinking about getting a pin made . . .”

Russia “instructed their trolls to say about [Special Counsel Robert] Mueller that he is a puppet of the establishment. There can be no honest results from this investigation,” and, that he is “a tool of the political elite.”

“This is not just ‘Putin’s chef,’ the oligarch who runs the Internet Research Agency. This is Putin himself. This is on his radar screen.” At a 2017 press conference “after we had seized some additional diplomatic facilities from Russia as a sanction,” Putin was very indignant. He said that “this is a violation of our property rights and I’m going to ask my envoy in the U.S. to sue. Then, he said sarcastically, ‘We will see how effectively the much-lauded American judicial system works.’ This is very much on his radar screen.

“Putin’s audience includes his own population, even as he is addressing audiences around the world and in the U.S., to show that our justice system is just as corrupt and broken as his . . . He knows he can’t rehabilitate his own system but he wants people to think that we are hypocrites, that we fail to live up to our aspirations, which we often do, and that we never will. He

## “ QUIPS & QUOTES ”

“That’s when I realized they actually do make stuff up. Finally, they were talking about something I knew a little bit about. I realized, for example, don’t tell my husband, but they said I’m being paid a million dollars (sorry honey, been hiding it away) by defense contractors.”

*Suzanne Spaulding*



wants the world to think that the U.S. system is hopelessly broken.

“What has pretty much continued unabated is the use of social media, fake news, propaganda, false personas, etc. to rile us up, pit us against each other, to sow divisiveness and discord, to undermine America’s faith in democracy . . . As was recently noted by FBI Director Christopher Wray, ‘this is not just an election-cycle threat. It is pretty much a 365-day-a-year threat.’

“We need to publicize what’s going on here. We need to research these techniques and understand what adversary tactics are most effective so that we can counter them. We need bipartisan action on this and perhaps most importantly we need to restore America’s understanding of democracy’s significance, how important it is, and how fragile it is. We cannot be complacent. We have an adversary that is in a determined attack to undermine our faith in democracy.

“The hashtag that the Russians pushed most vigorously in the run up to the midterm elections was #WalkAway. We all know how important it is to have an engaged and informed citizenry for democracy to work.

“Our most recent report was in May, *Beyond the Ballot*, where we have made the following very specific recommendations that are really descriptions of what we are doing.”

Spaulding has suggestions to answer the alarms she has raised. We must:

- Raise threat awareness and invest in impact-oriented research
- Improve rapid response capabilities and communication capabilities between institutions like the justice system, appropriate federal entities, and social media platforms
- Expand civics and media literacy trainings as a national security imperative

“I’ve been speaking to judicial conferences of the various circuits around the country. Through the National Center for State Courts, I’ve spoken to

all fifty chief justices of the state courts. We’re doing a series of workshops to train judges and their staffs all around the country. We have reached out to almost thirty federal judges from around the country and have gotten them classified briefings from the intelligence community. We’re talking to them about the disinformation threat and the cybersecurity threat generally. We are working to see if we can work with groups like ACTL to establish a network across the country of volunteers who would be part of a rapid response force that could quickly detect and respond to misleading or false information about the justice system and instances like Twin Falls, Idaho because we know that judges and courts often can’t speak for themselves.

“. . . We understand the importance of civic education. We’re trying not to reinvent the wheel with all of the folks that have been out there in the trenches for years trying to reinvigorate and strengthen civic education but we want to add wind to their sails by bringing forward the message that civic education is a national security imperative.

“You [the College] have just come out with a wonderful white paper about the independence, fairness, and impartiality of the courts. I hope all of you will read it. It’s outstanding and it concludes with a call for the importance of educating the public about the role of the justice system and the judiciary.

“[In] a focus group that was done a few years ago, the folks in the group said, ‘Stop talking about an independent court. It makes us think of a runaway court. We don’t like that idea of an independent court.’ We have work to do. We need to help Americans understand: what is an independent court? What is that all about? We are working with those folks on civic education as well.

“What I always leave judges with when I finish my remarks, trying to appeal to them both as patriots and as administrators and the leaders of their courts: defend democracy, change your password!”

**Thomas H. Tongue**  
Portland, Oregon

<sup>1</sup>These phony links have been altered so that our readers are not inadvertently taken to a misinformation site.

# SAVE THE DATE

**2020 ANNUAL MEETING**

**September 24-27, 2020**

JW Marriott

Washington, D.C.

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& Collegiality . . . More To Be Revealed**





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## FORMER NEW YORK CHIEF JUDGE JONATHAN LIPPMAN RECEIVES COLLEGE'S FIRST BEVERLEY MCLACHLIN ACCESS TO JUSTICE AWARD

After attending the College's Annual Meeting in New Orleans in 2018 when the award was established in her name, Fellows in attendance at the 2019 Annual Meeting in Vancouver were again honored to welcome **Beverley McLachlin**, former Chief Justice of the Supreme Court of Canada, to present the first Beverley McLachlin Access to Justice Award to **Jonathan Lippman**, former Chief Judge of the New York Court of Appeals. The award is intended to recognize a judge or a member of the bar in the United States or Canada, whether or not a Fellow of the College, who has played an exceptional role in creating and promoting access to justice. The award was initiated to recognize innovative measures or extraordinary personal commitment and professional dedication which have enhanced access to justice in the United States or Canada.

In her introductory remarks, Chief Justice McLachlin expressed her delight at the College's choice to receive the inaugural award, describing Chief Judge Lippman as "in a class by himself when it comes to access to justice." Chief Justice McLachlin first reviewed Chief Judge Lippman's distinguished career, where he served as New York's Chief Administrative Judge, as a trial judge in New York's Supreme Court, which is its court of general jurisdiction, then in the Appellate Division, New York's intermediate appellate court, and finally as Chief Judge of New York's highest court, the Court of Appeals, where he served from 2009 through his retirement in 2015. "Wherever he went," she said, "he transformed the New York justice system and that is no small accomplishment." In her final introductory remarks, Chief Justice McLachlin quoted the *New York Times* in praising Chief Judge Lippman as having "altered the legal profession in the United States by using his authority to promote the ideal of lawyering as a public service."

Chief Judge Lippman began his remarks by expressing how moved he was to be receiving the College's first McLachlin Award from Chief Justice McLachlin herself. He noted the similarity in their approaches as leaders, both emphasizing "that the judiciary was the leader in access to justice in Canada and New York and that it was our responsibility to do so." He praised Chief Justice McLachlin for her establishment in 2008 of the National Committee on Access to Justice in Civil and Family Matters in Canada. He then remarked that in 2018 Chief Justice McLachlin "understood there was no better way to ensure the ongoing commitment to access to justice" in Canada than to become chair of the committee she had established, continuing her commitment to this important goal.



## A JUDICIARY COMMITTED TO JUSTICE

Chief Judge Lippman quipped that Canada enjoyed a more reasoned approach to judicial retirement than his home state, where “the constitutional age of senility” is 70. But just prior to retirement, Chief Judge Lippman, as one of his last acts as Chief Judge, created a permanent Commission on Access to Justice in New York. Quoting the Old Testament, Chief Judge Lippman described the moral and institutional mission of the judiciary as “justice, justice shall you pursue for rich and poor and high and low alike.”

Chief Judge Lippman recounted his realization when he became Chief Judge of New York’s highest court in 2009 and

was asked to testify before a legislative committee on the long-range plans for access to justice in New York. “There was no long-range plan or short-range plan,” he discovered. “In fact, there was no plan at all.” His first step was to appoint a task force to address the issue. He informed the task force upon its appointment “this is not going to be an arm’s length relationship; we’re going to talk about this issue constantly and I was going to do every single thing that they recommended.”

Through a series of public hearings around the state, Chief Judge Lippman attempted to measure what was going on and how much of the need was being fulfilled. “We determined,” he said, “at best, they were meeting 20% of the civil legal service needs of the people of New York, and that was no secret.”

## “ QUIPS & QUOTES ”

If you keep the doors of our courthouses open and inside those doors you don’t have equal justice, then you might as well close those doors because justice doesn’t mean anything. The judiciary has to stand for something . . . and what we stand for is access to justice.

*Chief Judge Lippman*





We wanted to get it into their DNA [and] written on their foreheads that this is what lawyers do. We help people, we serve others.

*Chief Judge Lippman, under his leadership New York became the first, and still only state in the United States, to require fifty hours of pro bono service from every law student before admission to the bar.*

He continued, “The oldest legal aid institution in the country was turning away eight of nine people who came seeking help,” and this was simply unacceptable. They quickly concluded that the legal service providers, the bar, the law schools, and “particularly the judiciary must together dramatically confront this crisis and take action to ensure that the scales of lady justice are exquisitely and evenly balanced.”

The solution, they believed, was a two pillared approach of increasing public funding of legal services for the poor and increasing pro bono work by the bar, all with the judiciary at the center and leading the effort, “based on our role as legal regulator, as the gatekeeper for bar admission and as the one player in the judicial system that had the moral pulpit to take the issues head on.” This solution would cost money, and Chief Judge Lippman invested millions of dollars of his budget into the project. To obtain the political support he needed, the task force was able to demonstrate through analysis that through savings in social services and incarceration costs, as well as increased federal benefits, the state would gain back \$5 for every \$1 invested in legal services for the poor. He also was able to garner support from leaders of the business and health care communities who recognized that everyone loses when people “fall of the cliff because of lack of legal services.”

In the first year of his initiative, Chief Judge Lippman was fighting a strong headwind from the Governor and Legislature. A proposed \$170 million was to be cut from the State Judiciary’s budget and it was assumed that the State’s investment in legal services would be cut dramatically. But Chief Judge Lippman fought back and refused to let those cuts devastate the State’s most vulnerable citizens. He instead proposed cuts and layoffs in other areas that were unpopular with both the public at large and the bar. With the passion that he demonstrated throughout his talk and throughout his career he explained his philosophy that “if you keep the doors of our courthouses open and inside those doors you don’t have equal justice, then you might as well close those doors because justice doesn’t mean anything. The judiciary has to stand for something,” he said, “and what we stand for is access to justice.” In his standoff with the other two branches of New York State government, Chief Judge Lippman refused to blink and much of the funding was eventually restored.

## JUSTICE OUTSIDE OF THE BOX

But Chief Judge Lippman did not rest with the securing of more adequate funding for the State’s legal services programs. He next challenged the bar to do more. First, under his lead-

ership, New York became the first, and still only, state in the United States to require fifty hours of pro bono service from every law student before admission to the bar. “We wanted to get it into their DNA [and] written on their foreheads that this is what lawyers do. We help people, we serve others.” He also instituted a mandatory reporting requirement for pro bono hours and financial contributions to legal services for all lawyers admitted to the New York bar as part of the biannual registration process. This did not require any mandatory number of hours or dollars, but was intended to focus attorneys on their ethical obligations to provide pro bono services to those in need.

“Let me tell you,” Judge Lippman recalled, “when we did the fifty-hour pro bono requirement and the mandatory pro bono reporting, you’d think the world was coming to an end. Believe it or not, the organized bar in our state threatened to sue the Chief Judge,” fearing that this was the first step toward a mandatory pro bono service requirement for all lawyers. “That wasn’t our intent,” he explained. “The fifty hours was an admission requirement” and the reporting requirement was to find out what lawyers were giving in time and resources to the cause. But while not his intent, Judge Lippman adopted the famous line from Seinfeld, “not that there’s anything wrong with it.” He asked, “Would it be a terrible thing if every lawyer in the United States and Canada, New York and every other place in the world gave fifty or 100 hours a year to help poor people with legal services?” As Chief Judge Lippman challenged the audience with this provocative statement Chief Justice McLachlin, nodded vigorously in assent. She too had tirelessly encouraged the Canadian bar to do more to help the poor throughout her storied career.

Chief Judge Lippman also described some of the innovative programs that have been instituted once “we started to think outside the box.” These include copying the Civic Advice Bureaus in Britain and using non-lawyers to help litigants navigate the system. They also imposed new regulations requiring banks to

provide affidavits swearing to key information before allowing foreclosures to proceed, evening the playing field for so many affected by the financial crisis of 2008.

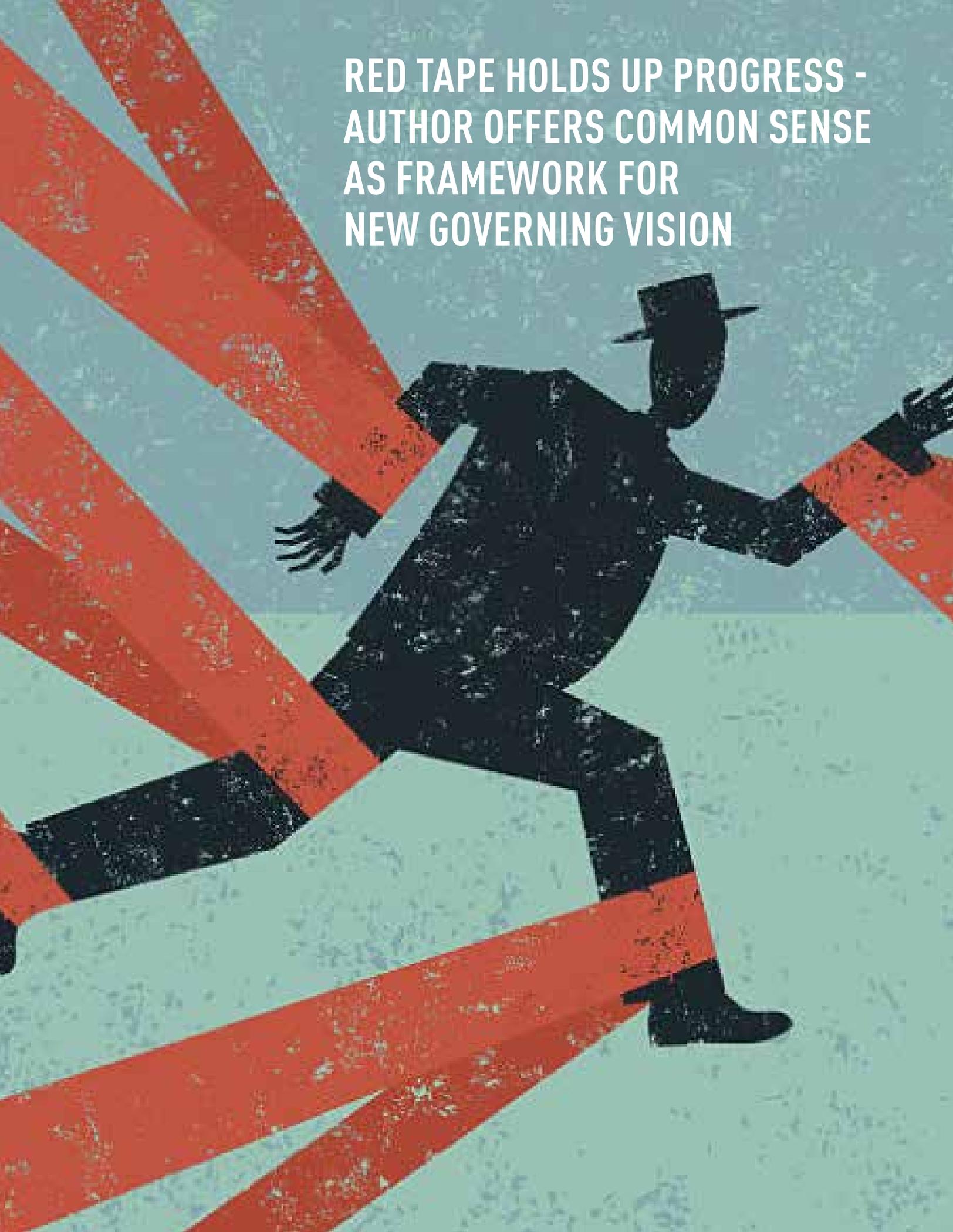
After his retirement from the bench, Chief Judge Lippman has been far from idle. He recently headed a commission to “try and close the most notorious jail in the United States, Rikers Island in New York City,” describing it as “an accelerator of human misery and a stain on the soul of our city.” Recently, that commission’s recommendation to close the prison was adopted by the New York City Council and the “place where brutality takes place every day” in Chief Judge Lippman’s words, is in the process of being shut down.

“Access to justice is about all of these issues” he said, including mass incarceration, which “everyone from Bernie Sanders to the Koch brothers” understands just doesn’t work. In concluding, Chief Judge Lippman reflected on the issue so dear to him and to the great Canadian Justice for whom the award he was receiving was named:

Justice cannot be about the amount of money in your pocket or the color of your skin. Beverley McLachlin is right, the law and justice and the role of the judiciary is not just a cold and neutral calculation of law. It is about an engaged act of imagination and putting ourselves in the shoes of those seeking justice. She was and is a beacon of hope for all of us who care about the rule of law in a just society. I am greatly indebted to all of you and this wonderful, prestigious organization. You do me a great honor by making me the inaugural recipient of the Beverley McLachlin Access to Justice Award.

**Stephen G. Schwarz**  
Rochester, New York

**RED TAPE HOLDS UP PROGRESS -  
AUTHOR OFFERS COMMON SENSE  
AS FRAMEWORK FOR  
NEW GOVERNING VISION**





**Philip K. Howard** – currently Senior Counsel at Covington & Burling – is a Renaissance man. He sang in an *a capella* group at Yale with his undergraduate classmate, 2019-2020 ACTL President Doug Young; he has practiced law; he has worked as a professional photographer; and he has worked as a consultant. He has frequently testified before Congress, and his opinions are frequently found in the pages of the *Wall Street Journal* and the *Washington Post*. He has written five books, including the 1995 best-seller, *The Death of Common Sense*. In 2002, he founded the organization Common Good, a nonpartisan national coalition dedicated to the not insignificant goal of restoring common sense to America.

In Vancouver during the 2019 Annual Meeting, Howard spoke about the themes explored in his most recent book, *Try Common Sense: Replacing the Failed Ideologies of Right and Left*. “We are at one of those points in history where we need to change the basis of how we govern, including how we administer law,” said Howard.

Howard’s message can be summarized: Washington is out of control – a runaway train of red tape. No one at any level of responsibility is free to take responsibility to make things work. Why is it that new leaders get elected but no problems get fixed? Laws and regulations have piled up decade after decade. They suffocate our freedom. Congress continues to do nothing. The two political parties are far more interested in laying blame.

Howard pointed out that “the law” and its accompanying bureaucracies have ballooned into obstacles that too often prevent us from making necessary, common sense choices. He identified examples of this over-reaching:

- The ability of public school teachers to maintain order in their school rooms has been substantially lost.
- In California, only two teachers out of 277,000 teachers are dismissed for incompetence because it is difficult, if not impossible, to assemble the paperwork necessary to prove the predicate level of legal certainty needed for discharge.



- A tree falls into a creek in Franklin Township, New Jersey, resulting in flooding. The mayor sends a backhoe to pull the tree out of the creek. Then the town lawyer determines that the subject creek is rated Class C-1, requiring official permission to remove a natural object. It takes ten days and \$12,000 in legal fees to get permission to do what was completely obvious, which is to pull the tree out of the creek.
- A family-owned apple orchard in upstate New York is subject to 5,000 rules from seventeen different regulatory programs. The family has thirteen clipboards in the family office to ensure compliance. The granularity of the rules is imposing, including a rule that when the family picks the apples and puts them in the cart to move them the short distance back to the barn, they must cover the apples with a cloth to protect them against bird droppings, notwithstanding that the same apples, while on the tree for about five months, had no such protection.

“Government did not used to work this way,” said Howard. “The Constitution is a set of principles, not a set of specific mandates. In just four words, ‘unreasonable searches and seizures,’ the Fourth Amendment makes us feel comfortable when we go to bed at night that the police will not barge in. That line may not be crystal clear, but it is good enough to protect us against state intrusion of power into our homes. It does that in four words, not 5,000 regulations.”

Howard traced the beginnings of the current legislative and agency sprawl to, among others, Franklin Roosevelt’s progressivism in the 1930s and the “Rights Revolution” of the 1960s. Both movements had noble goals. But, said Howard, somewhere along the way, “we came to believe we could protect against bad values in the future by creating a system of government that was better than people, i.e., a system where the law would not only tell people what to do and

what their goals should be, but would tell us exactly how to do it. That’s when we started getting thousand-page rule books.”

According to Howard, this trend adversely affected – and in some cases banished – accountability and individual decision making. Soon, the best way to protect oneself was to have a specific rule, so that one could then say, “The rule made me do it.”

“The problem with this system,” said Howard, “is that it not only cannot succeed, it is designed to fail. The complex shapes of life never fit square legal boxes.” More examples:

- In Fredericksburg, Virginia, a toddler has a seizure in a fast food restaurant. The restaurant manager calls 911. Several volunteer firemen happen to be nearby. They overhear the 911 call. They rush to the child and transport her to a nearby hospital in thirteen minutes, almost certainly saving her life. The next day the volunteer firemen are suspended because their fire truck is not certified for carrying passengers.
- Bloomberg documented that if you want to open a restaurant in New York, you must get permits from eleven different agencies. Cities in other countries have one-stop shops.
- Twenty-one states in this country now have more non-instructional public school personnel than teachers.
- Thirty percent of every healthcare dollar in America is spent on administration. That is \$1 million per physician. A study showed that there are ten administrators for each doctor, in order to ensure compliance with voluminous rules and regulations.
- Law firms now routinely have a policy that they will not give job references for fear of being sued. This is the rule in America, the land of the First Amendment.

Howard argued that, in modern America, we have conditioned everyone to go through the day asking themselves, “Can I prove that what I’m about to do or say is legally correct?” He believes any framework this bad, inefficient, and alienating must be based on false premises; indeed, it misinterprets the rule of law.

Law is essential to freedom, Howard said, in order to protect us against abuses by other people. But somehow after the 1960s, America got the idea that the law could affirmatively make things be correct, and that we can actually tell people exactly how to have a safe workplace, if we only have enough rules and enough adversarial proceedings.

Howard called for a new framework (or perhaps a return to an old one): “I believe that America needs a new governing vision for re-empowering people at every level of responsibility. Let us empower people, and hold them accountable, the way things used to work. That’s the way the constitutional framework is meant to work. We

basically have to reboot this system, not to do away with all regulations, but to make regulations work and to restore human responsibility. Change always happens from the outside. That’s how it happened in the 1960s, and 1930s. If we have an absentee democracy, it doesn’t work. It’s not going to solve itself. Right now, it’s an insider’s game. A group of us is getting together. We’re going to try to build a movement and we’re going to build it not because it’s the right thing to do, which it is, but because doing nothing is perilous.”

For those interested in exploring Howard’s movement, it is an advocacy campaign organized by his organization Common Good ([commongood.org](http://commongood.org)). Chairman Howard may be contacted through his assistant at [rmgiverin@commongood.org](mailto:rmgiverin@commongood.org).

**Chilton Davis Varner**  
Atlanta, Georgia

## “ QUIPS & QUOTES ”

Government did not used to work this way. The Constitution is a set of principles, not a set of specific mandates. In just four words, “unreasonable searches and seizures,” the Fourth Amendment makes us feel comfortable when we go to bed at night that the police will not barge in. That line may not be crystal clear, but it is good enough to protect us against state intrusion of power into our homes. It does that in four words, not 5,000 regulations.

*Philip Howard*





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# SUPERIOR COURT JUSTICE ON GOOD JUDGMENT – A HUMAN PROCESS

The **Honourable Robert Sharpe** was appointed to the Superior Court of Justice in Ontario, Canada, in 1995. In 1999, he was elevated to the Ontario Court of Appeal, where he has served for the past twenty years.

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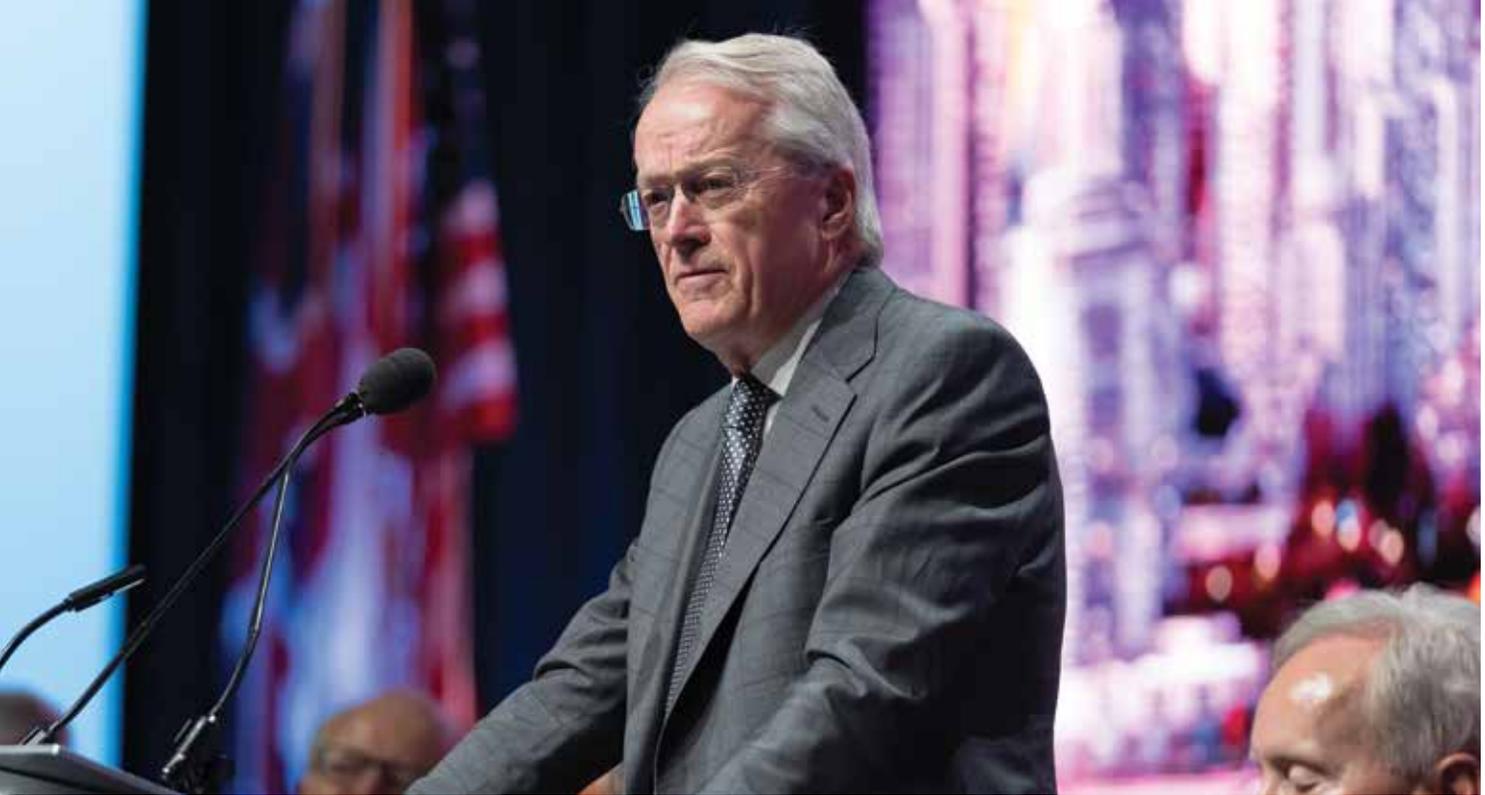
There are some titles that you earn that you never give up, whether or not you continue to do the work, and one of those is “Judge.” So when Justice Sharpe retires, he will still be Justice Sharpe. But he has earned other lifetime titles. After he obtained his law degree, he earned a Ph.D. at Oxford University, doing his doctoral thesis on Habeas Corpus. He has earned the title “Doctor.” After brief private practice, Justice Sharpe taught law from 1976 to 1988 at the University of Toronto Law School. He has earned the title “Professor.” After two years working for then Chief Justice of Canadian Supreme Court, Brian Dickson, he returned to the University of Toronto and served as Dean of the Faculty of Law until his appointment to the bench. He has earned the title “Dean.”

An avid sportsman, he was offered a hockey scholarship by Brown University. But he opted to stay in Canada, and the highlight of his hockey career was when he was a professor and played on the faculty team against the women students’ team, which included our own Fellow and Canadian Foundation Director, **Patricia D.S. Jackson, LSM.**

Justice Sharpe has written numerous books on diverse subjects – murder, libel, World War I, and the making of “Good Judgment,” the subject of his address during the 2019 Annual Meeting in Vancouver, an abbreviated version of which follows:

“It’s certainly a privilege and honor to stand before this audience of North America’s most distinguished trial lawyers. Now, it’s a challenge to sum up a book in twenty minutes. But a good friend of mine, who knows me and . . . the book, . . . said ‘Bob, for you and for that book, twenty minutes is a very generous allocation of time.’ And I know that as a judge who regularly enforces time limits on you people, I will get no sympathy.

“You will be relieved to know that this does not purport to be a book on legal theory. I adhere to the philosophy of that great legal thinker, Yogi Berra, who famously said, ‘In theory, there’s no difference between theory and practice, but in practice, there is.’ I know, as a judge, and I’m sure you know,



as lawyers arguing cases, that is not a theoretical exercise. It's a very practical exercise.

"I've certainly been influenced by legal theories. I think judges and lawyers can learn a lot from legal theory, but my job is not to be a legal philosopher. My job is to be a judge, to decide cases. . . . My approach to legal theory is summed up really in a footnote to a seminal article written in 1975 by, then Professor, now Judge, Guido Calabresi on law and economics. The footnote referred to the part of the title, 'One View of the Cathedral.' . . . Professor Calabresi explained that . . . Claude Monet [did thirty paintings] of Rouen Cathedral, . . . at different times of day in different light and in different shadow. Each painting depicts a different aspect of the cathedral. And it's really only by looking at many, or if possible, all of those paintings that you can fully grasp the beauty and majesty of Rouen Cathedral.

"And I say that that's what legal theory should be to a judge or to a lawyer. . . .

"Now, I will . . . try to make three points. That's what you're all told you have to

do when you're arguing in front of me, so I'll do the same in front of you. One, I'll touch on the central theme of my book, which is what I call the reconciliation of judicial choice and judicial discipline. Second, I'll deal with the question of, do judges make law? And third, is there a place for compassion or empathy in judging?

#### **NIGHTMARE VERSUS NOBLE DREAM**

"Now, the thing that struck me when I became a judge, and still strikes me to this day, is there were two seemingly contradictory aspects to my job. The first was that I knew I had judicial choice. In other words: I knew that the law didn't clearly point me always in the right direction or in any particular direction. It left a lot for me to decide, a lot of choice for me to exercise, a lot of judgment for me to exercise. The second aspect though was that I felt constrained. I felt, 'Well, I can't just decide this case the way I want. I have to do it in somewhat of a much more disciplined fashion.' . . .

"A great legal thinker from England, H.L.A. Hart, described this as 'the choice

#### **“ QUIPS & QUOTES ”**

Yesterday, Gideon Arthurs talked about empathy and the need, before you judge another man, to walk a mile in their shoes. Actually, we're here in Canada. He should've said 1.61 kilometers. But whatever it is, it's really good advice, that before you judge someone, you walk a mile in their shoes. Because that means that when you pass judgment, if the person doesn't agree with your judgment, you're a mile away, and you have their shoes.

*Past President Bob Byman in his introduction of Justice Sharpe*



between the realist nightmare,' that is, that judges exercise unconstrained choice, their personal views, what they had for breakfast, or really what determined results, on the one hand, and what he called 'the idealist noble dream.' The nightmare and the noble dream. The noble dream was that of the formalist or the idealist, who thought that judges simply mechanically follow the law. Now, I'm going to offer what we Canadians like: the middle ground. I say that neither of those two extremes can possibly be right. Judges are not free to do what they please, but judges don't just mechanically turn out answers either. They have a choice, and it's a constrained choice.

"So how do we get to understand those two sides of the job of judging? Well, the first thing is to ask ourselves, 'Why is there judicial choice?' I think our instinct, at first, is to say, 'Well, there really shouldn't be judicial choice. Judges shouldn't be choosing between various options. That must be a defect in the law.' But I think that's actually quite wrong. And I think, upon reflection, we can see that there is a necessity to achieve justice that there be judicial choice, that the law not attempt to dictate automatic outcomes. Laws must be framed in terms of standards that have general application. Generality is what gives the law its objective, rational, systematic quality. Laws are written to apply to everyone. So they are universal in nature. . . .

"And we just heard a very eloquent plea from Philip Howard about the danger of trying to set out rules that are too clear, that are too certain, that think that they can cover every conceivable possible case. It doesn't work. Justice is better served by laws that set out broad principles, if we think of our law in terms of broad principles and then use our judgment to decide specific cases.

"The second and related point is that law is necessarily contextual. Different cases present different facts. . . . Yes, judges do make choices when they decide cases, but that does not mean . . . that judges are free to do it on the basis of what they think is right. Judges have to be very careful about injecting their own personal, political, social, whatever views into the mix of decision-making. Those views will necessarily affect them in their

decision-making, affect the way they think about the case, the way they come to a decision, but they have to be very careful about how those personal values or personal views come into play.

"So what are some of the things that limit judicial choice? . . . Number one, the obligation to follow the law. Now, that's not something that's hollow. That is a point of professional pride in a judge. No judge wants to be thought of as someone who simply goes into court and decides cases on a whim or decides cases on the basis of his or her own personal views. . . . Number two, the obligation to stick with the record. We have to decide cases on the basis of the issues that are defined by the parties on the basis of the evidence and argument that's presented.

"Number three, and overwhelmingly the most important, is the obligation to give a reasoned decision. . . . When you write a legal opinion, you form a tentative view, but then you have to craft, in reason terms, a formal opinion. And it's a different matter. It's just like writing a judgment. You have to be able to put down on paper a compelling case based on sound, legal principle coherent with the overall structure of the law. And that discipline, I say, is an overwhelmingly important constraint on any temptation a judge might have to decide on the basis of personal whim. You know that your reasons are going to be subject to appellate review, and you know that they're going to be subject to public and professional scrutiny.

"And number four, the obligation to make a decision based on a principle that the judge is prepared to follow tomorrow. And this may seem odd, but I find that even if I'm deciding a case where the statute or the precedents aren't all that clear, precedent constrains my choice. Why is that? Because the decision I make today becomes a precedent. And I know that tomorrow, a lawyer can come in and cite that case to me. So I have to be able to justify my decision today, not on the basis of sympathy or wanting to help somebody out, but on the basis of a principle that I'm prepared to live with in the future. . . .

"So yes, I admit that judges have choices. I admit

the choices they make may be influenced by their background and their life experiences. But no, I do not accept that that makes the law indeterminate or that it means that judges can decide as they please. The obligation to provide a reasoned explanation for decisions represents a significant constraint on judicial choice. . . .

### **CALLS OUTSIDE THE STRIKE ZONE**

“Let me switch quickly now to the second point, and that is, do judges make law? And I ask, as I’ll explain, out of no disrespect to Chief Justice John Roberts. Did anyone really believe him when he said, ‘I just call balls and strikes?’ . . . The law rarely presents me with that nicely, clearly defined strike zone into which I can slot the case. It’s a matter of judgment that I have to exercise.

“Of course, judges make law. We shouldn’t try to hide from that. In the common law tradition, the law is what the judges say it is. Most of our law that we learned in first year, torts, property, contract, is common law, a judge-made law. It’s not immutable. Judges made it, and judges can change it.

“The doctrine of precedent makes it clear that judges make law. Statutory and constitutional interpretation, it’s also governed by precedent. So a precedent in one case will make the law for another case. The way I would put it is that judges simultaneously follow and constitute the law. By that, I mean the judge works with the state of the law as it is when the judge decides the case. That may leave gaps. That may leave ambiguities. But the judge works with that existing body of law and then constitutes more law by deciding the case on the basis of dealing with the problem at hand, so this idea of simultaneously following and constituting the law.

“And I say it’s dangerous to pretend that judges do not make the law. And the reason I say that is because, as I’ve said, judges’ personal views and values do influence their decisions. I think it’s very important that they reflect on that. If they really think that they don’t make law, that they don’t exercise choice, then there’s a serious danger that those personal views and those personal predilections will creep into their decisions without

them adequately self-reflecting and controlling their impact. But a big ‘but’ here. Judges make law, but they don’t make up law. Okay? They don’t make up law. Judicial lawmaking, as I’ve argued, is constrained and disciplined by precedent, by principle, by the need to base a decision on recognized legal sources, by the limits of adversarial litigation, and the realization that you’re only getting part of the story when you’re deciding a case, and you don’t have a mandate to rewrite the whole of the law, and by the need to give a reasoned decision. . . .

“Finally, I come to my third point and that is, should judges show compassion or empathy? . . . Judges are not Mother Teresa. The law is the law. It must be applied with an even and consistent hand. It can’t be bent to meet every individual’s circumstances, and we can’t modify it on the basis of raw sympathy or emotion. But on the other hand, good judges are humane judges. Judging is a human process. . . .

“So compassion is . . . the need to see all sides of the case, putting yourself in the situation of the other. We need to maintain an even-handed standard, but we need to see the whole picture. And seeing the whole picture requires us to put ourselves in the shoes of the litigant. We need to deliver measured justice that takes that person’s circumstances into account. So that’s really what we mean by compassion or empathy. I say it’s an essential element of the judicial function.

“So to conclude my three points, judges have choices, but their choices are constrained and disciplined and must be exercised on a principled basis. Judges certainly do make law, but they do not make up law. And the good judge applies the law with an even hand, but always with a full awareness of the plight of the litigants before him or her.”

**Robert L. Byman**

Chicago, Illinois



# A HUMAN STORY ABOUT SPACE: VIRGIN GALACTIC'S SPACESHIP TWO PROGRAM





In his introduction of journalist and author **Nicholas Schmidle**, Past President **Bartholomew J. Dalton** noted that he owns the dubious distinction of having travelled the furthest to speak at the Annual Meeting in Vancouver. When he accepted our invitation, he was living in the D.C. area with his wife and children; but, by the time of the meeting, he and his family had moved to London. He was happy to keep the commitment; but we were happier.

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Schmidle accepted a Journalism Fellowship when he was twenty-seven-years-old; he went to Pakistan, learned Urdu and stayed for two years, gathering the experience to write his first book, *To Live or Perish Forever: Two Tumultuous Years in Pakistan*.

He has spent most of his career as a staff writer for *The New Yorker*, writing long form stories (10,000 words) about topics as varied as Russian arms dealers, antiquarian book forgery, and wrongful convictions. His main focus has been national security issues, such as the raid on Osama bin Laden (about which he addressed the Fellows at the 2012 Spring Meeting) and General Michael Flynn. But Schmidle spoke to the College in Vancouver about his latest passion, commercial space travel. That lofty endeavor is being actively pursued by three different groups; he has written most extensively on the Virgin Galactic effort, dangers, successes and failures. It is a story of science, innovation, and courage.

### **SUBORBITAL DREAMS IN THE MOJAVE DESERT**

Schmidle related “a story with a triumphant beginning, a tragic middle, and an uncertain end.” In the early 2000s, the X Prize was offered - \$10 million to the first privately funded company that could send a reusable craft into space twice within three weeks. A small aerospace company in California with a small group of very talented engineers, Scaled Composites, built a private spaceship in the Mojave Desert. They called it Space- ▶

ship One, and in 2004, two test pilots flew the four-person ship into space three times, claiming the \$10 million award.

Scaled Composites' accomplishment made international headlines and attracted the attention of Richard Branson of the Virgin Group. Branson offered Scaled Composites "a bunch of money" to build a larger version of the spacecraft, one that would have room for eight. Branson believed he could create the world's first space line, offering seats at \$250,000 to fly to the edge of space at suborbital altitudes. Branson predicted they would be operational by 2004.

But the "venture proved to be far more challenging than anyone had imagined, even for this group of crack engineers that had built it the first time. What they found out was that you couldn't just take everything from Spaceship One and multiply it by a factor of three and be good to go. Propulsion, rocket systems don't scale like that. And they found this out the hard way. In 2007, there was an accident at the edge of the Mojave Air & Space Port, in which three engineers died when a tank ruptured and debris sprayed everywhere. It was under-reported, little known, but an incredibly tragic scene."

Years went by with annual predictions from Branson that each next year would be the year. In 2012, they were ready to begin their rocket powered flights with SpaceShipTwo.

"This is not your typical vertical launch rocket, where someone in mission control is pressing a button that automatically sends this rocket into space. This is rather a true throwback rocket ship, like the X-1 that Chuck Yeager broke the sound barrier with in 1947, like the X-15 flown in the late 50s and 60s and appears in the opening scene of *First Man*."

They developed a launch vehicle featuring a funky original design with a wide wingspan and a twin fuselage, called White Knight Two.

The plan was for White Knight Two to tow SpaceShipTwo up to about 45,000 feet and drop it to launch.

"The pilots would light the rocket motor, enter a steep vertical turn, and zoom into space. Despite the futurism of this mission though, this vehicle, SpaceShipTwo, was, in many ways, a retro vehicle. There was no autopilot. Most of the system was analog. Most of the system was fly-by-cable. You are making an input with the stick or rudder, and it is pulling on cable that's controlling the flight surfaces. This is not a futuristic vehicle at all.

"For the test pilots who are flying it, it's an incredibly tactile experience. . . . They're thrown back in their seats. Their bodies are gyrating. As one of the Spaceship One pilots described, he said, 'It was like being in an inflatable raft and going over Niagara Falls. It's just loud and the sides are buffering.'

"Despite the chaos of this experience, it bordered on euphoric in the sense that, as you're climbing, the sky outside the window is getting very dark. . . . The unsecured items in the cockpit begin to levitate. And then at a certain point, you're looking down at this big blue orb, the Earth. The astronauts refer to this as the overview effect. It is this profound, almost mystical, experience in which you realize that, wow, there are no boundaries. There are no ethnic lines, racial lines, national lines. This moment, Richard Branson believed, was one that he could monetize. This is the concept behind what Virgin Galactic was trying to do.

"So, the lead test pilot on that first flight, going back to 2012...April 2012, they're finally ready to start their rocket flights. The lead pilot is a guy named Mark Stucky. Stucky is a former Marine fighter pilot, NASA test pilot, and Air Force test pilot. Almost unimaginably picaresque-like career, in which he had flown almost everything over the course of three decades of his career, except the one thing that he'd been dreaming of

Many of you have heard this phrase: pushing the envelope. [I]t derives from flight tests. It derives from the idea that after a new airplane has been built, before it has been certified safe, test pilots coordinate with the engineers in order to put it through its paces. And initially, the flight envelope is minuscule. It is taxi down the runway, takeoff and landing. Very basic. Gets more aggressive with time. We tend to think of these test pilots almost as Evel Knievel types. But the process of envelope expansion has as much to do with the rigor and discipline of the scientist, I think, as it does with the artful improvisation of a daredevil.

*Nick Schmidle*

doing since a child watching John Glenn’s flight with his dad.

“He had applied to the astronaut program four times, narrowly missing out each time. It was after the fourth time that NASA finally said, ‘Look, you’ve got this incredible portfolio. You’re not, by our standards, whatever metrics, astronaut quality, but we’d love to have you come in as a test pilot to train the astronauts in how to fly.’ So that’s how he got to NASA.

In 2012 Stucky was the lead test pilot. His co-pilot was Mike Alsbury, a young engineer, test pilot, and Stucky’s best friend.

“Many of you have heard this phrase: pushing the envelope. [I]t derives from flight tests. It derives from the idea that after a new airplane has been built, before it has been certified safe, test pilots coordinate with the engineers in order to put it through its paces. And initially, the flight envelope is minuscule. It is taxi down the runway, takeoff, and landing. Very basic. Gets more aggressive with time. We tend to think of these test pilots almost as Evel Knievel types. But the process of envelope expansion has as much to do with the rigor and discipline of the scientist, I think, as it does with the artful improvisation of a daredevil.”

Schmidle addressed the popular misconception that people tend to hold about commer-

cial space travel – that it is pursued by fat cats with no shortage of money being thrown at the problem. Not so. The Apollo program enlisted 400,000 engineers. Virgin Galactic and Scaled Composites are trying to do their thing with two dozen engineers thrown at the problem.

“The more time I spent in Mojave, California with these guys, imbibing all of their risk calculations, the more I felt it beginning to seep into my own life. We are all, in some ways, boxed in by our own envelopes, whether that is writing a 10,000-word New Yorker story, that, the first time, feels really difficult and daunting, but after ten, twelve times, you’re starting to get the hang of it, or whether it’s working a particular kind of case that was really challenging the first time, but now, you’ve got a legal formula. You know what to do. It’s not nearly as challenging as it was the first time. We get good at these things. We’re known for these things. There’s no reason to do anything different. We’re reluctant to step out of this box.”

The first flight was in April 2012 with Stucky as pilot and Alsbury as co-pilot. “They light the rocket motor. It burns for sixteen seconds. It’s successful. They saw some things they liked. They saw some things they didn’t like, but they landed. They made some adjustments to the structure. They made some adjustments to how they were going to fly it in the future. Over the course of the



next year, Scaled Composites flew two additional rocket-powered flights. Stucky flew both of them. All three of them went off safely.

“The fourth flight was in October of 2014, ten years after the success of the SpaceShipOne flights. Stucky did not fly. A different pilot took that slot, with Alsbury assigned to the co-pilot seat. Stucky watched from the mission control room. Seven seconds into the flight, Alsbury, made a tragic and terrible mistake at the controls and Stucky watched the spaceship break apart in midair. Thousands of pieces rained down on the desert. The pilot survived. Alsbury did not.

“Once again, Virgin Galactic and the SpaceShipOne, SpaceShipTwo now, are the subject of front-page national news in October 2014. After the success of 2004 and the tragedy of 2014, I went to the magazine and said I wanted to write about this world. Virgin Galactic was not the only private company trying to do this. Elon Musk’s SpaceX was successfully building rockets, as was Jeff Bezos’s Blue Origin. I wasn’t really interested, though, in the competition between these companies. I wanted to learn more

about who were these test pilots flying these rockets ships in the desert. And I didn’t know Stucky at the time or anything about the program, but I knew the type because I am the son of a TOP-GUN graduate, a Marine Corps fighter pilot.”

## THE HUMANITY BEHIND THE HEADLINES

Schmidle threw himself into the project in much the same way that his short trip to Pakistan turned into two years. “I began to feel like the story had taken over my life. I was a willing prisoner to the story. And yet, you had this other drama taking place in Mojave, in which the only thing that felt less than real was space itself, which became a metaphor. It was the test point that was always just beyond the envelope because it wasn’t, for me, a space story. It was a human story about a bunch of guys and girls trying to do something that had never been done before.

“I was a fly on the wall, and there is something real about that. They mistook me for an employee at times. They just forgot that I was there. And witnessing the sacrifice, witnessing the



## “ QUIPS & QUOTES ”

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*Nick Schmidle*

stories of sacrifice of people like Mike Alsbury and the three guys who died at the test fire site in 2007, but also the sacrifice that was central to Stucky's whole story. . . . Right as he was coming to Scaled Composites, he divorced. And his children essentially wrote him out of their life. He was estranged from all three kids. As the father of two boys at that time, the notion that my kids would at some point change their email addresses and phone numbers to avoid contact with me was devastating and brought a whole new aspect into this story.

"It made me think about my relationship with them. And it made me think about my relationship with my dad, who also, like Stucky, was gone a lot, deployed a lot, not someone who overflowed with affection . . . There was no question of the inspiration, that was evident. He eventually rose to be a three-star general, was the head of aviation for the Marine Corps, was flying single-seater jets until the day he retired, and continues to fly today, races motorcycles. It threw me into a bit of a tailspin . . . It's not a zero-sum game, but is our job as parents and fathers to show affection and comfort, or to inspire? And while I was certainly there for my kids a lot more than my dad was, was I inspiring?"

"I tend to think that as storytellers, our job is to hold up a picture frame. It lets others take a clear look at themselves in the process of telling and reading that story. Great nonfiction and fiction, I think, does this."

In December 2018, Virgin Galactic was finally ready to make its first space flight. Stucky was chosen to be the pilot. "They separate from the White Knight Two. They light the rocket motor. They burn. They go straight up. They reach space. An amazing, amazing, amazing moment. I'm standing down there on the flight line, next Richard Branson, who collapsed into tears. I'm wearing sunglasses and very glad that I'm wearing sunglasses and refusing to take them off because it was a moving experience. It was something special."

Two months later, there was perhaps an even more special moment. Schmidle and his family happened to be in an RV driving around California. Stucky had said, "Come by with your kids and I'll give you a tour of the hangar." His sons got a private tour but, better yet, two days later, they got to stand on the flight line as the ship went up for its second flight. "As my kids, as my eight-year-old, particularly, is following the contrails of the vehicle going up, it was as, if not more, powerful than the first time. Stucky's was the culmination of one dream for him. And sharing that moment with my son...If our job is to inspire, on that day at least, I had done it, albeit vicariously, but I had done it."

But Schmidle related the most special memory by reverting to the first flight in December. Afterwards, Stucky went out to lunch with the other pilots, who all came by themselves. Stucky brought two guests, one of whom was Nick. "Why is this journalist still here?" the other pilots asked. But Stucky's special guest was his own son, who to the chagrin of Stucky's ex-wife, had reestablished a bond with his dad over their shared passion for flight.

"Stucky was obviously elated by what he had just achieved. He had just fulfilled his lifelong dream, but seemed more content with whom he could share it with. It was a bit of a twisted but satisfying realization that while we're often inspired by what's up there, we are fulfilled by what is down here. Stucky went back to the hangar after lunch. The president of the company asked him, as they were walking around and everyone has this glow...The president of the company asked him if he felt any different now that he was an astronaut. 'Not really,' he said. He just wanted to get back in the cockpit and do it again. They had more work to do, he said. They weren't done pushing the envelope."

**Bartholomew J. Dalton**  
Wilmington, Delaware



# INDUCTEE LUNCHEON REMARKS: PAST PRESIDENT FRAN WIKSTROM

Past President **Francis M. Wikstrom** of Salt Lake City, Utah, offered remarks during the Friday, September 27, 2019, Inductee Reception and Luncheon to inductees, spouses, and guests on how inductees got to this point.

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His edited remarks follow:

“There are three requirements that you must have to be inducted into the American College of Trial Lawyers. First, you must be considered by the Fellows, in your state or province, to be one of the outstanding trial lawyers in your jurisdiction. Please note that I didn’t say that you have to be considered outstanding by the “Best Lawyers,” “Super Lawyers,” “Chambers,” or any of these other organizations that make a business out of rating lawyers and playing to their insecurities. Of course, they’re happy to sell you a plaque, a book, and feature you in one of the big full-page ads in their magazine, of course, for a fee.

“Now, as a Fellow of the American College of Trial Lawyers, you will receive a plaque from us, but it’s not yours. In a couple of very, very, very rare instances where people who were Fellows have not lived up to the standards of the College, we’ve asked them to return it, and they have, I don’t know if they still say on the back, but the back of my plaque says this belongs to the American College of Trial Lawyers.

“There are many really, really good trial lawyers out there who will never be Fellows in the American College. There are a lot of lawyers who think they’re great lawyers who will never be Fellows in the American College of Trial Lawyers. There are lawyers who brag that they’ve never lost a case in their life and will not be Fellows. Because we all know lawyers who say they’ve never lost a case are afraid to try the close cases. We know that winning is not the mark of an outstanding trial lawyer because you don’t make the facts of your case. It’s what you do with those facts that sets you apart from others. You have to know the play. It’s how you play the hand that you’re dealt, not the hand that you’re dealt in the first place.

“But trial skills are not enough. Being a great trial lawyer is not enough to get you in the College. The second requirement is that your ethics and professionalism must be beyond reproach. Your word must be your bond. You must treat all participants in the justice system with respect and dignity.

“Third, you have to be collegial. Someone who enjoys being with, and is welcomed by, his colleagues at the Bar. You may have noticed how much joy we have in seeing each other at these Annual Meetings. You will, over the course of the years as you get more involved in the College, make friends from



both Canada and the United States, and you'll really look forward to seeing and being with those folks each year. In the words of the late regent, beloved Former Regent, John Famulauro, 'You have to be somebody who you would like to spend a day with in a fishing boat.'

"The fact that all of you are sitting here today means that you have successfully made it through the long and very arduous process to become a Fellow.

"Why do we do it? We do it because we all love this College and we want to guard its integrity. The College is the only lawyers' organization that has as part of its membership every single justice of the Supreme Court in the United States and the Supreme Court of Canada. They're all offered Honorary Fellowship in the College, and, with a couple exceptions, they've all accepted.

"The exceptions that I'm talking about are people like Justice Lewis Powell and Madam Justice Suzanne Côté, who were Fellows in the College before they assumed the bench. I have on fairly good authority that, shortly after Justice Côté assumed the bench, she was asked by her colleagues whether she planned to accept Honorary Fellowship

in the College and her response was, 'No, I'm already a real Fellow.' Judges can't become Fellows. The only way a judge can be a Fellow, other than an Honorary Fellow, is if they were Fellows before they went on the bench. We lose a lot of good trial lawyers this way if we don't find out soon enough and we don't get them before they go on the bench. But, all of our Judicial Fellows were Fellows before they went on the bench.

"You'll note that the introductions to both the *U.S. Code of Pretrial and Trial Conduct* and the *Canadian Code of Pretrial and Trial Conduct* were both written by our respective Chief Justices. That is the respect that this organization commands, and why we guard it so zealously. We go through this process because we're so proud of the College and what it stands for, and we want to make sure that those we admit into Fellowship will exemplify our standards and carry on our legacy.

"Before I close, I want to say a brief word to the spouses and partners, family and significant others who are here with you today. As you can tell, we think your inductee is pretty special, but we also know that not one of them believes so foolish to think that he or

she accomplished this all on his or her own. Without your love and support, we know that they wouldn't be here today. Celebrate with them their weekend in the sun and in the limelight. And when you return home on Monday, you can remind them, as the slave did to Caesar upon his triumphal entry into Rome, 'Remember, you are mortal.' And the dishes need to get done and the garbage needs to go out.

"And to you inductees, we went through this process because we wanted to be certain, and we are certain, that when the announcement goes out in your jurisdiction, in your legal community, that you are now a Fellow in the American College of Trial Lawyers, that you will add luster to our Fellowship, and make us proud that we have admitted to you tonight as Fellows. You are now marked people. Those in your legal communities know now, and will know, that you are a Fellow in the College, and they'll be watching you, just like you watched, admired, and emulated those legal giants who came before you. Much will be expected of you because you are now one of those giants. We know that you will make us proud." ■



# 69 NEW FELLOWS INDUCTED AT THE 2019 ANNUAL MEETING IN VANCOUVER, BRITISH COLUMBIA

## ALABAMA

*Birmingham*

**Joseph S. Miller**

Starnes Davis Florie LLP

## ALASKA

*Anchorage*

**Michael J. Schneider**

Law Offices of Michael J. Schneider, PC

## CALIFORNIA - NORTHERN

*San Francisco*

**John M. Potter**

Quinn Emanuel Urquhart & Sullivan LLP

## COLORADO

*Boulder*

**Barbara H. Glogiewicz**

Caplan & Earnest

## CONNECTICUT

*Bridgeport*

**Douglas P. Mahoney**

Tremont Sheldon Robinson Mahoney, P.C.

## DISTRICT OF COLUMBIA

*Washington*

**Graeme W. Bush**

Zuckerman Spaeder LLP

**Kathryn Ruemmler**

Latham & Watkins LLP

**Frederick W. Yette**

U.S. Attorney's Office, District of Columbia

## GEORGIA

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**M. Scott Bailey**

Huff Powell Bailey

**R. Gary Spencer**

R. Gary Spencer, P.C.

*Macon*

**Chris Clark**

Clark & Smith Law Firm LLC

*Marietta*

**Charles P. Boring**

Judicial Qualifications Commission, State of Georgia

*Savannah*

**John E. Suthers**

Suthers Law Firm

## IDAHO

*Nampa*

**William Wellman**

Wellman Law

## ILLINOIS - UPSTATE

*Chicago*

**Christopher J. Lind**

Bartlit Beck LLP

**Theodore T. Poulos**

Cotsirilos, Tighe, Streicker, Poulos & Campbell, Ltd.

## IOWA

*Cedar Rapids*

**Matthew L. Preston**

Brady Preston Gronlund, P.C.

## KANSAS

*Topeka*

**Arthur S. Chalmers**

Attorney General's Office, State of Kansas

*Wichita*

**Thomas M. Warner, Jr.**

Warner Law Offices, PA

## LOUISIANA

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**Andrew Blanchfield**

Keogh, Cox and Wilson, Ltd.

*New Orleans*

**Kim M. Boyle**

Phelps Dunbar, L.L.P.

**Timothy F. Daniels**

Irwin Fritchie Urquhart & Moore LLC

**Cheryl Mollere Kornick**

Liskow & Lewis

**Joseph Maselli, Jr.**

Plauche Maselli Parkerson LLP

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**Thomas J. Cullen, Jr.**

Goodell, DeVries, Leech & Dann, LLP

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**Ernest I. Cornbrooks III**

Webb Cornbrooks Wilber Vorhis Douse Leslie & Mathas LLP

## MASSACHUSETTS

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**A. Bernard Guekguezian**

Adler, Cohen, Harvey, Wake- man and Guekguezian, LLP

**Marianne C. LeBlanc**

Sugarman and Sugarman, P.C.

**Mark T. Lee**

Suffolk County District Attorney's Office

## MICHIGAN

*Grand Rapids*

**Matthew G. Borgula**

Springstead Bartish Borgula & Lynch

## MINNESOTA

*Minneapolis*

**Deborah A. Ellingboe**

Faegre Baker Daniels

**James W. Halbrooks**

Bowman And Brooke

**Andrew H. Mohring**

Office of the Federal Defender, District of Minnesota

## MISSISSIPPI

*Ridgeland*

**William M. Gage**

Butler Snow LLP

## MONTANA

*Billings*

**Jon Mark Moyers**

Moyers Law PC

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*Bozeman*

**Ashley Whipple**

Whipple Law Offices PLLC

## NEVADA

*Las Vegas*

**Christopher Oram**

Christopher Oram Law Office

**D. Lee Roberts, Jr.**

Weinberg Wheeler Hudgins Gunn & Dial

## NEW MEXICO

*Albuquerque*

**Charles R. Peifer**

Peifer, Hanson & Mullins, P.A.

**Maureen Sanders**

Sanders & Westbrook, PC



NEW YORK – DOWNSTATE  
*New York*

**Deborah A. Colson**  
Colson Law PLLC

**Morton Dubin II**

Orrick, Herrington & Sutcliffe LLP

NORTH CAROLINA

*Charlotte*

**David C. Wright III**

Robinson, Bradshaw & Hinson, P.A.

*Greensboro*

**Allison Mullins**

Mullins, Duncan, Harrell & Russell, PLLC

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**Aneca E. Lasley**

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**Mark L. Schumacher**

Freund, Freeze & Arnold

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*Norristown*

**Kevin R. Steele**

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*Philadelphia*

**William J. Brennan**

Brennan Law Offices

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Barth Ballenger & Lewis, LLP

*Myrtle Beach*

**Marian Williams Scalise**

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Aldous Walker LLP

*Houston*

**David R. Tippetts**

Weinstein Tippetts & Little LLP

UTAH

*Salt Lake City*

**Shawn McGarry**

Kipp and Christian, P.C.

VIRGINIA

*Norfolk*

**Bruce T. Bishop**

Willcox & Savage, P.C.

*Richmond*

**William J. Dinkin**

William J. Dinkin, PLC

WYOMING

*Casper*

**Stephanie I. Sprecher**

US Attorney's Office, District of Wyoming

CANADA

MANITOBA

*Winnipeg*

**Helga D. Van Iderstine**

MLT Aikins LLP

ONTARIO

*Ottawa*

**Lawrence Greenspon**

Greenspon Granger Hill Lawyers

*Toronto*

**Matthew P. Gottlieb**

Lax O'Sullivan Lisus Gottlieb LLP

**Linda M. Plumpton**

Torys LLP

QUÉBEC

*Montréal*

**Dominique Menard**

LCM Attorneys Inc.

*Québec*

**Judith Rochette**

Lavery

SASKATCHEWAN

*Saskatoon*

**Mark Brayford, Q.C.**

Brayford Shapiro



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# MEET OUR NEW INDUCTEES

Our “portals” were opened to sixty-nine individuals at the Vancouver meeting, in addition to another who had been inducted in a private ceremony shortly before the meeting and before her enrobenment as a Federal Magistrate Judge. Our seventy new Fellows hail from thirty states and four provinces. Twenty are women; one is Native American; four are African-American; one is Asian-American. Seven are currently in public service, although many have extensive prior public service, such as one who was White House Counsel for President Obama. Two are pilots. Two are triathletes. Two are accomplished cooks, whose dishes raise thousands for charity. One is a third generation Fellow, following her grandfather and father into our ranks.

We remain less diverse than we ought to be, but we are working on it. When our Fellow **Suzanne Côté** was installed on the Supreme Court of Canada, the fourth woman on a nine-member bench, then Honorary Fellow and **Chief Justice Beverley McLachlin** deadpanned “four down, five to go.” We may never get that far, but we will keep trying to have the College reflect the real demographics of our profession. And gender and ethnicity aside, we have seventy new Fellows of whom we are mightily proud. We offer a few words about each of them:

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## ALABAMA

**Joseph Miller.** Joe is a graduate of the University of Alabama School of Law and practices in Birmingham, where he focuses on defending physicians, nurses and other health-care providers in medical malpractice cases; he has participated in approximately eighty jury trials. One judge said “he’s absolutely one of the best! . . . I told my son, who is a doctor, to call this guy.”

## ALASKA

**Michael J. Schneider.** Mike’s practice in Anchorage focuses on plaintiffs’ wrongful death

and personal injury in automobile, aviation and maritime cases. Michael is an experienced outdoorsman, hunter, and small aircraft pilot. Even before being inducted, he piloted President Leon during a visit to Alaska for the 2019 Alaska Fellows Annual Dinner. Mike edited the *Alaska Bar Newspaper*.

## ARIZONA

**Maria Davila.** After graduation from the University of Arizona School of Law, Maria served as a county prosecutor, a Federal Defender, an Assistant U.S. Attorney, and a criminal defense sole practitioner. She tried more than eighty cases covering a wide range of crimi-



nal matters. She was elected a Fellow in February 2019, by which time she had been selected to serve as a Federal Magistrate Judge. Scheduled to be enrobed before the Vancouver Meeting, she was inducted as a Fellow on March 18, 2019 by then-President Jeff Leon in a private ceremony in Tucson. On April 1, she took her place on the Federal Bench.

## CALIFORNIA

**John Potter.** John, based in San Francisco, specializes in white collar defense and corporate investigations. A graduate of Georgetown Law, John served as an Assistant U.S. Attorney before entering private practice. John has tried more than thirty cases to verdict, but one of his most satisfying matters was the successful civil rights prosecution of the police officers involved in the Rodney King beating, for which he received a Department of Justice commendation.

## COLORADO

**Barbara A. Glogiewicz.** Barbara practices in Boulder, defending physicians, nurses and other health care providers. She obtained her bachelor's degree in nursing and her law degree from the University of Colorado. When not practicing

law, Barbara enjoys cooking and travelling with her husband and three adult children.

## CONNECTICUT

**Douglas Mahoney.** Doug received his J.D. with Honors from the University of Connecticut School of Law and his A.B. from the College of the Holy Cross. A plaintiffs' personal injury lawyer, Doug has served as President of the Connecticut Trial Lawyers Association and President of the Greater Bridgeport Bar Association.

## DISTRICT OF COLUMBIA

**Graeme Bush.** Graeme attended Wesleyan University and the University of Maryland School of Law, where he was Order of the Coif and founder and President of the *International Trade Law Journal*. Graeme clerked for District Court Judge Roszel C. Thomsen. Graeme's practice focuses on complex commercial and regulatory matters, and advising clients in investigatory litigation and disciplinary actions.

**Kathryn Ruemmler.** Kathryn served for almost six years in the Obama Administration, first as Principal Associate Deputy Attorney General in the Department of Justice, and later as Counsel to

the President. President Obama has described her as having “an uncanny ability to see around the corners that no one else anticipates.” Earlier in her career, Kathryn was an Assistant United States Attorney and Deputy Director of the Enron Task Force. Kathryn served as Associate Counsel to President Bill Clinton. Kathryn graduated from Georgetown, where she was Editor-In-Chief of the Law Review.

**Frederick Yette.** Fred is a Harvard Law graduate who is a career Assistant U.S. Attorney in D.C.

## GEORGIA

**Scott Bailey.** Scott is a graduate of Georgia State University School of Law and practices in Atlanta. In his medical malpractice defense practice, Scott has tried over forty cases as lead counsel, all to defense or directed verdicts. He is often described by judges as the “consummate professional,” with a style of being kind to victims but tough on experts.

**Charles “Chuck” Boring.** Prior to his current position with the Judicial Qualifications Commission, State of Georgia, Chuck was the Deputy Chief Assistant District Attorney of Cobb County, Georgia. As Deputy Chief ADA, he served as the supervisor of the Special Victims Unit, which prosecutes all crimes involving child sexual and physical abuse, adult sexual abuse, adult SVU-related homicides, and human trafficking. Chuck successfully prosecuted a father charged with murder for leaving his toddler son in a hot car, a case that received national attention.

**John Christopher “Chris” Clark.** Chris is a graduate of The Citadel and Mercer University Law and a former officer in the United States Army. Chris practices complex plaintiff personal injury at Clark, Smith & Sizemore in Macon. In 2018, Chris received the Tradition of Excellence Award from the State Bar of Georgia where he shared these thoughts in his acceptance speech: “Lawyers and judges must encourage civility, integrity and professional conduct among themselves and with each other. We should act with courtesy and respect for our fellow lawyers, the court and all people we encounter, whether client

or adversary. If the lawyers and judges do not lead by example, then who will?”

**Gary Spencer.** Gary is a graduate of Howard University School of Law and practices in Atlanta. Having spent ten years as a public defender, Gary focuses on criminal defense and personal injury. Prosecutors acknowledge that even in the most challenging of cases, Gary “always has something up his sleeve to make it a ballgame.” Gary is “a trial lawyer’s trial lawyer.”

**John Suthers.** John is a graduate of the University of South Carolina School of Law; his practice includes complex personal injury and wrongful death and medical and nursing home malpractice. He was among the first lawyers in the United States to sue and hold accountable a nursing home for patient abuse and neglect.

## IDAHO

**William Wellman.** Bill maintains a solo practice in Nampa, a town near Boise, focusing on family law and criminal defense. Bill has served his local area as the Canyon County Deputy Prosecuting Attorney, the Nampa City Prosecuting Attorney, the Owyhee County Public Defender, and the Idaho Special Deputy Attorney General for Child Support Enforcement.

## ILLINOIS

**Christopher Lind.** Chris has been at his present law firm since its inception, although he did not graduate from law school until a year after the firm was formed. Chris moved from law clerk to associate to partner on the strength of his trial work in complex commercial, antitrust, intellectual property and other cases. Chris graduated first in his class at Northwestern University and was Phi Beta Kappa at the University of Michigan.

**Theodore Poulos.** Ted began his career as a trial lawyer in the U.S. Attorney’s office in Chicago. He graduated from Purdue University and Loyola Law School. Ted is among the lawyers in Chicago who try the most complex and high stakes criminal and complex civil litigation cases.

## IOWA

**Matthew Preston.** Matt is a life-long Iowan who practices in Cedar Rapids. His work has resulted in record-setting verdicts and settlements in class actions throughout Iowa. He is an active member and has served in leadership positions in the Iowa Academy of Trial Lawyers, the Dean Mason Ladd Inn of Court, and the Linn County Bar Association. When not practicing law, you can find him in the kitchen creating dishes from his own original recipes. He balances his love for food with running, having completed five marathons and as many triathlons.

## KANSAS

**Arthur Chalmers.** Art is currently the Kansas Assistant Attorney General, Trial Counsel, Complex Tort Defense Unit, after a law career in private practice in Wichita, where he represented public and private company clients in complex civil rights, construction, products liability, oil and gas, school finance and insurance litigation.

**Tom Warner.** Tom is a plaintiffs' lawyer in Wichita and is immediate past president of the Kansas Trial Lawyers Association. He was recently successful in overturning the Kansas non-economic damage cap in *Hilburn v. Enerpipe* on constitutional grounds. Tom is married to Brenda, a teacher; they have two adult sons, Trey and Dylan.

## LOUISIANA

**Andrew Blanchfield.** Drew practices in Baton Rouge. A graduate of Louisiana State University Paul M. Hebert Law Center, Drew is an assistant attorney general for the State of Louisiana and serves as trial counsel for the State, its officers and employees in employment, civil rights, constitutional and tort cases in state and federal courts. He also regularly represents parties in suits involving commercial disputes and professional liability issues.

**Kim Boyle.** Kim Boyle, a graduate of University of Virginia School of Law, practices labor and employment, commercial, civil rights, and constitutional law in New Orleans. She was the first female African American President of the

Louisiana State Bar Association and serves on the Boards of Directors of Tulane and Dillard Universities. In addition to her active litigation practice, she has taught as an assistant professor of law at Loyola University School of Law in New Orleans, has served by appointment as judge pro tempore of the Orleans Parish Civil District Court, and actively serves on several public and civic commissions and boards.

**Timothy Daniels.** Timothy is located in New Orleans. He represents railroads, pharmaceutical manufacturers, and businesses in complex litigation. A frequent lecturer on ethics and trial procedures, he received the 2019 Distinguished Alumnus Achievement Award from the LSU Law Center.

**Cheryl Mollere Kornick.** Cheryl, a summa cum laude graduate of Loyola University New Orleans College of Law, represents parties in complex business tax disputes before the Louisiana Tax Commission and the Louisiana Board of Tax Appeals and in energy related matters, including royalty and mineral lease and contract disputes and pipeline expropriation.

**Joseph Maselli.** Joe earned his legal and undergraduate degrees from Tulane University. Joe has represented parties in civil litigation throughout Louisiana for over forty years and for many years has served as adjunct Faculty Member at Tulane Law School teaching trial advocacy.

## MANITOBA

**Helga Van Iderstine.** Helga focuses on regulatory issues including professional liability, health law, personal injury, public utility regulation, and privacy legislation. She has been recognized for her leadership in the Bar, having served as President of the Law Society, a member of the Practicing Ethics Committee for the Law Society of Manitoba and multiple other professional and community organizations. Helga escapes the pressures of a vigorous law practice with adventure travel. She is an avid whitewater rafter, kayaker, and traveler through northern Canada and the world.



## MARYLAND

**Ernest I. Cornbrooks III.** Ernest practices in Salisbury, Maryland, where he is an honorary member of the Volunteer Fire Department. Ernest received his law degree from the University of Maryland, after which he clerked for the Hon. Walter R. Haile on the Circuit Court for Baltimore County. Ernest has a general practice with concentration in civil litigation, primarily defense of personal injury suits.

**Thomas J. Cullen, Jr.** Tom, who graduated with honors from the University of Maryland, is based in Baltimore but has taken cases to trial in over twenty states, representing clients in complex pharmaceutical, product liability and toxic tort litigation.

## MASSACHUSETTS

**A. Bernard Guekguezian.** Bernie's Boston practice focuses on the defense of medical malpractice and products liability cases. Bernie, a California native, graduated from Harvard—where he played Defensive Tackle on the football team—and Vanderbilt Law School. He has tried more than forty cases, including a number of high-profile matters representing nationally known physicians.

**Mariannne C. LeBlanc.** Marianne is a plaintiff's personal injury lawyer in Boston. She is a graduate of Wellesley College and Boston College Law School. She has tried more than thirty cases and secured a number of the largest personal injury verdicts in Massachusetts. She is a member of the Massachusetts Board of Bar Overseers and a past president of the Massachusetts Women's Bar Association and the Women's Bar Foundation.

**Mark Lee.** Mark is an Assistant District Attorney and Deputy Chief of the Homicide Bureau in Suffolk County (Boston), where he has prosecuted some of the highest profile and notorious murder cases over the last twenty years. Mark, who served as a prosecutor in New York before he came to Boston, is a graduate of Brown University and Fordham Law School. As a prosecutor, Mark has investigated a number of claims

of innocence filed by prisoners long after their convictions and been praised for taking steps to undo wrongful convictions.

## MICHIGAN

**Matthew G. Borgula.** Matt represents individuals and businesses in criminal prosecutions, grand jury investigations, and civil enforcement actions brought by state and federal agencies, including the IRS, HSS, and the SEC. Matt is the former Deputy Criminal Chief of the U.S. Attorney's Office for the Western District of Michigan. Matt began his legal career in Chicago, where he met his future wife, Jennifer, when they both tried a six-week jury trial with Past President Bob Byman.

## MINNESOTA

**Deborah Ellingboe.** Debbie is a commercial trial lawyer in Minneapolis. She began her legal practice as a clerk for US District Court Judge James M. Rosenbaum and handles complex commercial disputes. Debbie is an award-winning baker. She is a multiple ribbon winner in the Great Bake Off of the Minnesota State Fair and has received multiple recognitions for her prize-winning pies, muffins and cookies. Recently, one of her pies fetched \$2,000 at a charity auction!

**James Halbrooks.** Jim's practice focuses on defending companies in catastrophic injury and wrongful death cases in the automobile industry. The *National Law Journal* named a recent case as one of the top 10 defense verdicts of the year. Jim's practice is concentrated in California and Arizona although he has extensive litigation experience throughout the country. He and his wife, Judge Jill Halbrooks, enjoy escaping Minnesota winters at their home in Arizona.

**Andrew Morhring.** Andrew is a federal public defender who has devoted his professional life to criminal defense. He will tell you he derives the greatest satisfaction by serving as the vehicle through which disadvantaged clients experience representation, making the promise of the Sixth Amendment a reality. Andrew teaches a seminar at the University of Minnesota Law School. Pri-

or to law school, he hitchhiked behind the Iron Curtain. He met his spouse, also from Minneapolis, while backpacking in a small Nepali Village high in the Himalayas. His varied interests include the five-string banjo, a rock 'n roll band, and honing his skills with French, Modern Greek, and Basha Indonesian.

## MISSISSIPPI

**William Gage.** Bill, a graduate of University of Mississippi Law School, practices in Jackson. He represents medical device and pharmaceutical manufacturers in product liability litigation throughout the country and has served as MDL lead counsel in pelvic mesh cases in West Virginia and Georgia.

## MONTANA

**Jon Mark Moyers.** Jon maintains a plaintiff's personal injury, professional malpractice and business torts litigation practice. Jon is licensed in nine jurisdictions. When he is not travelling to cover that territory, he delivers CLEs and coaches soccer. He has long been committed to both legal education and his community. Jon has been described as "going out of his way to handle pro bono cases, quietly and without reservation."

**Martha Sheehy.** Martha focusses on insurance litigation and Constitutional cases on behalf of media clients. She devotes significant time to present at CLEs and sit on community boards. She has served as President of the Montana State Bar and has sat on multiple judicial selection committees. Martha has won two awards for her pro bono work and another for helping women in need access the justice system.

**Ashley Whipple.** Ashley focuses on the defense of sexual and violent crimes, now in private practice after fourteen years with the Deputy County Attorney's office. While there she was named "Prosecutor of the Year" and was later awarded the Peacemaker Award for community mediation. A year after she transitioned to private practice, she was joined by her husband Todd who had also been in the County Attorney's Office. She and Todd have three children.

## NEVADA

**Christopher Oram.** Described by one prosecutor (employing prosecutor humor) as "the second-best attorney I know," and by another prosecutor (employing prosecutor self-righteousness) as "one of the few defense lawyers who is intellectually honest," Christopher maintains a solo criminal practice in Las Vegas. He has tried over twenty-five murder cases, about half of which were capital cases. He has also defended a large variety of other criminal cases and has extensive experience in appellate and post-conviction work.

**D. Lee Roberts.** Lee practices in Las Vegas; Lee initially distinguished himself in construction litigation, and more recently has moved into tort defense work. Lee received his JD from the College of William and Mary. In one of his most high-profile cases, he obtained a defense verdict for David Copperfield in a claim by an audience member who was injured during a vanishing act. One judge knows him as "The Fireman," because he gets brought in on cases that are not going well from a defense perspective.

## NEW MEXICO

**Chuck Peifer.** Chuck handles commercial litigation and media law matters in Albuquerque, after serving as Chief Assistant Attorney General in the New Mexico AG's office. He has taught in the trial practice program at the UNM Law School, and for many years served on and later chaired the New Mexico Uniform Jury Instruction Committee. In his spare time, he likes to fly airplanes, a hobby that his wife Karen tolerates but does not encourage.

**Maureen A. Sanders.** Maureen was a tenured law professor at the University of New Mexico School of Law, a Director of the Civil Division of the Office of the New Mexico Attorney General, and General Counsel of the State Corporation Commission, before returning to private practice, where she focuses on civil rights, insurance coverage, and *qui tam* False Claims Act cases in which she represents whistleblowers. She often serves as a mediator. In her "down time" she curls up with a good book in El Rito and breathes in the clean mountain air of northern New Mexico. 

## NEW YORK

**Deborah Colson.** After graduating *cum laude* from Harvard Law School, Deborah clerked for the Honorable Nina Gershon in the Eastern District of New York. Deborah's practice is primarily white-collar criminal. Deborah is Vice-Chair of the Board of Directors of the National Dance Institute, a non-profit arts education organization that uses dance as a catalyst to engage and motivate children.

**Morton Dubin.** After undergrad at Columbia and graduating from Michigan Law School, *cum laude*, Morton clerked for U.S. Federal District Judge Sidney Fitzwater. Morton specializes in products liability, accountants' liability, securities fraud, and audit malpractice.

## NORTH CAROLINA

**Allison Mullins.** Allison practices in Greensboro and specializes in commercial litigation, professional liability and other areas on both sides of the "v." Allison defended John Edwards in his criminal campaign finance case, where she was referred to as an "eloquent voice of reason."

**David Wright.** David was Phi Beta Kappa and a Morehead Scholar at the University of North Carolina. Following a Fourth Circuit clerkship, he has spent his entire career in Charlotte trying cases all over the eastern United States. David has represented the administrations of four different North Carolina governors in significant and groundbreaking constitutional and statutory litigation.

## OHIO

**Aneca E. Lasley.** Aneca practices in Columbus, where her work includes complex commercial disputes involving healthcare, trade secrets, trademarks, and contracts, issues, and extensive experience handling product liability and insurance disputes as well as multidistrict and class action litigation. She is an avid runner and cyclist and has competed in Ironman competitions.

**Mark L. Schumacher.** Mark, of Columbus, defends medical malpractice cases for all types of health care providers and product manufac-

turers, having started his career on the plaintiffs' side. Mark has a deep interest in music and Twentieth Century American history. He is a member of the Human Rights Campaign, Doctors Without Borders, and Amnesty International, and believes that the measure of a society really can be understood by its treatment of its most wretched members.

**David H. Thomas.** David represents companies, executives, public officials, health care providers, and others involved in state and federal criminal investigations and prosecutions. Dave has been lead counsel in white collar matters ranging from ethics and public corruption to health care fraud, banking violations, government contract fraud, tax fraud, money laundering and environmental crime. Outside of the law, Dave likes to run, cook, and travel.

## OKLAHOMA

**William Fiasco.** Bill's practice chiefly includes the defense of health care professionals and the defense of insurers accused of bad faith. Bill graduated from The Oklahoma University School of Law and has tried cases in state and federal courts throughout Oklahoma. He is also a frequent speaker to health care groups regarding medical negligence issues. Bill lives in Tulsa with his wife and two daughters

## ONTARIO

**Matthew P. Gottlieb.** Matthew has a broad commercial litigation practice in Toronto. He has acted as counsel in the most significant insolvency disputes in Canada, including the Nortel insolvency, the first true Canada-U.S. cross-border trial. Matthew sits on the Board of Governors of the Friends of the Simon Wiesenthal Centre and devotes significant time to teaching trial advocacy.

**Lawrence Greenspon.** Lawrence has a unique trial practice in Ottawa, dividing his time between representing plaintiffs with significant injuries in personal injury cases and defending

accused against serious criminal charges, including murder and terrorism. Lawrence co-founded REACH, the Resource Education Advocacy Centre for the Handicapped, volunteers for several charitable organizations in his community, and is a recipient of The Advocates' Society's Award of Justice.

**Linda M. Plumpton.** Linda focuses on anti-trust disputes and class action defense in Toronto. She is a Director of Pro Bono Law Ontario and has taught advocacy and lectured on class actions and anti-trust law issues at numerous Ontario law schools and professional organizations.

## PENNSYLVANIA

**Kevin Steele** The elected District Attorney for Montgomery County, Kevin oversees an office of attorneys and detectives who investigate and prosecute crime in this sprawling county of 830,000 adjacent to Philadelphia. In nearly three decades as a career prosecutor, Kevin has tried thousands of criminal cases, including the high-profile *Commonwealth v. William H. Cosby Jr.* and *Commonwealth v. Kathleen Kane* (at the time, the elected Attorney General of Pennsylvania).

**William J. Brennan.** Bill is a criminal defense lawyer in Philadelphia, whose clients have included former Pennsylvania Attorney General Kathleen Kane and Philadelphia Archbishop Monsignor William Lynn.

## QUEBEC

**Dominique Menard.** Dominique has a broad civil litigation practice in Montreal. Dominique frequently represents pharmaceutical companies and has expertise representing foreign corporations on jurisdictional issues. She has represented some of Canada's most significant companies, including Hydro-Quebec and L'Oréal Canada.

**Judith Rochette.** Judith is located in Quebec City, with a practice focused primarily on professional liability, health law, education, and insurance. Judith is a frequent instructor on trial advocacy and insurance related matters at Universities in Quebec, as well as the Quebec Bar School. She is also a member of the board of directors of Vi-

olons du Roy, one of Canada's most prestigious chamber orchestras.

## SASKATCHEWAN

**Mark Brayford, Q.C.** Mark is a criminal trial lawyer well recognized for his extensive experience in handling complex criminal cases. Mark has served a number of leadership positions in the Canadian Bar both in Saskatoon as well as on the Provincial Court Bar Judicial Council, Queens Bench Bar Judicial Council and National Executive Council of the Canadian Bar Association. He currently serves as a National Director and Vice President of the Canadian Council of Criminal Defense Lawyers. He has well over one-hundred cases reported in the Canadian Law Journals.

## SOUTH CAROLINA

**Kevin Barth.** Kevin is a quintessential small-town litigator who has a general practice in Florence. He is a go-to plaintiff's litigator and has obtained some of the top verdicts in the state for clients who have been injured personally or professionally. Kevin is also the President and owner of a wooden bat summer league baseball team known as the Florence Red Wolves.

**Donald "Jay" Davis.** Jay practices in Charleston. He has deep experience defending medical malpractice and nursing home litigation. Jay is also known as a pillar of his community being involved in church, school, hospital, bank, and foundation boards. Jay won a boat when he made a hole-in-one in a golf tournament, so potential golf partners, be advised.

**John Kassel.** After graduating from Northwestern, John became a VISTA volunteer and worked for the Brown Lung Association, a group primarily comprised of retired textile workers who had spent years working in cotton mills and were suffering from debilitating lung disease due to prolonged cotton dust exposure. For his entire career, John has been a plaintiff's attorney practicing in Columbia. He specializes in plaintiff's product liability, personal injury and medical malpractice cases and still finds time to lecture and teach other attorneys all over the East.



**Marian Williams Scalise.** Marian grew up in rural Orangeburg and was raised by a prominent plaintiff's lawyer and a mother who served as Chief Judge of the U.S. Court of Appeals for the Fourth Circuit. She practices in Myrtle Beach as the first woman shareholder in her forty-lawyer firm. Marian is a double legacy in the College. Her father, Charles Williams, is a Fellow, as was her Grandfather, State Senator Marshall Williams, who died in 1995.

**Bert "Skip" Utsey.** Skip began his legal career with a large regional defense firm, but after thirteen years he felt the pull to return to his hometown of Walterboro. He is a busy plaintiff's lawyer who now splits his time between Charleston and Walterboro. His colleagues describe him as one of the few who successfully jumped from defense to a plaintiff's practice.

## TEXAS

**Charla Aldous.** Charla obtained her juris doctor from Southern Methodist University Law School. Throughout her highly distinguished and successful career as a trial lawyer, she has practiced in Dallas, representing parties in complex commercial and business litigation and personal injury suits.

**David Tippetts.** David's practice concentrates on complex commercial, product liability and catastrophic tort litigation, and he has handled high-exposure jury trials involving automotive safety, elevators/escalators, commercial fraud, business torts, breach of contract, breach of warranty, and insurance. Complementing his product litigation experience, David is an inventor who successfully brought his patented home security device to market.

## UTAH

**Shawn McGarry.** Shawn is the proud father of three daughters, each of whom moved away from Salt Lake as soon as they graduated high school. That, however, has not served as a deterrent, as he sees them often. Shawn focuses his practice on defending healthcare providers and facilities, medical device and pharmaceutical

manufacturers, and product manufacturers. His induction as a Fellow in the College is a singular highlight of his professional career. Shawn lists as his interests spending time with his daughters and travel (to see his daughters).

## VIRGINIA

**Bruce Bishop.** Bruce is an active asbestos defense lawyer in Norfolk, with extensive trial experience throughout the United States. He has a national reputation in medical and state-of-the-art issues associated with toxic tort defense. He was co-counsel in the first personal injury case to be tried to verdict involving injury and death from alleged exposure to asbestos as a building occupant rather than occupational/household exposure.

**William (Bill) Dinkins.** Bill served as Deputy Commonwealth's Attorney for the City of Richmond for nine years prosecuting white collar crimes as well as violent crime. He moved to private practice and now specializes in defending all types of felonies and misdemeanors in state and federal courts. He has extensive experience defending white collar crime defendants. In each of the last seven years, Bill's peers have voted him among the Legal Elite for Virginia criminal lawyers.

## WYOMING

**Stephanie Sprecher.** Stephanie grew up in Douglas, Wyoming and attended the University of Wyoming College of Law. After graduation, she clerked for Judge Dan Spangler in Casper, Wyoming. At the Office of the District Attorney in Casper, Wyoming she handled many serious criminal jury trials, including homicide. Now an Assistant U.S. Attorney, Stephanie recently prosecuted a doctor who had distributed over one million opioid units in at least eight states. This case earned her awards from the Department of Justice and resulted in a CCE conviction and a twenty-three-year sentence for the doctor. ■



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# NEVER A BAD SEAT— HEROES AMONG US

At the Fall 2019 Annual Meeting, Liz and Regent **Dan Reidy** found it a bit ironic that they had to stand in line to be served a plate of fish for dinner at the Vancouver Aquarium. The fish looked delicious, if only they could find a place to sit. As they looked around the room, they saw an empty table for eight, situated next to a large tank of creatures staring disapprovingly at Liz and Dan's plates. Soon after Liz and Dan sat down, one by one, three other couples joined them – Nena and **Kevin Brogan**, Kelly and **James Brown**, and Wendy and **Marc Raspanti**. None of the couples had ever met before. Liz and Dan are from Chicago; Nena and Kevin from Los Angeles; Kelly and James from New Orleans; and Wendy and Marc from Philadelphia. They had nothing in common other than that the men (go figure) are all Fellows of the College.

Not so fast. As they started talking, they learned to their mutual delight that they do have something—something important—in common. As children of the Greatest Generation, each of the three couples who joined Liz and Dan have a father who had manned a Flying Fortress – the venerable B-17—in World War II. Each of these three random couples have a hero in their bloodlines.

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Kevin's father, Donald E. Brogan, piloted the B-17 "Sioux Princess." Born in Nebraska<sup>1</sup> in 1925, Don grew up in Los Angeles, graduated from Woodrow Wilson High School and attended Pasadena City College before joining the Army Air Force in 1943—at age eighteen. In addition to the American Campaign Medal and the World War II Victory Medal, Don was awarded a Purple Heart, after being wounded on one of his bombing missions. In addition to the B-17, Don piloted a variety of planes, including the B-24 and B-26 (See page 82).

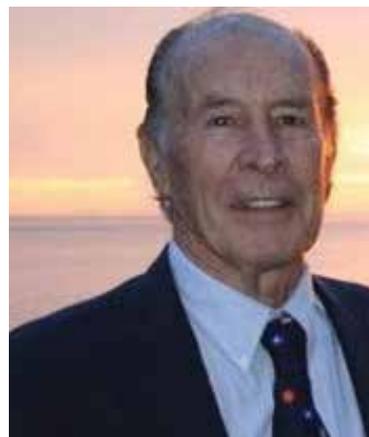


*Don Brogan in his B-17*

After the war, Don earned his degree in business and commerce from the University of Southern California; Don met his wife Connee while they were both students at USC. Connee was born in Santa Fe, New Mexico, and was a descendent of one of the original families from Spain that settled New Mexico in the late 1600s. Don and Connee were married shortly after their graduation; Don began his career in sales with Sterling Drug Corporation, where he worked for forty-three years, finishing his career as the Director of Sales. Don and Connee had two children, Cathryn (DeYoung), and our Fellow, Kevin; they had six grandchildren.<sup>2</sup>

Don continued to serve in the United States Air Force as a Reserve Officer, until he retired as a Major in 1985 after forty-year years of military service. Don and Connee loved USC football and tried never to miss a home football game.

Donald E. Brogan died peacefully at home on July 23, 2016 at the age of ninety-one. Connee passed seven months later.



*Kevin's father, Donald E. Brogan*

Nena's father, Claburn Halsted "Ying" Jones, also served in the Army Air Corps. He didn't fly in B-17s; he was a navigator in a B-25 Mitchell that flew unarmed photo reconnaissance missions to obtain intelligence for future bombing runs in the Pacific Theater.<sup>3</sup>

Ying was born in Fond Du Lac, Wisconsin and raised in Highland Park, Illinois. Ying met his future bride, Dougal Kirsopp, while attending Officer Training at Haverford College in Pennsylvania. Ying and Dougal married in 1948 and, upon graduation from the Harvard Business School, Ying and Dougal moved to California, where he joined Arthur Andersen & Co. in San Francisco. He spent his entire career with Arthur Andersen, where he headed up the northern California audit practice before retiring in 1978.

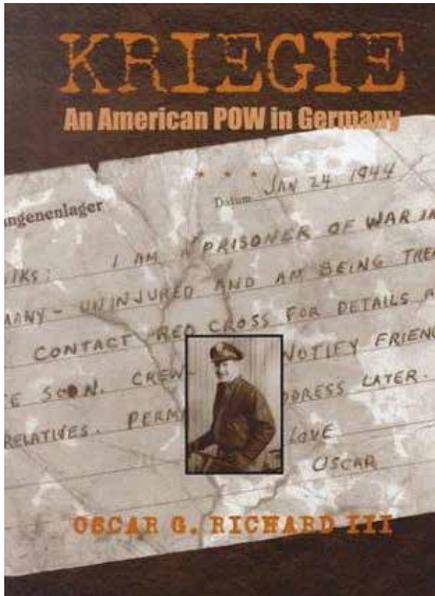
Claburn Halsted Jones passed away on August 10, 2013, a month shy of his eighty-ninth birthday.

Kelly's dad, Oscar G. Richard III, served as a B-17 bombardier, albeit only one week in combat—his plane was shot down during Oscar's third mission in January 1944; Oscar and his crew spent the final sixteen months of the European part of the War in a German prison camp.



*Nena's father, Claburn Halsted "Ying" Jones*





The memoir of the life of Kelly's dad, Oscar G. Richard III



Oscar G. Richard III

Oscar was born in Baton Rouge and raised in Sunshine, literally, Louisiana. His birthdate, December 7, 1921, was exactly twenty years before the Pearl Harbor attack that plunged the U.S. into World War II. On the day of his commencement from LSU in 1942, Oscar enlisted as an aviation cadet in the U.S. Army Air Corps. Stationed at Grafton Underwood in England with the Eighth Air Command, Oscar's first combat mission was on January 7, 1944, as a substitute bombardier on another crew. Oscar dropped his bombs on the target, a synthetic fuel plant in Ludwigshaven, Germany. The formation came under heavy anti-aircraft fire and Oscar's B-17 was attacked by four German ME-109s; but one of the crew's gunners shot down one of the fighters, and their B-17 returned safely.

Oscar's first mission with his own crew came four days later on January 11, in one of the War's greatest air battles. The bombing run involved hundreds of bombers that successfully struck plants that manufactured Focke-Wulf 190 and Junkers aircraft; the Germans lost 150 fighters in the aerial combat while the Eighth lost sixty of its bombers. Despite heavy flak and fierce fighter attacks on the formation, Oscar's plane was not hit; but a sleet storm forced the pilot to land at a B-24 base south of their home base.

Three days later, January 14, 1944, Oscar flew his third—and last—combat mission. The targets were concealed V-1 rocket launch sites in France that

had been terrorizing London. The flak was terrifying. Oscar wrote: "suddenly the plane shuddered violently, and I knew we had been hit.... The ship began to shake; I could see the hub of the propeller turning jerkily and out of balance. The engine was falling to pieces like peanut brittle. Piston rods, cowlings, nuts, bolts, and other assorted parts dropped out." Oscar's crew had no choice but to bail out. All but one of the crew were captured on the ground<sup>4</sup>, even as the bombing from Oscar's comrades continued from the air. Oscar recalled "A grinning, gold-toothed German noncom pushed me into a foxhole with him, jabbering in a mixture of languages. All I could make out was 'For you der var is offa.'"

Name, rank, and serial number were all the Germans got from Oscar, who would remain a prisoner of war in Eastern Germany until the arrival of the Red Army on May Day 1945. Oscar later learned that the night before the Russians came, the senior U.S. POW, Col. Hubert Zemke (captured when his P-51 Mustang iced up and crashed near Hanover), had taken a stroll with the Camp Commandant, Oberst Warnstedt. Warnstedt told Zemke "Der krieg ist jetzt uber fur uns" – The war is now over for us.

Oscar's trip back to Sunshine took two months on transport by plane, train, boat, and bus. But he made it. On September 20, 1947, Oscar married Billie Ruth Gathright. He and Billie had five children, Kathleen,

Donna, Linda, Kelly and Reed, thirteen grandchildren and, at the time of his death in 2013, two great-grandchildren (they now number twelve<sup>5</sup>). Oscar began his career at LSU shortly after he and Billie were married, starting as a publications editor and ultimately becoming LSU's Director of Public Relations, before retiring in 1983. He rarely missed an LSU home football game, including the entire 2012 season, where he sat in a reserved seat in the press box. In 2000, the LSU Press published a memoir of his experiences as an aviator and prisoner of war, entitled *Kriegie: An American POW in Germany*.

Billie passed away in 2005. Her obituary noted that she and Oscar had loved to jitterbug to big band music. We bet they did.

Oscar G. Richard III died May 7, 2013 at the age of ninety-one after a long and remarkable life. All of the men in Oscar's ten-man B-17 bomber crew had made it safely home and all remained close friends until their deaths; Oscar was the last of the group to pass.

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Wendy's father, Robert Spalding Dunkin, was barely fifteen when Pearl Harbor was attacked. Born May 30, 1926 in Batavia, New York, he was raised in Upper Darby, Pennsylvania and attended high school at Riverside Military Academy in Gainesville, Georgia, from 1940 until January 1944. But before he graduated, and five months before he turned eighteen, Robert en-

listed, on December 14, 1943, in the Army Air Corps.

Shortly after his eighteenth birthday in 1944, Robert left for Laredo Army Airfield in Laredo, Texas to begin training at the Army Air Forces Central School for Flexible Gunnery. He was part of the Squadron A 2126th AAF Base Unit. After completing his training in Texas, he went on to Aerial Gunner School in Las Vegas, followed by a four-month stint at the Overseas Training Unit in South Dakota. (Armor Gunners were responsible for inspecting, maintaining, and repairing airplane armor, checking and testing guns daily, checking the bombardier's equipment, fusing bombs, and loading bombs.)

Robert finally shipped out overseas in 1945 as a Staff Sergeant; he flew in B-17s as an Armorer/Gunner/Bombardier. Robert remained in post-war Europe and performed occupation service in Germany as a member of the 442nd Troop Carrier Squadron until returning home in the fall of 1946. He received his Honorable Discharge on November 6, 1946, enrolled in the Veterans Accelerated High School Diploma Program at Benjamin Franklin High School in Philadelphia, and finally earned his high school diploma on June 17, 1948.

Robert married Joyce Monroe Collins on October 1, 1955. They had three children, Wendy Monroe Dunkin (Raspanti), Bradford Spalding Dunkin, and Stacy Mercer Dunkin (Lord).



Cadet Robert Dunkin



Robert Dunkin in his B-17



Robert's time in the service sparked his interest in all things electrical or mechanical. After obtaining his high school diploma, he began a thirty-six-year career with General Electric in Philadelphia. He retired as an Electrical Drafting Supervisor at the General Electric Switchgear Plant. Not quite ready to retire permanently, he later went on to work at SPS Technologies a few years.

In his personal life, his hobbies and interests also centered around things related to electrical or mechanical endeavors. He loved auto mechanics and many a weekend, a friend or acquaintance could be found at his house getting their car repaired. His biggest DIY project encompassed taking an old 1965 school bus, rebuilding the engine, and converting the interior into a camper for road trips. He was a big Eagles football fan.

Robert Spalding Dunkin passed suddenly from an aortic aneurysm on February 1, 2001, four months short of his seventy-fifth birthday, survived by his wife of nearly forty-six years, his three children, and six grandchildren.<sup>6</sup>

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All of these men reflected the values, ideals, and patriotism of the men and women who served

during that era. Not one of these boy-men were old enough to vote when they stepped up to serve, when they climbed into their B-17s and risked their lives to protect ours. Like many, they rarely spoke about that time of their lives, so it is for us to tell their stories. And that's what these four couples did as they shared their fish and memories—strangers when they began, friends when they finished.

When I served as President of the ACTL and travelled around the country to visit local chapters, I had, as do most College Presidents, a few standard phrases that I worked into my remarks. I liked to say "The College is unique among groups, because there is never a bad seat at a College event. You can sit down in any empty seat and know that the person next to you is a Fellow, and thus by definition a person who has lived an interesting life, or— better yet—a Fellow's life-partner, who is invariably more interesting than the Fellow."

I always believed that line. But Liz and Dan Reidy proved it.

**Robert L. Byman**  
Chicago, Illinois

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<sup>1</sup> We can't be entirely sure, but the now politically incorrect name "Sioux Princess" may have come from Don's Nebraska roots. Sioux County is in the uppermost Northwest corner of the state, about halfway between Cheyenne, WY and Rapid City, SD; the 2010 population of the county was a whopping 1,311.

<sup>2</sup> Kevin and Nena raised four children, Chase, JT, Larkin and Abbey (Larkin passed away in 2012); Cathryn and Douglas DeYoung have two children, Scott and Katie.

<sup>3</sup> My own Dad served in the 20th Army Air Corps, stationed in Guam. His job was to sit at a desk to analyze the photos taken by guys like Ying who risked their lives to get them.

<sup>4</sup> The plane's Navigator, Ernie Lindell, was the only crew member wounded by flak before the bail-out – and the only crew member who evaded capture; despite his injuries, Lindell managed to make his way to the French Underground.

<sup>5</sup> Kelly and our Fellow, James Brown, account for three of those grandchildren – James, Ben, and Nick – and four of the great-grandchildren – Jacques, James Daniel, Avery, and Lauren.

<sup>6</sup> The Raspanti family's service is not limited to Wendy's father. Marc's father, Salvio, served in the U.S. Army during the Korean War; Wendy and Marc's son Jason, Robert's eldest grandson, currently serves in the U.S. Navy as a naval airman stationed at the Yokosuka Naval Base in Japan.

# THE B★17 FLYING FORTRESS

On July 28, 1935, a *Seattle Times* reporter who witnessed the first flight of a new aircraft dubbed it the “Flying Fortress,” a name that Boeing quickly adopted and trademarked. The U.S. Army Air Corps designated the plane the B-17.

The first B-17s saw combat in 1941, deployed by the British Royal Air Force. The B-17E, the first mass-produced model of the Flying Fortress, carried nine machine guns and a 4,000-pound bomb load. More than 12,700 B-17s were produced during World War II, 9,000 of which were the Model B-17G, which could carry thirteen .50-caliber heavy machine guns and a 9600-pound bomb load, with a flying range of 3750 miles.

In the Pacific, the Japanese dubbed B-17s “four-engine fighters.” The Fortresses were legendary for their ability to stay in the air after brutal poundings. Seventy-five years after the B-17’s first flight, an eight-eight-year-old veteran sent Boeing a letter. He recounted that he had returned to England after a bombing raid over Germany with 179 flak holes and only two out of the four engines working. He wrote: “I’m glad to be alive. Thank you for making such a good airplane.” Gen. Carl Spaatz, the American air commander in Europe, said, “Without the B-17 we may have lost the war.”

The B-17 was almost universally loved by its crews. By contrast, the B-24, first put into service in 1943, received mixed reviews. The B-24 earned three nicknames—the “Liberator” (the official nickname coined by the manufacturer), the “Pregnant Cow” (referring to its somewhat awkward appearance), and the “Flying Coffin” (because the controls were sticky and hard to operate). Joe Kennedy, JFK’s older brother, died when the specially loaded B-24 he was piloting exploded. More than 18,000 B-24s were manufactured by 1945.

The B-25 Mitchell was a twin-engine medium bomber. The majority of B-25s in American service were used in Asia and the Pacific as the aircraft’s potential as a ground-attack aircraft emerged during the Pacific war. The jungle environment reduced the usefulness of medium-level bombing, and made low-level attack the best tactic. Using mast height level tactics and skip bombing, the B-25 proved itself to be a capable anti-shipping weapon and sank many enemy sea vessels of various types. Nearly 10,000 B-25s were built.

The B-26 Marauder was another twin-engine medium bomber that earned the nickname “Widow-maker,” due to its early models’ high accident rate during takeoffs and landings. But the B-26 became safer with better training and aerodynamic modifications, and the Marauder ended World War II with the lowest loss rate of any USAAF bomber. A total of 5,288 B-26s were produced between February 1941 and March 1945.

The B-17 Flying Fortress was the forerunner of the B-29 Superfortress (the Enola Gay, which carried the first nuclear bomb dropped in combat, was a B-29) and the B-52 Stratofortress (last produced in 1962 but still in service). The last B-17 manufactured was in May 1945; the U.S. did not fly the plane after 1945, although the Brazilian Air Force deployed used B-17’s until 1968.

In mass production, a B-17 cost about \$238,000 (\$2.7M in current dollars). Today’s bomber, the B-1, costs \$415M.



B-25 Mitchell



B-17 Flying Fortress and B-24 Liberator



B-26 Marauder

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# COLLEGE ELECTS NEW OFFICERS

At the College's Annual Meeting in Vancouver, British Columbia, the following officers were elected to serve the College in the 2019-2020 term.

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## 2019-2020 EXECUTIVE COMMITTEE

President **Douglas R. Young** of San Francisco, California

President-Elect **Rodney Acker** of Dallas, Texas

Treasurer **Michael L. O'Donnell** of Denver, Colorado

Secretary **Susan J. Harriman** of San Francisco, California

### **Susan J. Harriman**



Inducted into the College in 2010 during the Spring Meeting at Palm Desert, California, Susan has served as Vice Chair of the California-Northern State Committee and, from 2014-2018 as Regent for California-Northern and Nevada, and as Regent Liaison to the Federal Rules of Evidence and International Committees. Since joining Kecker, Van Nest & Peters in 1985 and becoming a partner in 1989, Susan has handled a wide range of complex business litigation. She has tried state and federal cases involving commercial disputes, real estate, and wrongful termination. She has also arbitrated cases before the American Arbitration Association, the Financial Industry Regulatory Authority and JAMS, Inc. She has been named among California's Top Women Lawyers by the *Daily Journal* for more than a decade and has been listed by Best Lawyers in America for Bet-the-Company Litigation, Commercial Litigation, Legal Malpractice Law, Regulatory Enforcement, and Securities Litigation. The Legal 500 has named Susan a Leading Trial Lawyer and *The American Lawyer* included her among its Women Leaders in the Law in 2014.

After college, Susan served as a Peace Corps Volunteer in the Democratic Republic of the Congo. Following law school, she clerked for the Hon. Robert F. Peckham of the U.S. District Court for the Northern District of California. She formerly served on the San Francisco Ethics Commission and was its chairperson from 2006 to 2008.

## 2019-2023 REGENTS



**Peter Akmajian** serves as Regent to Arizona, California-Southern, and Hawaii as well as Regent Liaison to the Access to Justice and Legal Services and Communications Committees. Inducted into the College during the 2006 Annual Meeting in London, United Kingdom, he has served as Chair of the Arizona State Committee and the Access to Justice and Legal Services Committee, and a member of the Communications and Outreach Committees and the Retreat Task Force on Activities of the College. A native of Tucson, Arizona, Peter specializes in plaintiff's medical malpractice and personal injury law at Schmidt, Sethi & Akmajian. His partner, Ted Schmidt, is also a Fellow. After graduating from the University of Arizona College of Law in 1984, he clerked for Justice Frank X. Gordon of the Arizona Supreme Court. He later went to work at O'Connor Cavanagh in Phoenix, where his mentor was John Westover, a legendary trial lawyer and College Fellow. Later, he was a partner for eighteen years with longtime-Fellow Burr Udall.



**Gregory M. Lederer** serves as Regent to Iowa, Manitoba, Minnesota, Missouri, Nebraska, North Dakota, Saskatchewan, and South Dakota, and Regent Liaison to the Outreach Committee. He became a Fellow during the 2005 Annual Meeting in Chicago, Illinois. He has served as Chair of the Iowa State Committee and has been a member of the Adjunct State, Judiciary, Jury and Outreach Committees and Retreat Task Force on Governance. He is a founding member of Lederer Weston Craig PLC. He practices in the areas of civil litigation, including commercial and personal injury litigation. He has worked throughout his career on pharma litigation, product liability litigation, and the defense of lawyers sued for malpractice. He has tried more than eighty cases to verdict or judgment. Lederer was admitted to the Iowa Bar in 1977. He served as a law clerk for Iowa Supreme Court Justice M. E. Rawlings and then for Chief Justice W. W. Reynoldson before beginning his career in private practice in Cedar Rapids. Lederer is a member of Lawyers for Civil Justice (served as President from 2008-2009), a member of the International Association of Defense Counsel (served as President from 2005-2006), a member of DRI (served on its board from 2001-2007), and a member of the Iowa Defense Counsel Association (served as President from 1995-1996). He also served as Chair of the Magistrate Judge Merit Selection Panel for the Northern District of Iowa in 1995, 1996, 2003, 2006, and 2016.



**Lyn P. Pruitt** serves as Regent to Arkansas, Louisiana, Mississippi, and Texas and Regent Liaison to the Legal Ethics and Professionalism and Samuel E. Gates Litigation Award Committees. Inducted into the College during the 2010 Spring Meeting in Palm Desert, California, she has served as Chair of the Arkansas State Committee, Vice Chair of the Adjunct Fellowship Committee, and a member of the Complex Litigation, Jury, and Regents Nominating Committees. She is a partner in the Little Rock law firm of Mitchell, Williams, Selig, Gates & Woodyard, P.L.L.C. Pruitt is a trial lawyer focusing in the areas of drug and device litigation, product liability, class actions, and mass torts. She has been trial counsel on a number of national trial teams in cases defending pharmaceutical and medical products and has served as lead counsel in national and state-wide class action cases in both federal and state courts. She has been inducted into the International Academy of Trial Lawyers. She is a member of the DRI Drug and Device Committee as well as a member of the IADC, where she has served as Director of the Trial Academy and on the Board of Directors. She is a member of the American Board of Trial Advocates, the American Inns of Court, and is a Fellow in the Litigation Counsel of America. She has been recognized for a number of consecutive years in the International Who's Who of Product Liability Defense Lawyers, the International Who's Who of Business Lawyers, The Best Lawyers in America, and as a Mid-South Super Lawyer. ■

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# ACHIEVEMENT, PROFESSIONALISM, PERSEVERANCE: A LOOK AT THE 17 RECIPIENTS OF THE GRIFFIN BELL AWARD FOR COURAGEOUS ADVOCACY



In 1964, the American College of Trial Lawyers established its Award for Courageous Advocacy. The award is one of the highest honors conferred by the College upon an individual trial lawyer, recognizing lawyers who have persevered in pursuit of an important cause despite substantial personal danger, fear, unpopularity, opposition, or other difficulties. In 2009, the name of the honor was renamed the Griffin Bell Award, after the former Attorney General of the United States and a Past President of the College. The award has been bestowed upon an individual only seventeen times since its inception. It is a remarkable honor, intended to recognize an exceptional trial lawyer, person, and circumstances.

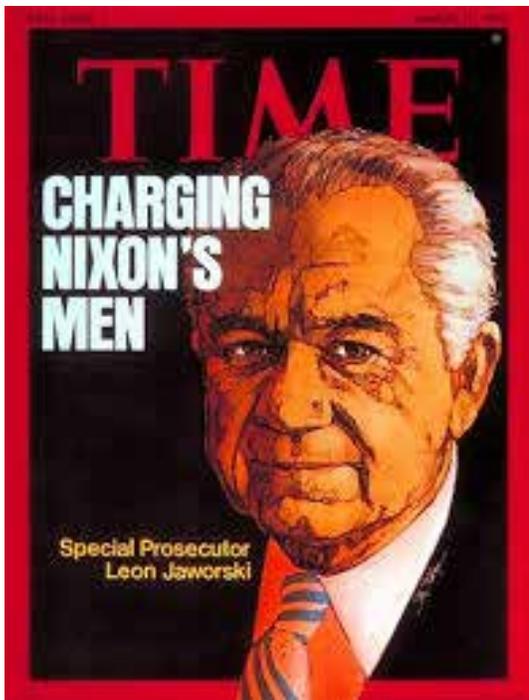
Its inaugural recipient, George Edward Allen, set the bar for those to follow. Allen was a fearless trial lawyer who excelled throughout a fifty-five-year professional career in Virginia. He served in the State Senate, held numerous positions with the state bar, and was uniformly regarded as the most outstanding trial lawyer in the state. His commitment to the practice was legend. He argued his last case before the U.S. Supreme Court just months before his death, at age eighty-seven.

In 1963, Allen was in the waning days of his career when he accepted a request to represent Fred Wallace, an African-American law student from Harvard doing civil rights work in Virginia. Wallace was charged with numerous criminal offenses. Allen embarked on a vigorous defense, an effort not helped by a complete absence of support. He could not even find a single lawyer to serve as local counsel in the pertinent county. Allen, undaunted, vigorously litigated the case, with appeals to the federal circuit court and the U.S. Supreme Court. Ultimately, he obtained dismissal of the serious counts and resolution on the remainder with payment of a small fine. Wallace graduated from Harvard and went on to practice law in New York.

Allen's efforts caused him to receive the first award for courageous advocacy, bestowed in 1965. Since then the following recipients have followed suit in exemplifying the highest standards of achievement, professionalism, and perseverance.

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## LEON JAWORSKI

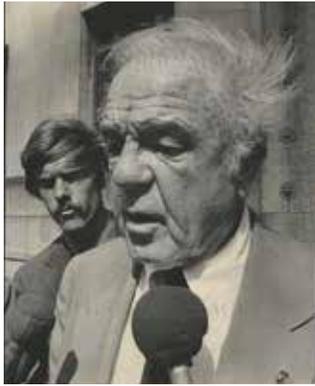


Although the award has not been bestowed every year, it was conferred on two individuals in 1975. Leon Jaworski was perhaps best known for his role as the Special Prosecutor during the historic Watergate scandal. Appointed after the “Saturday Night Massacre,” Jaworski litigated with substantial vigor to compel President Richard Nixon to surrender tape recordings and documents, ultimately resulting in a unanimous Supreme Court decision against the President.

Jaworski had also served as Chief of the War Crimes Trial Section of the U.S. Army in the European theater. In the early 1960s, he represented the U.S. against Mississippi Governor Ross R. Barnett in criminal contempt proceedings arising out of the denial of admission for the first black student to the University of Mississippi.

As further evidence of his national prominence, Jaworski served as the president of both the American Bar Association (1971-72) and the American College of Trial Lawyers (1961-62).



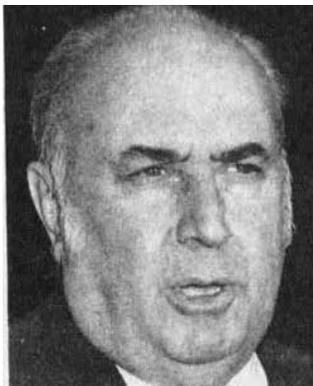


### **BARNABAS F. SEARS**

Barnabas F. Sears was also presented the Award for Courageous Advocacy in 1975. Sears was a highly regarded Chicago lawyer who handled all manner of high-stakes matters, and spearheaded an effort for court reform in Illinois, an endeavor that was his proudest accomplishment. A familiar figure for years in Illinois courtrooms, Sears gained fame in 1960 as a special prosecutor in a case involving a police burglary ring scandal. He won convictions against eight police officers and the case led to substantial reform in the Chicago Police Department.

Sears subsequently was appointed to serve as the special prosecutor in the Chicago Black Panther case. In that case, he indicted and prosecuted thirteen public officials and Chicago police officers in relation to a police raid during which two Black Panther leaders were killed.

Sears also served as the President of the ACTL in 1970-71 and Chairman of the House of Delegates of the American Bar Association.



### **ROBERT W. MESERVE**

The College recognized Robert W. Meserve with the award in 1979. Meserve served as President of the College in 1968-69 and as the President of the American Bar Association in 1972-73. He worked in private practice and as an Assistant U.S. Attorney during his career.

Meserve championed stronger ethics rules for lawyers. Spurred on by the involvement of lawyers in the Watergate scandal, he continually and effectively advocated for the highest level of ethics and enforcement within the profession. As an example, he prosecuted a case against a Justice of the Superior Court of Massachusetts in which the Justice was suspended, was publicly censured, and ultimately resigned to avoid removal.

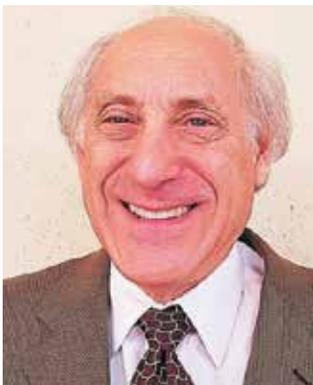
### **WILLIAM R. GRAY**



In 1985, the award went to William R. Gray who, at a relatively young age, had undertaken the defense of Daniel Arevalo in a murder case in Colorado. Authorities charged Arevalo with causing the death of a three-year-old boy and the case against him gained instant and pervasive notoriety. During the case, numerous death threats were made against Gray, his wife, and even the judge in the case.

Gray, disregarding the social stigma and threats, ultimately obtained an acquittal on the murder charges; his client was only convicted on a charge of child abuse.

### **STANTON BLOOM**



Stanton Bloom represented Frank Jarvis Atwood, who was accused—and later convicted—of kidnapping and murdering an eight-year-old child. Bloom took the case, despite Atwood lacking the funds to retain and pay for his services. The case's gravity attracted vast public attention; the public cried out for vengeance, and Bloom received numerous death threats. Even though the case brought him mounting physical and financial strain, Bloom ardently represented his client throughout the litigation.

Because of Bloom's extensive and zealous defense of Atwood, he nearly lost his entire client base and practice. Despite the hardships, he thoroughly prepared and passionately defended Atwood. He personally interviewed over 200 witnesses, sometimes traveling hundreds of miles to do so. Bloom participated extensively in motions practice leading up to the trial, and fiercely argued in dozens of contested hearings, all

in the pursuit of a fair trial. He even obtained a change of venue, though it imposed additional severe financial and physical challenges on him, simply because it was in the best interests of his client. The ferocity with which Bloom represented Atwood negatively aggravated a heart condition, but he pressed on – even after he was hospitalized during trial.

Bloom was recognized for his inordinate level of professional commitment with the Courageous Advocacy Award in 1990.

### **HON. ROBERT J. LEWIS, JR.**

Robert Lewis received the Courageous Advocacy Award in 1991. Lewis was appointed to represent James Hunter, a hitchhiker caught up in a string of murders and assaults that terrorized Atwood, Kansas, and the surrounding area. The heinous nature of the crime spree triggered public outrage, and there were even reports of armed groups arriving in the town, seeking vengeance. Friends and family expressed indignation that tax dollars were being wasted on trials for men who were clearly guilty, while also expressing concern for the safety of Lewis. Nevertheless, Lewis persisted in providing his client the best representation possible.

Upon meeting Hunter, Lewis determined his client was forced—at gunpoint—to partake in the crime spree. The trial preparation proved challenging; the hired investigator was run out of town, and the defense lost all motions. The trial proved similarly taxing, as many of the jurors were personally acquainted with the victims’ families, and they convicted Hunter of murder and related crimes. However, Lewis successfully appealed Hunter’s conviction and obtained a new trial for him. At the new trial, he fought fiercely, and the new jury—in a different venue—acquitted the client.

Throughout the ordeal, and despite the dire risk to his own well-being, Lewis publicly advocated that a fair trial by an impartial jury is essential to the justice system.

### **MAX D. STERN**

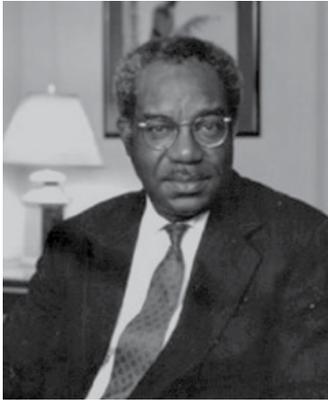
There was public uproar in Boston in the 1980s over the pervasive drug dealing and associated crimes occurring within the city. The police ended up focusing on inner city communities. One February night, in execution of a search warrant, Detective Sherman C. Griffiths was shot in the head and killed. Police quickly located Albert Lewin, an undocumented Jamaican immigrant, and charged him with murder.

Stern, known for his passion in defending indigent clients, was appointed to represent Lewin. Upon reviewing the search warrant, Stern noted that it relied upon information provided by a “Hispanic male” drug dealer; he convinced the court to order the prosecution to disclose the informant’s identity. Even after a court order, the police refused to comply. Through Stern’s investigative efforts, he uncovered thirty-one search warrants in which the same police officers relied upon the same informant; his efforts eventually unearthed a conspiracy by members of the Boston Police Department to falsify evidence.

Consequently, Lewin’s indictment was dismissed. But even though the prosecution admitted the informant did not exist, and even though the Court of Appeals noted the Boston Police Department’s conduct was “disgusting,” the indictment was reinstated. Nevertheless, Stern continued fighting, despite the growing public outrage - spurred on by the Mayor and police - who criticized him as an attorney letting serious offenders walk free on technicalities. The trial was tense, but vindicating, as the jury acquitted Lewin. Stern’s efforts resulted in the creation of a special commission to review the



Boston Police Department's policies and procedures. Stern received the Award for Courageous Advocacy in 1992.



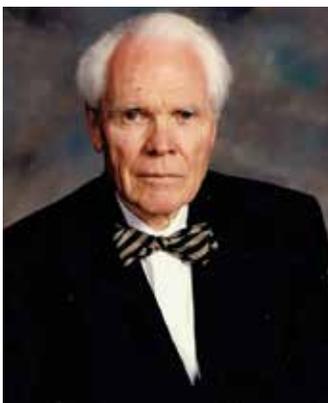
### **JULIUS L. CHAMBERS**

Julius Chambers received the Award in 1994 for his courage and moral leadership in dealing with a segregated society. He devoted his entire adult life to civil rights law in order to bring about a more just and equal society. He did so at great personal risk and cost. Early in his career, he challenged the segregated school system in Charlotte, North Carolina, which pitted him against staunch segregationists unwilling to change societal structure. He took on this challenge as a solo practitioner—his only option as an African-American attorney only a few months removed from law school.

In the course of litigating against the Charlotte-Mecklenburg School District, Chambers and his family faced constant danger from those seeking to preserve the status quo. A bomb shattered the windows of his home while he and his family slept; his car was firebombed during a speaking engagement; and arsonists virtually destroyed his law office. The violence even spread to his father, who had his automobile repair garage burned twice.

Despite all of this, he remained calm, tenacious, and brave. Even after U. S. District Court Judge James McMillan ordered the end of racially segregated education, Chambers still endured harassment and threats for seven years until the Supreme Court unanimously affirmed Judge McMillan's integration order. Chambers' courage and moral leadership forced the community and nation to face and deal with the ugly truth of a segregated society.

Chambers' intense personal commitment represented the best in the profession. After achieving such success at a young age, he continued to advance civil rights. He was a founding member of the first integrated law firm in North Carolina and served as Director-Counsel of the NAACP Legal Defense and Educational Fund, Inc. In addition to *Swann v. Charlotte-Mecklenburg Board of Education*, Chambers argued several other landmark Supreme Court civil rights cases. Throughout his career, he relentlessly focused on the law as a means of advancing civil rights.



### **W. GLEN HOW, Q.C.**

The College presented the award to Glen How, its first Canadian recipient, in 1997, for his fight to secure rights for a marginalized and criminalized religious group, the Jehovah's Witnesses. During the sixty-year span of his career, How fought legal battles to advance the civil liberties of a religious minority, while also broadening rights for all Canadians. When he first began his career in the 1940s, it was against Canadian law to be a member of the Jehovah's Witnesses. Men, women, and children belonging to the Jehovah's Witnesses were persecuted and jailed for going door to door, talking about God.

How spent his life vigorously and courageously defending the interests of the Jehovah's Witnesses in Canada and around the world. How's passion for advancing civil liberties persisted in the face of an openly hostile and abusive judiciary. He successfully secured repeal of Canada's ban against the Jehovah's Witness religion, fought for the right of Jehovah's Witness children to refuse to participate in opening and closing exercises in public schools, and obtained conscientious objector status for Jehovah's Witness men. He did not waiver in his belief that the law could make wrongs right. His work formed important bulwarks—akin to a judicially-recognized bill of rights—against state excess in the years prior to Canada's adoption of its Charter of Rights and Freedoms.

How's career was marked by extraordinary courage in representing the rights of a religious minority with unorthodox beliefs. He had an unwavering commitment to the legal institutions upon which society rests.

### NICKOLAS C. MURNION

Nickolas Murnion received the Award in 2000 for his courageous defense of democratic government and the rule of law. Murnion served as a part-time attorney for Garfield County, Montana. His jurisdiction encompassed an area roughly the size of Connecticut. During his civic service, he fought the domestic terrorist group known as the Freemen.

The Freemen claimed the U.S. should be governed according to their own interpretation of Biblical common law that affords privilege only to white Christians. When Murnion refused to give in to the Freemen's lawless demands, they placed a \$1 million bounty on his head.

The Freemen escalated their anti-government attacks by overtaking a county courthouse. In response, Murnion halted his private practice in order to devote his time to safeguarding the community. He employed the law so as not to stoop to the vigilante tactics utilized by the Freemen. He was the first to successfully use the Montana Criminal Syndicalism Statute to secure a conviction of the Freemen.

As the group continued to terrorize the community, Murnion encouraged the community to oppose the extremist organization. He even took his fight to the U.S. Senate to obtain the help of federal law enforcement to combat the Freemen. In all, his struggle against the Freemen lasted four years. He demonstrated tremendous courage and conviction to protect the safety of the community despite the Freemen's constant harassment and threats. Murnion's unflinching pursuit of law and order safeguarded a community and preserved the fundamental precept that liberty and justice are preserved by and through the law, not in spite of it.

### OLIVER W. HILL

The recipient of the award in 2001, Oliver Hill spent his sixty-year career as a civil rights attorney. He regularly accepted difficult, racially charged cases in the face of adverse public reaction. Born in Richmond, Virginia, Hill earned his law degree in 1933 at Howard University. While at Howard, he became a friend of Thurgood Marshall, the future NAACP lawyer and U.S. Supreme Court Justice. After leaving Howard, Hill coordinated with Marshall – who was then special counsel for the NAACP – in arguing for equal pay for black teachers in Richmond. They lost the case in the district court but won a favorable ruling in the Fourth Circuit Court of Appeals. Hill went on to become an NAACP attorney in Virginia and was one of the leading attorneys in *Davis v. County School Board of Prince Edward* – one of five suits consolidated into *Brown v. Board of Education of Topeka, Kansas*.

Hill's career was marked by his opposition to social injustice and championing the rights of African Americans in order to preserve the fundamental notion that all people deserve representation and equal protection under the law. He won many hard-fought trials in local courts with hostile communities, as well as in appellate courts. In the course of doing so, the government and public offered bitter opposition and he met constant threats of violence to himself and his family.

In addition to his law practice, he ran repeatedly for public office, as he saw it as a way to encourage African Americans to register and vote. In 1948, he became the first



African American elected to the Richmond City Council since 1894. Hill's reputation as an attorney and political activist caught the attention of national Democratic Party leaders and led to his eventual appointment to President Truman's Committee on Government Contract Compliance, which monitored compliance with antidiscrimination clauses in federal contracts.

In 1960, the Democratic Party appointed Hill to its biracial committee to prepare civil rights policies for the party's national platform. In 1961, he joined the Kennedy Administration as an assistant for intergroup relations to the commissioner of the Fair Housing Administration. He retired from his law practice in 1998 but continued to be recognized for his unwavering pursuit of equality. In 1999, Hill was awarded the Presidential Medal of Freedom, and in 2005, he received the Spingarn Medal, the NAACP's highest honor. Hill exemplified the qualities of courage and commitment in a lifetime of advocacy for equal justice, as both a trial attorney and humanitarian.



### **BRYAN A. STEVENSON**

Bryan Stevenson founded the Equal Justice Initiative in Alabama, which provides legal assistance to the indigent, most notably capital murder defendants and inmates on death row. He graduated from Harvard Law School, with a joint graduate degree in Public Policy from Harvard's Kennedy School of Government. As a talented minority graduate from Harvard, Stevenson was presented with many lucrative professional opportunities. But a sensitivity to issues of race and poverty caused him to pursue a different path. He and his staff have been successful in overturning dozens of capital murder cases and death sentences where poor minorities have been unconstitutionally convicted or sentenced.

Bryan Stevenson has demonstrated, over the course of almost twenty years, extraordinary courage and perseverance in pursuit of the important cause of equal justice for indigent capital murder defendants. He received the Courageous Advocacy Award in 2004, and has addressed the College at a national meeting on two other occasions.



### **LOUISE ARBOUR**

A champion of civil liberties and basic human rights, Louise Arbour received the award in 2013. Arbour served as the Chief Prosecutor of the International Criminal Tribunal for the former Yugoslavia and also in Rwanda. She brought the first indictment in history against a sitting head of state, then Yugoslavian President Slobodon Milosevic. Ms. Arbour endured severe international criticism and negative publicity. Refusing to be intimidated, she performed her job with honor – and with a perseverance that reinforced the credibility and effectiveness of international Criminal Courts.

Arbour ultimately became a Justice of the Supreme Court of Canada, as well as a United Nations High Commissioner for Human Rights. She also was the Vice-President of the Canadian Civil Liberties Association. Throughout her long and storied career, she has demonstrated an unwavering dedication to freedom and justice for all citizens.



### **JUDY CLARKE**

Judy Clarke, a staunch opponent of the death penalty and a Fellow of the College, was the fifteenth recipient of the award in 2017. Clarke defended some of the most notorious criminal defendants of our times: Theodore Kaczynski (the "Unabomber"), Eric Rudolph (the Olympic Park bomber), Susan Smith, (the South Carolina mother who drowned her children), and Dzhokhar Tsarnaev (the Boston Marathon Bomber), to name a few.

Clarke is tireless in her work, and confronts many challenges, including all manner of threats and social stigma associated with such unpopular defendants.

Doing her job in the face of legitimate death threats, Clarke exemplifies the standards of the award by providing individuals the highest level of defense preparation and representation, many times saving their lives by avoiding the death penalty despite guilty verdicts.

### **ANDREW J. SAVAGE, III**

Andrew Savage was honored in 2018, for his relentless and courageous work in the representation of extraordinarily unpopular clients under extraordinary circumstances. He defended those who other lawyers would not represent. He expended countless hours and his own funds in providing a defense to those who most considered indefensible. In one highly publicized trial, where the national community presumed the defendant guilty of a heinous crime, Savage obtained a hung jury in a multi-week trial, while receiving regular radiation treatments for cancer.

Savage was both fearless and incredibly considerate. He consistently demonstrated the highest commitment to a standard of excellence in advocacy.



### **STEPHEN B. BRIGHT**

Stephen Bright is the most recent recipient of the award. Presently a professor at Yale University, Bright is a bona fide living legend for his work on behalf of defendants facing the death penalty. Bright was the Executive Director and later President and Senior Counsel of the Southern Center for Human Rights from 1982 to 2017. During his thirty-five years of work with the Southern Center, Bright tirelessly represented individuals while also advocating persistently for improvements in the criminal justice system. Bright largely is credited with the establishment of the public defender system in the state of Georgia.

Bright devoted his professional life to the unpopular effort of representing those charged with heinous crimes, typically poor and incapable of defending themselves at any level. Many of his clients received inadequate representation at the trial level. Bright has handled matters for individuals charged with heinous crimes in small towns in Georgia, Alabama, and Mississippi, in the years after the death penalty was reinstated by the U.S. Supreme Court. Bright's persistent efforts on behalf of people facing the death penalty are courageous and indeed, heroic. More than one prior recipient of the Courageous Advocacy Award identified Bright as the standard for excellence and dedication in the profession.



### **CONCLUSION**

All Fellows are persons of some distinction, but the Griffin Bell Award for Courageous Advocacy recipient requires more; not merely excellence and distinction, but extraordinary effort and accomplishment accompanied by genuine personal sacrifice or danger. And while many of the awardees have been Fellows of the College, many have not. The College has identified only seventeen individuals worthy of this honor, but surely there are other worthy persons. If you know of such a person, please let the Griffin Bell Award for Courageous Advocacy Committee know by emailing [nationaloffice@actl.com](mailto:nationaloffice@actl.com) or Jeffrey D. Morris, Chair, [jmorris@berkowitzoliver.com](mailto:jmorris@berkowitzoliver.com)

### **Jeffrey D. Morris**

Prairie Village, Kansas





## WAR STORIES FROM FELLOWS

Below is a continuing series in the *Journal* featuring war stories from our very own Fellows. Ranging from entertaining to instructive, these stories will feature something a Fellow did or something that happened to a Fellow or another Fellow during a trial.

**PLEASE SEND STORIES FOR CONSIDERATION TO [EDITOR@ACTL.COM](mailto:EDITOR@ACTL.COM).**

### MAKE SURE YOU KNOW WHAT IS GOING TO HAPPEN

The warehouse had burned down, and the owner claimed our client's electrical equipment had started the fire. Our equipment, which broke down the 110-volt electric feed into lesser voltages to be sent to various little machines around the warehouse, was stored in a closet where the night watchman also kept an old coffeemaker with a frayed line.

At his deposition, the watchman testified that, as he had approached the closet with water for the coffeemaker in his hand, he smelled smoke. Upon opening the closet door, he saw flames consuming the plastic box covering our equipment. He thought he remembered throwing the water on the blaze only to have it seem to explode, but he was not sure. We planned to argue that the coffee pot had caused the fire. We had no other theory.

Our company's expert categorically denied that the company's equipment could have caused the fire. First, he said, its plastic covering was chemically made not to burn. Second, the wires in the equipment carried very low voltage; you could put your hand on the wires, stripped of their covering, and feel no significant electricity. Thus, the wires would not burn either. It had to be the coffee pot that was at fault. The expert was so sure of himself that he suggested we could demonstrate it to the jury by holding a blowtorch to the plastic covering – it would not burn, he said. And I could put my hand on the connections end of the equipment to demonstrate that the voltage was very low. He said.

But I recalled a storied case from the 1930s between two attorneys, McElroy and Curtis. McElroy always represented working-class claimants, while Curtis always represented the companies. Mr.

McElroy always portrayed his clients as members of the oppressed, while Mr. Curtis portrayed them as lying money-grubbers.

The times were filled with a rash of cases where an individual, most often a woman, allegedly had ingested some repulsive thing hidden in the dark contents of a Coke bottle. The alleged result was usually violent sickness, often a miscarriage. Mr. McElroy had such a case. His client claimed to have drunk most of her Coke, only to find part of a cockroach remaining. After becoming violently ill, she miscarried. There was no dispute that she had miscarried; but she had been alone when she supposedly drank the Coke and she had not preserved what was left of the cockroach or the Coke. The cause of her miscarriage depended solely on her word.

The case was filed in Chattanooga, not necessarily the friendliest venue for such cases against Coca-Cola Bottling. Chattanooga was the home of the company; many respected it. Moreover, since it was often sued there, the populace had read about so many such claims that some skepticism existed. Even with no witness on causation of his own, Curtis had some chance.

After plaintiff told her story and her doctor had confirmed the illness and miscarriage, Curtis demonstrated that the plaintiff had no corroboration and that she was poor and needed money. He showed that she had read stories about similar claims. He did the best he could to insinuate that she was just making up the story about the cockroach in order to get a big judgment. He was explicit about that in his closing argument.

As Curtis reached the height of his oration, he moved to the railing in front of

the jury. He said that the jurors knew very well that the plaintiff was simply making up her story. Pounding the railing, he said, "Why there was no more a cockroach in that bottle than there is a cockroach on me!"

His rail pounding, however, had disturbed a resident cockroach. To the wonder of all, it ran up the post, along the railing and onto Curtis's hand, placed prominently on the railing, merely feet from the jury, their eyes following the cockroach in its travels. Howls of laughter from all, except from Curtis, soon emerged. The judge laughed so hard he choked. McElroy rose to ask that the attendance of the cockroach be noted in the record. The case was settled in the hall.

Mindful of such stories, I decided I needed a dress rehearsal of my expert's blowtorch demonstration. I walked over to the client's office building. My expert was waiting for me at his desk. It was in the middle of a large room where there were other desks and other engineers. He had a model of the equipment on his desk, plugged in on one end to regular current with little wires sticking out of the other end.

The expert looked great: slacks, cardigan sweater with a white shirt and tie, salt and pepper beard, pipe, a broad, honest face and eyes that twinkled. He looked like your uncle who happened to be an engineering professor and a world authority on this type of equipment and the possibility of fires. I could hardly wait.

I asked him if he was really sure that the plastic cover of this thing would not burn and that I, or he, if need be, could put a hand on the electrical connections to show that the current was harmless. Oh, he was so sure. I asked whether he

had a blowtorch handy for a test. Of course not, but he did have one of those propane pipe lighters that sends a hot shaft of flame up an inch or two. OK, let's try that.

With some amusement, the expert removed the screws holding the plastic cover to the device. He held it up between us and triggered his pipe lighter. He directed the flame onto the plastic, and nothing happened. He looked up and smiled at me. Seconds passed. The flame washed over the plastic. Nothing.

Then there was a little pop as if a bubble had quietly burst. Flames began to crawl around the cover. The plastic was boiling, and black smoke was swirling around. My expert dropped the cover as his fellow engineers gathered around, shouting instructions. I ran to a bottled water stand where I filled two cups, preparing to throw the water on the fire. "Oh, God, don't do that," one of the other engineers said. He grabbed my arms. "Water will make that damned thing explode."

People stomped on the cover to put the fire out. My dreams were stomped out as well. No big demonstration in court. Musing more or less to myself, I spoke aloud, reaching out my hand toward the uncovered equipment: "Well, at least I could have touched those electrical connections..." "Don't touch that," my guardian angel engineer yelled. "Why," I said, "I thought the voltage was minimal." "Well, it is at the other end, but on your end, it'll fry your ass."

I settled the case. You best test everything you are going to do in court, before you are in court.

**Alson R. Kemp, Jr.**  
Healdsburg, California

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At the 2018 Annual Meeting in New Orleans, the Board of Regents approved the Access to Justice Distinguished Pro Bono Fellows Program on a one-year pilot basis. During the pilot phase, the Access to Justice and Legal Services Committee and the Board of Regents assessed the responses to and the effectiveness of this new program both inside and outside the College. Based upon the overwhelming favorable responses and support, the Board of Regents voted to make the program permanent at the 2019 Annual Meeting in Vancouver.

The mission of the program is to identify and put a spotlight on Fellows of the College who are recognized and respected Access to Justice leaders in their own communities and who are continuing to devote at least 250 hours a year in significant Access to Justice work. We shine that light not simply on our Fellows, but more importantly on legal services providers with whom our Fellows are partnered. These typically underfunded and understaffed legal service providers are the backbone of access to justice. The College encourages all Fellows to support the work of such providers in whatever ways possible, and to get personally involved in access to justice work.

Many of the service providers with which the College is partnering have expressed that they see the working relationship with the College as a great opportunity for them to attract new pro bono volunteers and bolster the services they provide.

President **Doug Young** noted: “The College’s Mission Statement specifically includes ‘access to justice, and fair and just representation of all parties to legal proceedings.’ The now permanent Access to Justice Distinguished Pro Bono Fellows Program makes the Statement more than aspirational: it recognizes, in tangible ways, that trial lawyers can enhance human dignity when they work to improve or deliver legal services to the poor, the underrepresented, and the disadvantaged in our two countries. The need for pro bono services does not diminish, and the expansion of the Program is significant. But the selection of the Distinguished Pro Bono Fellows is not pro forma. The new Distinguished Fellows described below, like those who earned the designation last year, have proven their commitments to pro bono work throughout their careers. And the legal service providers with which they are affiliated truly provide valuable services to their client communities in both the United States and Canada. It is gratifying to see the College taking a leadership role in providing meaningful access to justice for all.”

In 2018, the program started with eight Access to Justice Distinguished Pro Bono Fellows. During 2019, the program added the following five new Access to Justice Fellows along with their partner host organizations.

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# ACCESS TO JUSTICE DISTINGUISHED PRO BONO FELLOWS PROGRAM WELCOMES FIVE NEW FELLOWS

## 2019-2020 ACCESS TO JUSTICE DISTINGUISHED PRO BONO FELLOWS

### KIMBALL R. ANDERSON

#### Legal Council for Health Justice

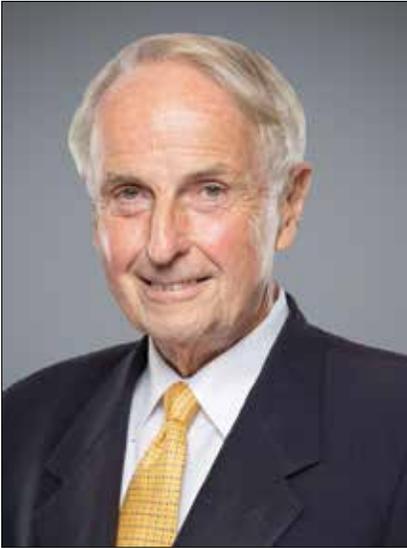


Kimball Anderson is a partner in the Chicago, Illinois office of Winston & Strawn LLP. As an Access to Justice Distinguished Pro Bono Fellow, Kimball works with the Legal Council For Health Justice ( “Legal Council”), formerly the AIDS Legal Council. For more than thirty years, the Legal Council has provided access to justice, hope, and stability for children and adults with life-changing health conditions. Kimball served as the founding Chairman of the organization from 1988-1990 and has remained involved in the organization since then as a funder, trusted legal advisor, and teacher of trial advocacy skills to the organization’s lawyers. Last year, Kimball and his wife Karen chaired the Legal Council’s 30th Year Anniversary Gala.

Kimball’s pro bono career has been honored many times. Recognition includes: American Bar Association “Pro Bono Public Award” (2003); Cabrini Green Legal Aid “Spirit of Generosity Award” (2008); Chicago Bar Association “Justice John Paul Stevens Award” (2014); Lawyers’ Lend-A-Hand “Abraham Lincoln Marovitz Philanthropic Award” (2015); Independent Voters of Illinois “Saul Mendelson Social Justice Award” (2016); Illinois Adventist Prison Ministry Organization “Humanitarian Award” (2016); AIDS Legal Council “Advocate of the Year” (2006); American Fundraising Professional “Distinguished Philanthropist Award” (2016); Chicago Legal Clinic “Cardinal Bernardin Award” (2008); Legal Assistance Foundation of Chicago “Lifetime Achievement Award” (2008); U.S. District Court for N.D. Illinois “Excellence In Pro Bono and Public Service Award” (2003 and 2004); Chicago Lawyer Magazine “Person of the Year” (1996) and Business Professional People For The Public Interest “40 Who’ve Made A Difference” (2009). ▶

## **BRYAN FINLAY, Q.C.**

### **Action Committee on Access to Justice in Civil and Family Matters**



Bryan Finlay, Q.C. is a senior trial and appellate counsel with WeirFoulds LLP. In addition to the American College of Trial Lawyers, Bryan is a Fellow of the International Academy of Trial Lawyers and an honorary overseas member of the Commercial Bar Association (England and Wales). Bryan's practice is broad and has engaged the most complex commercial, constitutional, tort and public law issues. Bryan clerked in the Supreme Court of Canada, received his Q.C. from the Queen in the right of Canada, has been awarded The Advocates' Society Medal, and the Ontario Bar Association Award for Excellence in Civil Litigation.

Recently, Bryan accepted an invitation from the Supreme Court of Canada Advocacy Institute to join the Advisor Roster for Toronto. The institute offers to all counsel appearing before the Supreme Court of Canada the opportunity to appear before a panel of two or three senior appellate counsel to moot their argument in advance of the hearing. The institute has a roster of senior appellate counsel with significant Supreme Court of Canada experience in every major Canadian city.

As an Access to Justice Distinguished Pro Bono Fellow, Bryan will partner with the well-renowned and highly respected Action Committee on Access to Justice in Civil and Family Matters (the "Action Committee"). The Action Committee was established by then Chief Justice of the Supreme Court of Canada the Honourable Beverley McLachlin in 2007; Chief Justice McLachlin continues to serve as its Chair. The Action Committee provides high-profile national leadership to advance access to civil and family justice in Canada through awareness (raising the pressing need for improved access), vision (advancing a public-centered, comprehensive and broadly shared vision of access to civil and family justice), engagement (promoting broad institutional and public commitment), collaboration (supporting collaboration in access to civil and family justice reform) and innovation (fostering research and evaluation in civil and family justice).

## **JOHN P. GILLIGAN**

### **Legal Aid Society of Columbus**



John Gilligan is a partner at Ice Miller LLP. When not engaged in business litigation, John devotes a substantial amount of time to pro bono work, both nationally and in Ohio. He previously served as Co-Chair of the College's Access to Justice and Legal Services Committee and Chair of the Board of Trustees of the Legal Aid Society of Columbus ("LASC"). He currently serves as Chair of the Ohio State Bar Association Access to Justice Committee.

In 2017, John received the President's Award of the Ohio Legal Assistance Foundation for his pro bono work and, in 2019, Ice Miller received the LASC 2019 Pro Bono Award for Service by a Law Firm because of the work of its lawyers in the Tenant Advocacy Project representing those facing eviction actions by helping to level the field in eviction court.

As an Access to Justice Distinguished Pro Bono Fellow, John is continuing his work with LASC on behalf of low-income, vulnerable clients. Specifically, John will provide training to LASC attorneys through seminars and the ACTL Trial Skills Boot Camp. John will mentor LASC attorneys who litigate complex housing and consum-

er rights cases. He will share his trial experience and courtroom strategy and approach. In addition, John will work with Legal Aid lawyers on LASC's impact litigation to help leverage the limited resources available to deliver the biggest impact for LASC's clients.

John will work closely with LASC's Tenant Advocacy Project to help its clients avoid the ravages of eviction. John will also work with LASC to expand its Medical Legal Partnerships, which he helped to develop with health care systems in central Ohio to deal with the social determinants of health problems.

Through John's ACTL Access to Justice Fellowship, he will assist LASC in expanding community partnerships to reach more vulnerable people. John will continue to serve on the LASC Board throughout his Fellowship.

John is an active member of the LASC Executive Committee and helps raise funds and recruit pro bono volunteers from the legal and business community. LASC Executive Director Kathleen McGarvey said, "This is an important opportunity to enhance our services to clients and our effectiveness as an organization. John's advice and knowledge of the legal community have long been invaluable to LASC management."

## LAWRENCE A. HAMMOND

### Arizona Justice Project

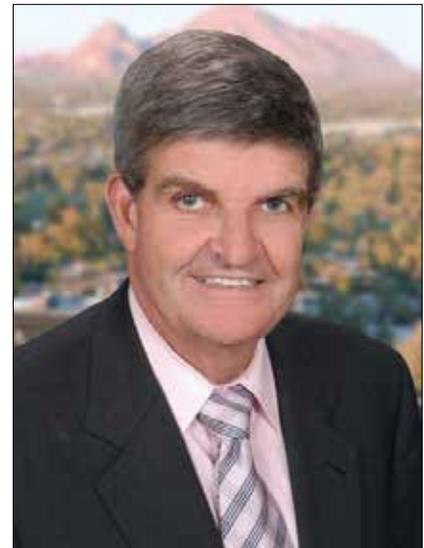
Larry Hammond practices with the Phoenix, Arizona law firm of Osborn Maledon PA. He is a graduate of the University of Texas School of Law and is entering his fiftieth year as an attorney. As an Access to Justice Distinguished Pro Bone Fellow, Larry is partnering with the Arizona Justice Project ("Project").

Larry was one of the founding members of the Project's Board twenty-two years ago, and he has served as its President continuously since its establishment as this country's fifth innocence project. There are now over sixty such projects, and Arizona has worked with the network of projects in this country and abroad to further this Project's mission to identify and help victims of wrongful convictions.

In addition to his regular duties as Board President, Larry devotes an average of at least one hour every day to the always expanding work of the Project. Having begun in 1998 with no funding, no staff, and no office, the Project now has six full-time staff, a robust and diverse Board of Directors and a home at the Sandra Day O'Connor Law School at Arizona State University.

The Project's challenges are immense and growing. Larry has deeply enjoyed sharing some of those responsibilities with his longtime friend and fellow Chapter Member and Access to Justice Distinguished Pro Bono Fellow, Howard Cabot. As the result of a series of United States Supreme Court decisions on the sentencing of juveniles, the Project has become deeply involved in helping indigent inmates prepare for resentencing and litigating the issues that have arisen in Arizona and across the country.

The Project is constantly in need of volunteer lawyers to assist the staff in evaluating and litigating wrongful conviction cases. Calling on his colleagues in the Arizona Bar to undertake responsibilities in these always challenging cases has become one of Larry's responsibilities. He recently observed, "I hate asking for money, but I enjoy inviting the members of our profession to pitch in on these cases where they might have the chance to right a serious injustice."



Lindsay Herf, Executive Director of the Arizona Justice Project said: “The American College of Trial Lawyers’ establishment of its Access to Justice Distinguished Pro Bono Fellows Program is a welcomed addition to the opportunities that Arizona’s Project has to collaborate with lawyers and nonprofit groups across the country.” Larry looks forward to learning from Fellows who share his enthusiasm for aiding the indigent community.

## JOSEPH J. ROPER

### Military Matters



Joseph Roper is a founder of the Kansas City, Missouri law firm of Foland, Wickens, Roper, Hofer & Crawford, P.C. In 2018, Joe was named the Ben Ely, Jr. Outstanding Defense Lawyer of the Year by the Missouri Organization of Defense Lawyers.

Joe is a past president of the Missouri Organization of Defense Lawyers, and past president of the Western Missouri/Eastern Kansas Chapter of the American Board of Trial Advocates. He is a member of the ACTL’s Access to Justice and Legal Services Committee, as well as its Jury Committee.

As an Access to Justice Distinguished Pro Bono Fellow, Joe is partnering with Military Matters, which received a \$50,000 grant from the ACTL Foundation in 2018. Military Matters is a program of the Kansas City Metropolitan Bar Foundation (“Foundation”), which strives to fill the gap in legal services available to military service members and veterans living in the greater Kansas City Metropolitan area.

Military Matters collaborates with support agencies serving the veterans in the area to identify the most needed legal services and provide assistance to those who do not qualify for aid from other agencies.

Joe will continue his pro bono work to grow and expand the list of over 200 attorneys who have committed to accepting referrals of military service members and veterans in need. He will also be working closely with the Foundation staff to develop resource materials and data to assist other Bar organizations in replicating the success of this program, which has received over 1,000 referrals for free legal services since its launch in 2016.

### Mark C. Surprenant

New Orleans, Louisiana



NOTEWORTHY 

### FUTURE DISTINGUISHED PRO BONO FELLOWS

If you or someone you know would be interested in learning more about the program, please contact Mark C. Surprenant at [mark.surprenant@arlaw.com](mailto:mark.surprenant@arlaw.com) or (504) 585-0213.

# YOUR FOUNDATION AT WORK: STEP UP TO JUSTICE

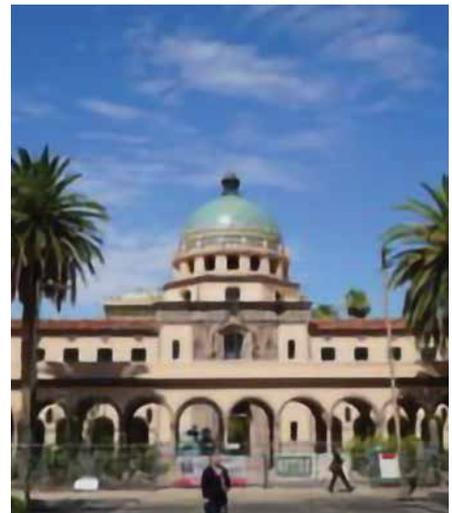


When seventeenth century Spanish missionaries came to a tranquil spot along the banks of the ever-flowing Santa Cruz River, they found colorful mountain peaks towering over a well-irrigated oasis of farmland in the valley below. Those mountains changed complexion by the hour as a gliding sun left shadows on rugged rock and pastel tones on the horizon. Freshness in the air gave the location now known as Tucson its magnetism, and ever since, migrants have been drawn by the allure of Arizona's most southerly region. Today, its natural landscape promises boundless discovery, and it will be a beautiful destination for the College's upcoming Spring Meeting.

Tucson is a robust metropolitan area with almost one million people. The University of Arizona and its spin-off technologies combine with tourism to drive the local economy. Yet the area's natural beauty has another side. Tucson has been ranked as the eighth poorest city in the United States. Homelessness is compounded by the cost of housing; immigration issues abound; and significant populations of impoverished residents across Pima County present serious social issues.

As befits a close-knit local bar, the lawyers of greater Tucson have pitched in to make justice more accessible. Legal assistance in Southern Arizona historically has been provided by volunteer lawyers working with Southern Arizona Legal Aid. Locally known as SALA, this agency serves eleven of Arizona's reservation lands and the state's nine southern and eastern border counties, spread across 33,000 square miles. With help from federal funding, over 800 volunteer lawyers have augmented a staff-based service model, bringing legal assistance to people in need who live in the agency's service area. But there is only so much SALA can do. A large and rapidly expanding area in southern Arizona, Pima County presents a growing demand for legal assistance. Some 200,000 people in the county live in poverty, and of that number, 70% require legal assistance every year. Conflicts-of-interest limit SALA's representation in domestic matters, and federal restrictions constrain its ability to deal with other important legal needs.

SALA was stretched thin, and leaders within the Tucson legal community wrestled with the unmet needs. Dean Christoffel, who sits on the Pima County Family ▶



Law Bench, was one of those leaders who looked for some way to fill the gaps in service. The eventual decision was to form a new organization that would concentrate on Pima County alone and forego the constraints of federal funding. The idea was to use technologies as the foundation for a full-service legal center that would become Step Up To Justice.

Michele Mirto had been a SALA staff lawyer for twenty years when she and Melissa Spiller-Shiner, another SALA staff attorney, were approached to make Step Up To Justice a reality. Beginning in 2017, this new organization initially was funded by the generosity of legal professionals who dug into their pockets and helped launch the new venture to serve “all comers” without restraint. Prisoners at halfway houses facing legal problems left in the wake of their crimes now had a place to turn for help. Undocumented residents could find counsel to obtain legal entitlements. Victims of domestic violence could find a new lease on life.

Today, Step Up To Justice relies on a mix of private donors and foundation grants to fund its \$350,000 annual budget. The organization has agreements with both the state and federal courts in Tucson to operate “self-serve” legal assistance centers in the courthouses. On the state side, volunteer lawyers staff a family law clinic that gathers critical information and determines whether clients can be referred to practitioners in the community for further aid. At the federal court, volunteers concentrate on civil rights claims and social security benefits.

Almost two-thirds of its clientele originates in the family law courts, so Step Up To Justice recently gave birth to a new outreach initiative named FLOAT (Family Law Outreach and Technology). The Foundation of the College helped launch this program with a \$50,000 grant in 2019. The grant was used to hire a FLOAT Fellow, Amanda Rutherford, who supervises the court clinics, works in-house to follow-up with clients, and manages the referral of clients to the local bar. Her volunteer team now numbers over fifty family law practitioners, who have given over 500 hours of pro bono service since FLOAT began operations in early 2019.

Rachel X, a working mother with four young boys, is one example of FLOAT’s success enhancing access to justice. Representing herself in divorce proceedings, she needed help to navigate the complexities of the family law courts, and FLOAT provided it. Rachel met with volunteer attorneys seventeen times, receiving assistance to complete court documents, prepare for court hearings, and equip for trial. In the end, Rachel was awarded spousal maintenance and child support, thanks to the FLOAT program. Judge Christoffel has seen how “a better prepared case makes it easier for a Judge to make better decisions,” which is one way FLOAT volunteers are making a difference.

Step Up To Justice works collaboratively with a Tucson domestic violence shelter called Emerge. Jamie Y, victimized by domestic violence for years, found herself hospitalized after an attack by her husband. She was connected with Emerge and given refuge. The FLOAT program was enlisted to help Jamie secure a protective order, complete divorce paperwork, and ultimately obtain a divorce decree. Today, Jamie is beginning a new life in Tucson, thanks to volunteer lawyers working with the program.

According to Executive Director Mirto, the major challenge for Step Up To Justice is the expansion of its capacity to meet community needs. The volume of cli-



ents has increased by more than 25% in the two years the agency has existed, but the needs still grow. She said, “traditional methods of client service are not meeting the demand.” And Dean Christoffel suspects that less than 6% of the need is being met; there are pockets of the population in greater Tucson that are not yet being reached, which is why Mirto sees the need to “go where the people are.”

Recruitment of volunteer attorneys so far has been the easier part of the process, partly because the organization enjoys a strong, positive reputation in Tucson and people seem naturally attracted to the group. “It is the bus people want to be on,” said Director of Community Outreach Spiller-Shiner.

Kristy Clairmont exemplifies the spirit of volunteerism in the Tucson Bar. A family law practitioner who is a relatively new admittee to the Arizona Bar, Kristy began volunteering with Step Up To Justice the same time she opened her solo law practice, and today she helps staff walk-in clinics in both the Pima County Superior Court and the agency’s main office, contributing eight hours per month. She cites a recent client as typical. A mother of four, who had been placed in dire financial straits by her husband’s irresponsible financial management, found the legal process overwhelming. Kristy was able to help marshal evidence, develop pretrial statements, and assist in preparations for court hearing that decreed a division of the family debts and ordered spousal support to maintain the woman while she returned to school.

Kristy keeps volunteering with Step Up To Justice because the prescreening of clients by the FLOAT program demonstrates a respect for her time and makes her feel valued. Finding her pro bono work very satisfying, Kristy believes

access to justice is a growing issue. To her, it is an article of faith that “justice is not only for the rich people, and the courts must be seen as even-handed,” without regard to a person’s means.

While other communities might have encountered local lawyers’ reluctance to undertake pro bono work outside their own practice specialty, the FLOAT program has the benefit of a public-spirited legal community. Many of the 2,500-plus attorneys in Tucson have embraced volunteerism and have been willing to learn what they do not already know about family law. Even so, Spiller-Shiner acknowledges Step Up To Justice “must be part of the larger community to help make sure nothing falls between the cracks,” and that means redoubling her agency’s outreach to the courts, social service agencies, and community groups.

Law Students in the James E. Rogers College of Law at the University of Arizona are drawn into pro bono work as 1-Ls. One other group that has been a fruitful target for volunteers is Pima County’s retired population. Arizona Supreme Court Rules permit retired attorneys to volunteer with an approved legal services organization, such as Step Up To Justice, without sitting for the bar examination. The agency’s liability insurance protects volunteers from professional liability exposure, and attorneys in retirement can keep their legal minds active by “doing good” for the underserved populations of Tucson.

To continue growing, Step Up To Justice creatively searches for technology that will make its operations more efficient. As Judge Christoffel has commented, “the whole idea [of Step Up To Justice] is to free up volunteers and improve attorney access” by using available legal technologies.

The FLOAT program is using client databases for access by volunteers and clients; among other things, this permits automating reminder notices to clients about upcoming court dates. Attorneys have a computerized record of the cases to which they have been assigned. And the organization is looking for ways to expand the use of video for such things as renter education and display of standard format letters a client can send to landlords. Technology is being explored for use by homebound clients so they might log into a system that allows them to speak face-to-face with legal counsel. Yet to come is an Artificial Intelligence initiative that will guide clients through preparation of court forms, especially for probate matters. Judge Christoffel noted this all “builds a sense of camaraderie among volunteers, helping them see ways access to justice can be improved.”

**Peter Akmajian**, Regent for Arizona, Southern California, and Hawaii, summed it up: “Step Up to Justice is an innovative legal services organization that fills a gap in pro bono and self-help services in Tucson. It has quickly become an essential part of the pro bono legal community in Southern Arizona.” The generosity of College Fellows has empowered the College’s Foundation to help organizations such as Step Up To Justice and its FLOAT program—just one of several ways the Foundation is having an impact on access to justice.

**Charles H. Dick, Jr.**  
Foundation President  
La Jolla, California



# COMMITTEE UPDATES

## ARIZONA

On November 9, 2019 the 49th Annual Jenckes Competition was held at the Sandra Day O'Connor School of Law at Arizona State University. With the assistance of many Arizona Fellows, the Competition is staged each November between trial advocacy students from Arizona State University and the University of Arizona. For the first time, both teams were entirely comprised of women advocates, each of whom did a tremendous job presenting closing arguments in a criminal case which had been tried by Fellow **Michael Piccarreta** of Tucson. The team from ASU won. The event chairman was Fellow **Mike O'Connor** of Phoenix. Thereafter a cocktail reception was well attended by Fellows, participants, and their cheering sections.

## HERITAGE

The College will celebrate its 70th Anniversary at the 2020 Annual Meeting in Washington, D.C., September 24 - 27. The Executive Committee has asked the Heritage Committee to look back on the history of the College and present an experience for Fellows at the Annual Meeting. We believe this feature consisting of presentations to the College, video footage and photographs of historical value, will be a worthwhile experience for Fellows, spouses and guests attending the Annual Meeting. The Heritage Committee asks that any Fellow, who has significant memories or items of historical value, pass those on to the Heritage Committee. Please do so by contacting the Chair or Vice Chair:

**Ron McLean – Chair**

Phone: 701-232-8957

rmclean@serklandlaw.com

**Kent Hyde – Vice Chair**

Phone: 417-831-4046

kent@hydloveoverby.com

## OHIO

Cincinnati Fellows presented a 3-hour CLE program on November 8, 2019 titled "Polish Your Ethics-Legal Sand Traps Trial Lawyers Should Avoid." Fellows **Kathleen Brinkman**, **Jim Burke**, and Immediate Past Chair of the National Trial Competition Committee **Gary Winters** served as panelists along with U.S. District Court Judge Michael Barrett and Magistrate Karen Litkovitz. **Tom Eagen** served as the moderator. The program used material from the CLE presented during the 2018 Annual

Meeting in New Orleans. All proceeds from the CLE went to the University of Cincinnati College of Law Trial Team. Cincinnati Fellows will present three CLEs (October 23, December 18 & 19) using the ACTL Ethics Vignettes. Fellows **Lou Gilligan**, **John Smith** and Eigen will be presenting the one-hour CLEs.

## MISSISSIPPI

For the third year in a row, the Mississippi Judicial College invited the Mississippi Fellows to lead the ethics session at the Mississippi Trial and Appellate Judges Conference. On October 25, 2019, Fellows **John Banahan**, **Trey Byars**, Mississippi State Committee Chair **Cal Mayo**, and **Ed Taylor** presented “Social Media Dangers & Personal Relationship Recusals: An Overview of Recent Developments” to more than 150 county, circuit, chancery, appellate, and supreme court judges and justices.

## NORTH CAROLINA

On November 19, 2019, North Carolina Fellows provided trial skills training to legal services attorneys from across the state at the Legal Services Task Force Trainings sponsored by Legal Aid of North Carolina. Each of the courses taught by NC ACTL Fellows was attended by over 100 legal services attorneys. The courses taught and ACTL Fellows who participated included: Storytelling Strategies in Developing and Presenting Your Case - **Don Beskind**; Pre-Litigation Investigation, Discovery and Preserving Exhibits - **Sara Lincoln**, **Claire Rauscher**; Preserving Issues and Preparing Your Case for Appeal - **Allison Mullins**, **Wade Byrd**; Ethics and Professionalism – Pretrial and Trial - **John Wester**, **Mark Holt**. Celia Pistolis, Litigation Director for Legal Aid of North Carolina, commented, “[w]e continue to appreciate and be pleased to partner with ACTL and its Fellows to provide high quality training to legal services attorneys across North Carolina.” **Maureen Murray**, North Carolina State Committee, said, “[w]e value our relationship with Legal Aid and the legal services community. It is an honor for our ACTL Fellows to present to and interact with these dedicated professionals who serve the civil legal needs of low-income people across our state.”

## PENNSYLVANIA

On November 1, 2019, Judge C. Darnell Jones II of the United States District Court for the Eastern District of Pennsylvania, and four ACTL Fellows – **Linda Dale Hoffa**, **Michael Turner**, **John McShea** and **Joe Crawford** – presented a one-hour CLE seminar on civility to approximately 150 lawyers at Temple University’s Beasley School of Law in Philadelphia, Pennsylvania. This was the first public use of the Civility Videos that were filmed during the Annual Meeting in Vancouver. The civility seminar was part of a four-hour CLE program that Pennsylvania Fellows have presented in conjunction with the Temple Law faculty for the past four years. The format used for the civility presentation was a panel discussion among Judge Jones, Hoffa, Turner and McShea. Crawford served as the moderator asking questions of both the panel members and the audience to keep the discussion lively and interesting for the entire hour. ■

Iowa, Manitoba, Minnesota, Missouri, Nebraska,

North Dakota, Saskatchewan, South Dakota

September 12-14, 2019

K Bar S Lodge

Keystone, South Dakota

## REGION 5: REGIONAL MEETING



Fellows from all eight states and provinces attended the Region 5 Regional Meeting on September 12-14, 2019 in the beautiful and historic Black Hills of South Dakota. President **Jeffrey S. Leon, LSM** and his wife Carol attended along with Past President **Bob Byman** and Region 5 Regent **Kathleen Flynn Peterson** and her husband Steve. **Robert C. Riter**, Chair of the Samuel Gates Litigation Award Committee and **Ronald H. McClean**, Chair of the Heritage Committee and Chair of the North Dakota State Committee were also in attendance. Hosts **Mark W. Haigh** (South Dakota State Committee Chair) and former South Dakota State Committee Chair **Thomas G. Fritz** set an ambitious agenda for the gathering, and everyone departed full of memories.

Activities began Thursday evening with two separate events. First was a welcome reception at the meeting headquarters, the K Bar S Lodge located outside the village of Keystone. Enterprising visitors noticed that they could see Mount Rushmore from the Lodge several miles in the distance. Then Fritz took attendees by motor coach to Under Canvas, a new “glamping” campground near Keystone. Attendees dined underneath a large white canvas tent and walked outside the tent to enjoy spectacular views of the Black Hills and the illuminated Mount Rushmore under a clear (and a little chilly) night sky.

Friday morning began with a heartwarming reflection by President Leon on his seventy-one (counting South Dakota) visits across the U.S. and Canada during his year as President. It had been a long strange trip, indeed, for the man with so many ball caps. The next speaker was Fellow **Hilarie Bass**, former President of the ABA. Bass is the founder and president of Bass Institute for Diversity and Inclusion and spoke to attendees on “Rule of Law Initiatives in a Populist World: Can American Lawyers Make a Difference?” The Honorable **Lawrence L. Piersol**, Senior U.S. District Court Judge for the District of South Dakota, asked “What Is Happening to the Rule of Law” and offered his entertaining and inspiring perspective on how, on a daily basis, lawyers who try cases can contribute to solutions to the erosion of the rule of law. Past President Byman followed with a rousing history lesson on truth and the obligation of trial lawyers to respect and protect it from all assaults, regardless of the source.



In the middle of these presentations, State Committee Chair Haigh gave everyone the opportunity to thank outgoing Regent Flynn Peterson for her leadership of Region 5 and all of her good work on behalf of the Fellows and nominees of the region. To no one's surprise, Regent Flynn Peterson thanked the College and its Fellows for the opportunity to serve.

Friday afternoon took the attendees to the Mount Rushmore National Monument for a tour of the visitor center and the original studio of sculptor Gutzon Borglum. The walk from the bus to the studio required a fair amount of up and down, but it rewarded hikers with closer views of the heads of four presidents (of the United States, not the College) and the opportunity to learn more about how this massive undertaking was accomplished over the span of fifteen years that included the Great Depression.

Friday evening Fritz took the group to dinner at The Kleemann House in Custer. Constructed in the 1880s, this stately home hosted visitors arriving by stagecoach from all points east and west. It has been renovated into a bed and breakfast that is the ideal location for visitors to use for their tour of the Black Hills. Fritz treated attendees to a catered dinner and local musical talent.

Saturday's agenda took attendees to the Crazy Horse Memorial for touring and more education about this fascinating region of the American West. Unlike Rushmore, the Crazy Horse Memorial is a private undertaking that began in 1948 and continues with steady, deliberate progress. Work on Crazy Horse's arm and face in recent years gives visitors a real feel for how the monument eventually will look, and it is nothing short of awe inspiring.

The first speaker was **William Neukom**, former general counsel for Microsoft and past president of the ABA. Neukom is the Founder and CEO of the World Justice Project, which has published the results of its study of 126 countries against eight factors: Constraints on Government Powers, Absence of Corruption, Open Government, Fundamental Rights, Order and Security, Regulatory Enforcement, Civil Justice, and Criminal Justice. He Neukom focused his presentation on the last two factors. Within each of the eight factors, the study examined specific questions totaling forty-four. The study examines, among other things, the rule of law within each country as measured by numerous different parameters. Each attendee left with a hard copy of the current report and plenty of information to be digested and discussed.

The last two speakers focused their presentations on local history. **Wayne Gilbert** told the story of Ex parte Crow Dog, which is the title of an 1883 opinion of the U.S. Supreme Court and deals with a murder prosecution and the imposition of a death sentence upon Crow Dog for the murder of a fellow Native American. The Supreme Court set aside the conviction, and ultimately Crow Dog walked away a free man. **Fred Tully**, development director for Crazy Horse Memorial, gave attendees the background story of sculptor Korczak Ziolkowski, how he started the Crazy Horse project, how it has progressed for decades with strictly private donations, and how it has expanded to serve as an education and advancement center for young Native Americans who work at the facility.

The attendees adjourned to lunch in the visitor center and eventually made their way home with fond memories of their visit to Paha Sapa (Black Hills in the Lakota language).

**Gregory M. Lederer**  
Cedar Rapids, Iowa

**Mark W. Haigh**  
Sioux Falls, South Dakota

# IN MEMORIAM

Since our last issue, we have learned of fifty-four Fellows and the wife of a Past President lost to the ravages of time, and to them we offer this brief send-off. It is not possible to do any of them real justice in the small space we have to describe such large lives. But we do this not so much for the departed as for the living, for *you*. Over the years as we have continued this feature, we have learned that our living Fellows are uplifted by reading a little about the people with whom they have shared fellowship.

Our fifty-four are a distinguished group. Three were judges. Six were collegiate athletes. Thirty served our country in the military, most of those in harm's way; eleven were members of the Greatest Generation, serving during World War II; one in particular flew sixty-three combat missions piloting a B-26 Bomber. One grew up on Alcatraz; another worked as a correctional officer at San Quentin. One represented Monica Lewinski and other clients in the Watergate and Iran-Contra affairs. Another's clients included Spiro Agnew, Curt Flood, and Lenny Bruce. All had important cases, significant practices. But all had lives outside the law. One was proud that he and his

wife had travelled to six of the seven Continents; but then, he didn't know about another of our Fellows who, with his wife, made it to all seven, including both poles.

They all lived full lives. Two lived more than a century. But all of them died too young. "The secret," Ashley Montagu said, "is to die young as late as possible."

These write-ups are necessarily brief. We don't have space, for example, to indulge in the luxury real obituaries enjoy of listing every surviving family member; so, we name only spouses. Yet every one of our departed Fellows left scores of family and friends who will miss and remember them. These write-ups are brief, so read between the lines to capture the real flavor of their lives. And, most important, as George Patton put it: "Do not grieve that such men died; rejoice that they lived."

You will note that some of the write-ups that follow are years overdue. We can only honor those we *know* have passed, *when* we know. So, when you learn that a Fellow has passed, we urge you to ensure that the National Office is informed.

**Henry Bernis Alsobrook, Jr.**, '76, age eighty-five, passed away on Friday, November 13, 2015 in Mandeville, Louisiana. Bernie completed his undergraduate studies at Tulane University in 1952 and served in the U.S. Navy for two years during the Korean Conflict. He returned to Louisiana and Tulane Law School, graduating in 1957. Bernie joined Adams and Reese as a law clerk in 1954, while attending law school, and after his graduation in 1957 Bernie was made the firm's first associate. He became a partner in 1958 and later served as Managing Partner of the firm from 1970-1983. Bernie's law practice focused on products liability; pharmaceutical and medical device law; class actions; mass tort, toxic tort, and pesticides and herbicides law. Bernie served as President of the Louisiana State Bar Association in 1982-83. He was Editor of the *Louisiana Bar Journal* in 1967-69. He served as the College's State Committee Chair in 1982. For years, every November, Bernie traveled to Beaune, France in the heart of Bourgogne to bid at the famous Hospices de Beaune wine auction, the largest charity auction in the world and one of the most sought after and difficult auctions to gain attendance. Bernie served eleven years as Cellar Master for the United States for the Burgundy Wine Society. Bernie was preceded in death by one of his sons but survived by his other three children and eight grandchildren.

**Salvador J. Antonetti-Zequira**, '85, died at the age of seventy-seven in early September 2019. Salvi graduated in 1967 from the University of Puerto Rico School of Law, where he served as the Associate Editor of the Law Re-

view. Salvi was lead trial counsel for the San Juan Dupont Plaza Hotel Corporation in the multi-district litigation arising from the December 31, 1986 fire that destroyed the hotel. Salvi served as Chairman of the Board of Trustees of the University of Puerto Rico from 2001-2004, and Secretary from 2004 to 2009. Among Salvi's survivors is his son Salvador, inducted as a Fellow in 2017.

**J. David Andrews**, '79, died peacefully on October 25, 2019. He was eighty-six. Dave graduated magna cum laude, Phi Beta Kappa in 1955 from the University of Illinois. After graduation he served two years in the Air Force, much of that time stationed at Moses Lake, Washington in the Pacific Northwest, where he determined he would someday return to live. He went back to Illinois only to attend law school and meet his wife, Helen. In 1960, Dave and Helen moved to Washington, where Dave joined the Perkins Coie law firm (known then as Holman, Mickelwait, Marion, Black & Perkins) as its twenty-eighth lawyer. Over the next fifty-nine years he played a major role in the growth of the firm and the leadership of its labor and employment practice. Dave was heavily involved with the American Bar Association, serving in the House of Delegates, as Treasurer, on the Board of Governors and on the Federal Judiciary Standing Committee. He served on the Board of Directors of the American Judicature Society, the American Bar Endowment and as Treasurer of the American Bar Foundation. One of his partners recalled "I was walking down the hall with a cookie I had just bought. Dave walked up, grabbed it and broke it in half, handing back

one half to me. ‘When I grew up in the orphanage, we shared everything 50-50,’ he announced before walking off. I was speechless.” But even more so when the partner later learned that Dave did not grow up in an orphanage; he simply had no shame when it came to cookies. Dave is survived by Helen, his wife of sixty-one years, his four children, ten grandchildren, and one great granddaughter.

**Michael F. Armstrong**, ’79, died on October 17, 2019 at the age of eighty-six of uveal melanoma. Mike grew up in Bronxville, New York. He was a graduate of Yale University, where he played football, and Harvard Law School. He served as a fighter pilot in the United States Air Force before embarking on his legal career, much of it devoted to public service. Mike began as an Assistant United States Attorney in the Southern District of New York, where he created and served as Chief of the Securities Fraud Unit, the first of its kind in the nation. While in the U.S. Attorney’s Office, Mike successfully prosecuted Louis E. Wolfson, who was among the first corporate raiders. Mr. Wolfson and a business partner had been accused of selling unregistered shares in a company they controlled. The investigation implicated Justice Abe Fortas of the United States Supreme Court, who resigned from the Court two years later. In 1970, Mike was appointed to serve as Chief Counsel to the Knapp Commission, which famously investigated and uncovered rampant corruption in the New York City Police Department. In 2012, Mike published *They Wished They Were Honest: The Knapp Commission and New York City Police Corruption*. Mike wrote in the Preface that

his motivation for writing the book almost forty years after the events at issue was that “a fuller understanding of the events of 1970-72 may be of help in maintaining the vigilance that is required to prevent a resumption of the cycle that has seen New York beset by a police corruption scandal every twenty years since the late nineteenth century.” In 1973, Mike was appointed interim Queens district attorney by Gov. Nelson A. Rockefeller. Among his many pro bono services, Mike served for decades as Counsel to the New York Urban League, Chaired the New York City Commission to Combat Police Corruption, and in 2008, he helped lead a probe by the New York State Attorney General into alleged political manipulation of the New York State Police. In private white-collar criminal practice, Mike defended many high-profile cases. In the 1980s, Mike successfully represented the children of Martha von Bülow in a civil suit against their father, Claus von Bülow, who had been convicted of trying to murder Martha, barring him from inheriting Martha’s multimillion-dollar fortune. [von Bülow’s conviction later was overturned on appeal, and he was acquitted after a re-trial.] Mike was a poet, a cartoonist, and a consummate storyteller and contrarian. Mike was pre-deceased by his wife, Joan and two of their children; he is survived by his partner, Gretchen Siebel, three daughters, eleven grandchildren, and three great-grandchildren.

**Guy R. Ayres, III**, ’09, died on August 31, 2019 at his home in Ocean City, Maryland at age seventy-four. Guy graduated in 1967 from the University of Maryland and

the University of Baltimore Law School in 1970. Guy was a dedicated and passionate public servant who served as an Ocean City Councilman from 1978 until 1982; in 1982 he was appointed Ocean City's City Solicitor, a post he held until his death, while simultaneously practicing with the law firm of Ayres, Jenkins, Gordy & Almand, where his practice focused on municipal law, administrative law, real estate, and civil litigation. "Guy's passing is a tremendous loss for his family, friends and for the Town of Ocean City," commented Mayor Rick Meehan. "His love, compassion and knowledge can never be replaced. Guy was our rock." Guy is survived by his wife of fifty years, Kay, two sons, and a daughter.

**William F. (Pete) Baker**, '85, died December 20, 2017, at the age of seventy-eight. Pete's life began in the small town of Anson, Texas, with a yard full of sheep and summers filled with rounding up cattle and plowing ground. It was that plowing, Pete said, that drove him to law school. Pete attended Texas Tech; he frequently told friends he saw more people on his first day at the Tech campus than he had cumulatively seen in his life. But he thrived and was "Mr. Texas Tech" his senior year. The real prize that year was meeting his future wife, Suzie Alderson on a blind date. Pete went to law school at Southern Methodist University. His career as a lawyer began in Corpus Christi, continued in Abilene, and concluded in Lubbock. Just as Pete and his dad had raised horses together, Pete and his sons raised and competed with bucking bulls. Pete and Suzie celebrated their fifty-sixth wedding anniversary the week Pete died. After all

those years they were still having fun together. Pete is also survived by his two sons and four grandchildren.

**Nelson Clyde Barry**, '78, a member of the Greatest

Generation, passed away on June 2, 2018 at the age of ninety-four.

Nelson's high school graduation was held on a Saturday morning so that he and his classmates could be bussed off that afternoon to basic



training in the U.S. Army. Nelson joined the Army Air Corps and proudly served as a First Lieutenant in the 318th Fighter Squadron, 301st Fighter Group. Ironically, his transport ship left Seattle for Japan on VJ Day, August 14, 1945. Upon his return to California in 1946 Nelson attended the University of California, Berkeley on the GI Bill, completing his studies in three years. Upon graduation he attended Hastings College of Law and in 1952 he joined the law firm of Hadsell, Sweet and Engles which later became Bishop Barry, a firm Nelson managed for more than four decades. Nelson tried to conclusion more than 250 jury trials. While at Berkeley Nelson met Jeanie Frances Mahan and began a romance that lasted for sixty-seven years until Jeanie passed away on January 27, 2016. Nelson is survived by their five children and nine grandchildren.

**Plato Cacheris**, '76, died at age ninety on September 26, 2019. For decades one of Washington's premier criminal defense lawyers, Plato played prominent roles in the Watergate and Iran-contra scandals and President Bill Clinton's affair with White House intern Monica Lewinsky. ▶

Plato represented former attorney general John Mitchell in the Watergate matter and, in Iran-contra, he represented Fawn Hall, Col. Oliver North's secretary at the National Security Council. His clients included Aldrich Ames of the CIA and Robert Hanssen of the FBI, both of whom spied for the Soviets and then the Russians, and Ana Belén Montes of the Defense Intelligence Agency, who spied for Cuba. He represented Monica Lewinsky, when she faced felony charges from independent counsel Kenneth W. Starr after she initially denied her relationship with President Clinton. In 2013, Plato secretly represented Edward J. Snowden in confidential negotiations with the Justice Department after the former National Security Agency contractor was charged with espionage and granted asylum in Russia. Reflecting on his roster of clients, Plato said he defended the person, not the crime. "I try to see that their rights are protected . . . "I don't lecture them on what they've done; I don't believe in that. What's done is done; now the question is 'how can we come out of it the best way possible?'" During the Korean War, Plato enlisted in the Marine Corps and served as defense counsel in special courts-martial cases. Plato's survivors include his wife Ethel and two children.

**Richard Lyman Cates**, '73, died at the age of eighty-seven of natural causes, surrounded by family, on August 3, 2011. Dick completed officers training in the Marine Corps during WWII, but the war ended just as he was about to ship out to the Pacific. He returned to the East Coast and worked cutting timber in Maine. He earned a B.A. from Dartmouth College. With the war and college

behind him, he returned to what he said was the one activity he knew to be true: hard physical labor. He got a job shoveling pig iron in a steel mill near Baltimore, and on his days off would go to the courthouse to watch proceedings. Moved by the courts' unjust treatment of the poor and powerless, he found his calling. Dick attended law school at the University of Wisconsin, and in the summer of 1950, he met Marnie Lessig and fell in love. After graduation, they moved to North Carolina, where he served a second tour with the Marines during the Korean War. Dick began his law practice in Madison in 1953 and became a founding member of the Lawton & Cates Law firm in 1958. He practiced until 1990. He defended both universities and students during the uprisings of the 60s, defended doctors on the constitutionality of anti-abortion laws, served as a public defender, and in 1973-74 served as Special Counsel to the House Judiciary Committee in charge of investigating and presenting the evidence leading to the impeachment and resignation of President Nixon. In addition to his practice, he taught law at the University of Wisconsin from 1956 until 1980, and at McGeorge School of Law from 1982-1985. He served one term in the state assembly, two terms on the UW-Madison Board of Visitors, a term on the Madison Board of Education, and two terms with State Bar Board of Governors. Before anybody had ever heard of taking a long-distance bike ride, he and his four sons were riding three-speed bicycles 270 miles to northern Wisconsin every August to a lake cottage. He loved rowing for hours, swimming long distances, and canoe trips. When he retired in 1990, at the age of sixty-five, he walked 450 miles north from Georgia on the Appala-

chian Trail. Dick was survived by his wife, five children, and eighteen grandchildren.

**John Patrick Cremin**, '02, passed away in his sleep on February 6, 2019 at age seventy-four. Pat earned a degree in journalism at the University of Tulsa in 1966, after which he did a stint as the editor of *Tulsa Magazine* and worked in public relations at the Tulsa Chamber of Commerce. He went on to law school at the University of Tulsa, graduating in 1973. After his admission to the bar in 1974, Pat joined the firm of Hall, Estill, Hardwick, Gable, Golden and Nelson, P.C. Pat loved Tulsa and demonstrated it with his service. He was appointed twice by two different mayors to terms on the City of Tulsa Human Rights Commission (HRC), serving as Chair in 1980-81. He served as the Representative of Greater Tulsa Council District 11 from 1975 to 1978 and as Chair in 1978, and was on the City-County Jail Advisory Commission during its entire existence, with two terms as Chair; he was on the City of Tulsa Public Facilities Authority for over twenty-five years, chairing it for a number of years up until his death. He helped found and was Chair of the Oklahoma Jazz Hall of Fame; he served as a member of the Board of the Tulsa Urban League. As a trial lawyer, Pat specialized in employment litigation, defending employers and supervisors in more than thirty jurisdictions. Pat loved karaoke; his favorites were Sinatra and Dean Martin tunes. Through this full life, Pat suffered more than his fair share of tragedy. He was predeceased by both his son and his daughter

but survived by his wife of over fifty years, Margie, and his seven grandchildren.

**William Beryl Crow**, '84, died November 10, 2019 at his home in West Linn, Oregon, at the age of eighty-eight. Bill earned his undergraduate degree at the University of Oregon in 1953, and a master's degree from New York University in 1954. During the final stages of the Korean War, he served as a Lieutenant in the U.S. Army Finance Corps, stationed at Ft. Lewis, Washington. Bill graduated in 1961 with honors from Willamette University College of Law and joined the firm now known as Miller Nash Graham & Dunn, where he practiced for more than forty years. At the age of seventy-two, not yet ready to retire, he became a Shareholder with Schwabe Williamson & Wyatt, where he remained until his retirement in 2014 at age eighty-three. Bill was an effective and successful trial attorney specializing primarily in defense litigation. He served as President of the Oregon State Bar in 1992. Despite the demands of law practice, Bill found time enough to hone his golf game to a two-handicap. Bill's survivors include his wife, Judy, their son, and eight grandchildren.

**Donald R. Dunner**, '95, died peacefully in his sleep on October 16, 2019. He was eighty-eight. Don graduated with a degree in chemical engineering from Purdue University, but realizing that he did not want to be an engineer, he enrolled at Georgetown Law School, which he attended at night while working at the U.S. Patent and Trademark Office and later as a law clerk to Noble Johnson, Chief Judge of the U.S. Court of Customs and

Patent Appeals. Over his career, Don argued more cases before the U.S. Court of Appeals for the Federal Circuit – 175 – than any other person. That seems appropriate, since he was instrumental in forming the court. In the mid-70s, Don served on a Carter administration commission that recommended the formation of what would become the Federal Circuit. As president of the American Patent Law Association, he testified before Congress in favor of the court’s formation. After the court was established in 1982, Don was appointed chair of the advisory committee that helped formulate its rules. One of Don’s partners commented, “Many lawyers are skilled, many lawyers are respected, but Don was also loved.” Don is survived by his wife of sixty-two years, Jenny Sue, his two daughters, and his three grandchildren.

**Henry Augustus Field**, ’76, died in Madison on November 5, 2018, at the age of ninety. Henry received a Bachelor of Philosophy cum laude from Marquette University, and earned a law degree from the University of Wisconsin Law School, where he was on the Law Review Board of Editors and graduated among the top in his class, receiving the Order of the Coif. Following service in U.S. Army Intelligence during the Korean War, Henry returned to Madison and worked as an Assistant United States Attorney before joining the Madison law firm that later became Boardman, Suhr, Curry & Field and bore his name for decades. Henry joined the firm to head up – well, for many years, to *constitute* – its insurance defense practice. Henry was the College’s Wisconsin State Committee Chair. He was a Master in the

American Inns of Court, a member of the International Association of Defense Counsel, Chairman of the State Bar of Wisconsin Litigation Section, and President of the Dane County Bar Association. After retirement in 2013, Henry continued to pursue his many diverse interests. He was a voracious reader of arts, language, history, and philosophy, and he could speak with anyone on nearly any subject. Henry’s survivors include his wife, Molly Martin, his daughter and stepsons, and his four grandchildren.

**Douglas Murray Fisher**, ’79, died on April 7, 2019; he was ninety-one, another Greatest Generation member. Doug gave the valedictory address to his high school class in 1945 and immediately enlisted in the U.S. Navy. After his military service, Doug earned undergraduate and law degrees at Vanderbilt University. Doug served as an assistant district attorney for Davidson county, and as Press Secretary and Executive Counsel to Tennessee Governor Frank Clement. Over his fifty-seven-year legal career, he co-founded two separate prominent Nashville law firms. Doug danced and jitterbugged into his nineties. He is survived by his wife of forty-one years, Julie Fisher.

**Steven F. Fitzer**, ’04, passed away peacefully at the age of sixty-eight in the early hours of August 28, 2019. Steve grew up in Milwaukee Wisconsin and stayed in his home city to attend Marquette Law School. Unusual for a Packers fan, Steve had



the good sense upon graduation to immediately move to Tacoma, Washington, where he spent his entire professional career, focusing on med-mal defense. You can take the Cheesehead out of Wisconsin, but you can't take the cheesy out of the Cheesehead, as this picture that Steve proudly and often published attests. For years, Steve was the leading fundraiser for the Courage Classic, a bicycle ride that raises much-needed funds for the Child Abuse Intervention Department of Mary Bridge Hospital. The very first person to raise in excess of \$100,000, Steve earned an honorary "yellow" jersey for being the most successful fundraiser for the cause of helping abused children in the Tacoma community. Steve's survivors include his wife and partner, Bertha, and their son.

**James Ric Gass, '90**, died unexpectedly of a heart attack on October 13, 2019 at his home in Minocqua, Wisconsin at the age of seventy-six. Ric earned his B.S. degree from the University of Wisconsin-Stevens Point, with a major in chemistry and minors in education and mathematics. He graduated second in his class from Marquette University Law School. Ric acted as both national trial and supervising counsel for a number of insurers and self-insured corporations, trying cases in nearly every civil substantive area but concentrating on cases involving catastrophic injuries, products liability, and bad faith. Ric reportedly tried nearly 300 cases to verdict in jurisdictions spanning from Florida to Hawaii and secured the largest jury verdict in the history of Wisconsin – \$104.4 million. Ric was an Adjunct Professor of Law at the Marquette University Law School. Ric is survived by his partner, Anita Munman, his three daughters, and six grandchildren.

**Stephen T. Greer, '96**, passed away on August 6, 2019, at the age of seventy. Steve attended Tennessee Technological University on an athletic scholarship, graduating in 1970. Apparently, the Tennessee Tech experience was good – years later, all four of Steve's children attended and graduated from Tech. After college, Steve attended the University of Tennessee law school, where he was a member of the Law Review. He returned to his hometown, Dunlap, Tennessee, in the fall of 1973 to begin practicing law. Throughout his forty-six-year career as a lawyer, he handled all types of cases, but Steve felt most blessed that he was able to practice with both his daughter, Elizabeth Greer Adams, and with his father, Judge Thomas Greer, after he had retired from the bench. Steve's survivors include his wife, Susan, their four children, and thirteen grandchildren.

**Thomas Giles Heintzman, O.C., Q.C., FCIARB, '91**, died peacefully at home on October 24, 2019. He was seventy-eight. Tom grew up in Toronto and attended Upper Canada College. After attending Harvard University, the University of London, and Osgoode Hall Law School, Tom joined McCarthy & McCarthy (now McCarthy Tétrault) in 1967, where he practiced for the next forty-four years. He acted as counsel in courts across Canada including numerous appearances before the Supreme Court of Canada. In 2012, Tom retired from McCarthy Tétrault and joined Arbitration Place, where he enjoyed a second career as a mediator and arbitrator. Tom was president of both the Ontario Bar Association (1989-1990) and the Canadian Bar Association (1994- ▶

1995). He was a bencher of the Law Society of Upper Canada between 2003 and 2011. He was an adjunct professor at Osgoode Hall, University of Toronto and Western law schools. For the past fifteen years he was the author of *Heintzman & Goldsmith on Canadian Building Contracts*, an annual publication often cited in judicial decisions. Tom was appointed Queen's Counsel in 1980. He received the Ontario Bar Association Award for Excellence in Civil Litigation in 2008 and the Queen Elizabeth II's Diamond Jubilee Medal in 2012. Tom was appointed an Officer of the Order of Canada in 1998 and was presented a Doctor of Laws degree by the Law Society of Upper Canada in 2017. Tom was actively involved in many community and civic organizations, including serving as a director of the National Youth Orchestra of Canada, Trustee of the Canadian Outward-Bound Wilderness School, Chairman of the Upper Canada College Association and Foundation, Governor of Upper Canada College, and President of the Harvard Club of Toronto. He was a founding counselor of Camp Ooch, a camp for children with cancer that allows them to simply be kids for a while. Tom was also a lover of music who played a variety of instruments, often regaling friends late at night at Bar Association meetings, under the stars by a campfire, or as a dinner party drew to a close. Tom is survived by his wife Mary Jane, his two sons, and four grandchildren.

**Thomas E. Holliday**, '93, passed away peacefully on August 22, 2019 at the age of seventy-one from complications from pneumonia. Tom was born in 1948 at

Camp Hood, Texas, home of First Cavalry. Tom's father, a career Army Officer who rose to the rank of Colonel, moved the family from Texas to Virginia to Arizona to Japan and finally to California, where Tom finished high school in San Diego. Tom attended Stanford University on a football scholarship as a teammate of Jim Plunkett and Gene Washington. (Plunkett was a Superbowl MVP Quarterback; Washington a four-time Pro-Bowl wide receiver.) Tom often bragged to his friends that he was faster than Washington. We loved Tom, but we never heard anyone else say that, at least not with a straight face. But Tom was fast enough to graduate Phi Beta Kappa, go on to USC law school, become elected to the Order of the Coif, and serve as Executive Editor of the Law Review. Tom joined Gibson, Dunn & Crutcher in 1974, where he remained until his retirement in 2009, and where he was Co-Chair of the firm's Business Crimes and Investigations Group, and Co-Managing Partner. Tom was active in the College, serving as State Committee Chair for Southern California and on both the Federal Civil and Federal Criminal Procedure Committees. Tom gave freely of his time to diverse causes; he served on the Board of Children's Law Center, the American Air Museum in Duxford, England, and Chairman of the Board of the American Foundation for the Imperial War Museum in London. Tom never stopped learning; he was accepted into a master's program in WWII studies shortly before his death. He loved mentoring and inspiring the young and touched countless lives. Tom was a competitive weightlifter who loved Elvis, blue suede shoes, Hawaiian shirts, Westerns and cowboys,

the American flag, and anything connected with WWII and Churchill. Most of all, he loved the people who survived him, his wife Marci Merliss Holliday and his son, daughter, stepdaughter, and five grandchildren.

**Peter Allen Hofstrom**, '95, passed away on January 19, 2018. He was seventy-seven. Peter joined the U.S. Air Force out of high school and served from 1959-1963. From 1963-1970 he worked as a correctional officer and correctional case worker at California State Prison at San Quentin. While working full time, he attended and graduated from the College of Marin in California with an Associate of Arts degree in 1966 and a BA from San Francisco State College in 1968. He attended the University of Colorado School of Law and earned his law degree in 1973. After graduation, he traveled by foot and rail throughout Western and Eastern Europe where he contacted local law enforcement agencies to learn from their procedures and philosophies. He returned to Colorado to become the Deputy District Attorney for Boulder in 1974 and the Chief Deputy District Attorney in 1977. Peter took great pleasure in his various hobbies. He loved reading and considered himself a lifelong learner. He was especially interested in history, current events, and contemporary criminal justice system issues. Peter is survived by his wife Oma whom he met while in the Air Force.

**Lawrence T. Hoyle**, '97, died on November 30, 2019 at the age of eighty-one in his home in Philadelphia. "Larry was an attorney of unchallenged integrity, respected by everyone," said former Governor Ed Rendell. Larry

graduated from Duke University, led an infantry platoon in the Marine Corps, and earned his law degree at the University of Chicago. Larry started his legal career at Schnader Harrison Segal & Lewis LLP in 1965, led his own law firm for many years, and returned to Schnader in 2012. Larry's clients included former Governor Richard Thornburgh, former Senator John Heinz, and real estate developer Willard Rouse, whom Larry counseled to participate in an FBI undercover investigation that resulted in the conviction of a prominent Philadelphia City Councilman for attempted extortion. Larry successfully represented the Pennsylvania Gaming Control Board in connection with the initial challenges to the constitutionality of Pennsylvania's gaming laws. He argued the appeal in which California's law concerning the standards for identifying anonymous internet posters was established. He won the first two asbestos-in-building cases ever tried in the United States. He was appointed by Federal Judge Paul Diamond to serve as counsel to the receiver in the Ponzi scheme assets recovery litigation involving Joseph Forte. In July of 1972, then Governor Milton Shapp requested that Larry become Executive Director of the Pennsylvania Crime Commission. For the next eighteen months, Larry directed the investigation of police corruption in Philadelphia, concluding that police corruption in Philadelphia was "ongoing, widespread, systematic, and occurring at all levels of the police department." The Commission's report accused the police department and the city government of then Mayor Frank Rizzo of actively attempting to block the Commission's investigation. After issuance of the report, ▶

Larry's home was repeatedly "paint-bombed," as open cans of paint were catapulted through its windows in the middle of the night. At the height of the civil rights movement in the summer of 1968, Larry volunteered to travel to Mississippi to handle criminal and civil cases. Former Regent Dennis Suplee likes to tell a story about Larry's unique capacity to respond to the unexpected: "When African-American men, women, and children were arrested for participating in a civil rights march in Natchez, Mississippi, they were packed into holding cells at the notorious Parchman Farm prison, and required to drink large doses of a laxative, with predictable dehumanizing results. Larry filed suit on their behalf. He deposed a Parchman superintendent. At the start of the deposition, the superintendent's lawyer from the Mississippi Attorney General's office unholstered his .38-caliber revolver and placed it on the table with the barrel pointing at Larry, announcing 'Now I'm ready to proceed.' Having grown up hunting in North Carolina and having served in the Marine Corps, Larry was very familiar with firearms and he could see a bullet in each of the chambers visible to him. After directing the reporter to swear the witness, Larry described for the record what had happened and, taking a pen from his pocket, said, 'Now I'm going to rotate the barrel 90 degrees, so it's pointed toward the end of the table where nobody's sitting.' Then he announced, 'Now I'm ready to proceed.' And so, Larry took the testimony of this angry witness with a loaded revolver on the table between them." Suplee describes Larry as "the gutsiest lawyer I've ever met." Larry served as a board member

of Philadelphia's Academy of Natural Sciences, the Fox Chase Cancer Center, the Pinchot Institute for Conservation, The Lighthouse, United Communities of Southeast Pennsylvania, Duke University's Board of Trinity College, and the University of Chicago's Law School Visiting Committee. Larry is survived by his wife Molly, a son, daughter, stepson, and five grandchildren.

**Lawrence S. Huffman**, '91, passed away on August 6, 2019 at age eighty-nine. After graduation from High School in 1950, Larry joined the Marine Corps and served on the line and forward areas in Korea for nine months as a rifleman with the 7th Marine Regiment. In 1958 he received his law degree from Ohio Northern University. He practiced law in Lima, Ohio, for sixty years, serving as Allen County Prosecutor from 1969 to 1976. Current Allen County Prosecuting Attorney Juergen Waldick described Larry as a "prosecutor's prosecutor." Larry continued his "hard-nosed" until about three months before his death. "He was an extraordinary lawyer," his partner Brad Kelley said. "I've traveled all around the U.S. in a legal capacity, I've seen lawyers all over this country, and he was the best lawyer I ever met." Larry served as president of the Allen County Bar Association in 1978. Remarkably, Larry's survivors include twenty-seven grandchildren, and thirty great-grandchildren.

**Leonard Joseph**, '75, passed away peacefully at home from natural causes on March 6, 2019 at the age of ninety-nine. In a remarkable legal career, he rose to become chairman of the management committee and chairman

of the litigation department at Dewey Ballantine. He was the lead lawyer on some of the most significant anti-trust cases of his time, including the government's case against AT&T and the Bell system, and the case against DuPont for its stake in General Motors. Born in Philadelphia in 1919, Joseph went to the University of Pennsylvania on scholarship, graduating with a B.A. in 1941. Although he was class valedictorian, he was not invited into Phi Beta Kappa, a slight he never discussed but did not forget. He enrolled at Harvard Law School, but his studies were interrupted by service in the United States Army from 1943 to 1946. Returning to Harvard, he was an editor of the Law Review and graduated in 1947, third in his class. He clerked for the Chief Judge of the United States Court of Appeals for the First Circuit, Calvert Magruder. In 1948, he joined the firm that became Dewey Ballantine. In 1957, he became the firm's first Jewish partner. Joseph is survived by his wife of seventy-six years, Norma, two sons, a daughter, five grandchildren, and a great-granddaughter.

**Michael Peter Koskoff**, '87, died after a long illness on April 24, 2019 with his family at his side. He was seventy-seven. Bridgeport, Connecticut Mayor Joe Ganim described Koskoff as "a giant among lawyers, and one of the most well-respected legal minds of our time. He was both brilliant and a humanitarian that defended the rights of people. He had a tremendous positive impact as a member of the legal community in the Bridgeport area and beyond." Generations of the Koskoff family were in the performing arts. His grandmother had been an ac-

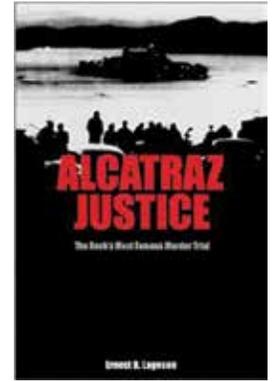
trix; his grandfather, a singer; two cousins were composers, and his father had been a professional cellist before himself practicing law. Michael studied at the American Shakespeare Academy in Stratford but eventually enrolled in the University of Connecticut School of Law after deciding his future wasn't in acting. But it wasn't until 1969 that Michael knew he had made the right career choice. That May, downtown New Haven was taken over by throngs of protesters as members of the Black Panther Party, including Bobby Seale, were put on trial for conspiracy and the murder of Alex Rackley, a member of the Black Panthers who was suspected by the Panthers of being a police snitch. Rackley had been found dead in a Middlefield swamp near Coginchaug River, his body riddled with bullets, his hands bound, and a wire wrapped around his neck. Michael, only three years out of law school, and his father represented Lonnie McLucas, the Panther accused of the actual murder. Every morning Michael and his father would wade through the crowds to get into the New Haven courthouse. McLucas, whose defense was that he was coerced by the Panthers to take part in Rackley's murder, was found guilty only of conspiracy and sentenced to twelve years; Bobby Seale was acquitted of all charges. "My father and I set out to prove that a black radical could receive a fair trial and we succeeded," Michael told a reporter. Michael spent the rest of his career fighting for individual rights. But he later returned to his artistic side. Michael counted as his greatest success his work co-writing with his son, Jacob Koskoff, the screen play for a critically acclaimed movie about racial barrier breaking Supreme Court Justice

Thurgood Marshall. In addition to his wife, Rosalind, Michael is survived by his four children.

**Alan Charles Kohn**, '92, died on September 7, 2019, at age eighty-seven. Alan attended Washington University in St. Louis for six years, obtaining his undergraduate degree in 1953 and his law degree in 1955. He was elected to Phi Beta Kappa and Order of the Coif and was Editor-In-Chief of the *Washington University Law Quarterly*. In 1955, Alan was commissioned as a lieutenant in the United States Army and was trained as a code breaker. He served in the Army Security Agency in Germany, where he was engaged in electronic intelligence from 1955 to 1957 and tried several court martial cases. He returned to the United States in 1957 and served as law clerk to Justice Charles E. Whittaker on the U.S. Supreme Court. Alan began his private practice in St. Louis in 1958. Alan was an avid tennis player. He was on the Washington University tennis team for four years and was captain and played at the #1 position on the team in his fourth year. He and his partner, David Mesker, received gold medals in tennis in 1987 and 1989 at the United States National Senior Olympics, and Alan won bronze medals in singles in those years. Alan is survived by Joanne, his wife for over sixty-five years, three sons, and five grandchildren.

**Ernest B. Lageson**, '84, died on October 25, 2019 at the age of eighty-nine. Ernie grew up on Alcatraz Island, where his father worked as a corrections officer. He was a graduate of the University of California, Berkeley, and Boalt Hall School of Law. At Cal, he played football

under the legendary coach, Lynn "Pappy" Waldorf. He served for two years in the United States Navy, aboard the destroyer *USS John R. Craig* as a gunnery officer.



After law school, Ernie worked as a prosecutor in the Contra Costa County District Attorney's office. Moving to private practice, Ernie joined Bronson, Bronson, and McKinnon in San Francisco, and later became a name partner of the Walnut Creek firm of Archer, McComas, & Lageson. As a nationally known defense trial attorney, his areas of expertise included product liability, general and commercial aviation crashes, legal and medical malpractice, trade libel, personal injury, wrongful death, commercial disputes, and construction defects. Ernie served as President of the Defense Research Institute in 1986. Following his retirement in 1992, Ernie served as an arbitrator and embarked on a second career as a writer, publishing four books, all related to Alcatraz: *Battle at Alcatraz*, *Alcatraz Justice*, *The Other Alcatraz*, and *Guarding the Rock*. Ernie is survived by his wife Jeanne, his son and daughter, and his five grandchildren.

**Lane J. Liroff**, '06, passed in June 2019 at the age of sixty-eight. Lane graduated from the University of California, Berkeley and, after a year in a master's program at San Francisco State, attended law school at Southwestern University in Los Angeles. After three years in private practice, Lane joined the Santa Clara County District Attorney's Office, where he remained until his final days,

apart from a two-year assignment to the Department of Justice to serve on Attorney General Reno's Capital Case Committee. By 1985, Lane was assigned to handle Santa Clara County's most complex and demanding murder cases. For many years, Lane served simultaneously as an Adjunct Professor at both the Lincoln University School of Law and San Jose State University. Lane served as President and Board Member of the Vanished Children's Alliance from 1993 to 1999, an organization devoted to the recovery of missing and stolen children.

**Robert Wagner Mann**, '86, died suddenly of a heart attack on April 27, 2019, while playing golf in Myrtle Beach, South Carolina. He was eighty-two. Bob graduated from Fork Union Military Academy, received a B.A. from Carson-Newman College, magna cum laude, and was an honors graduate of the T.C. Williams School of Law of the University of Richmond. Upon graduation he served three years active duty in the Marines, including a tour in Vietnam and was discharged with the rank of Captain. Bob began his civil trial practice in 1967. Bob practiced law for fifty-three years, the last fifty years with what is now called Young, Haskins, Mann, Gregory, McGarry & Wall, P.C., until his death. Bob passed away doing what he loved with people he loved. His survivors include his wife Kellie Mann, two daughters, and four grandchildren.

**Francis S. McDaniel**, '70, passed peacefully in his sleep at Kettering Medical Center on March 25, 2012, at the age of ninety. [It is scant comfort for our failure to learn sooner, but we note that Lawyers.com continues to this

day to list him as though still practicing.] Mick, as he was known to his friends, graduated from The Ohio State University in 1943, and promptly enlisted in the U.S. Navy, serving aboard the battleship USS New Mexico in the Pacific theatre.

After returning from the war, Mick earned his law degree from



Ohio State and practiced law for more than fifty years in Dayton, where he served as President of the Dayton Bar Association. Mick's survivors include his son, daughter, and five grandchildren.

**Jerry A. McDowell**, '87, passed away on August 7, 2019 at the age of eighty-five. Jerry attended the University of Alabama, where he met Mary, his wife of sixty-four years. After receiving his undergraduate degree, he served in the United States Army as a First Lieutenant, where he flew airplanes and helicopters. He graduated from the University of Alabama School of Law and established himself as a legendary trial lawyer in a career that approached fifty years. Jerry was the College's Alabama State Committee Chair for three years and was a member of the National Association of Railroad Trail Counsel, among numerous other professional organizations. Jerry served as president of the Mobile County Bar Association in 1992. In addition to Mary, Jerry is survived by his son, daughter, and five grandchildren.

**Michael E. McNichols**, '84, was eighty years old when he died peacefully at his home surrounded by his family and friends on September 16, 2019. Michael graduated

from the University of Idaho in 1960 and second in his class from the University of Idaho College of Law in 1963, where he was an Editor of the Law Review. Michael practiced law with his father Ray until Ray was appointed to the United States District Court by President Lyndon Johnson in May 1964. Michael's law practice was a general practice with an emphasis on litigation. Although primarily a civil trial lawyer, Michael defended three first-degree murder cases. Michael served as the College's Idaho State Committee Chair in 2006. Michael and his wife Katie loved to travel and were proud that they visited six of the seven continents. In addition to Katie, Michael is survived by his son, daughter, stepson, and seven grandchildren.

**Hugh Stockdell Meredith**, '71, passed away in Savannah, Georgia, on June 30, 2019 at the age of 102, after moving from Virginia two years before. Hugh graduated from the University of Virginia Law School in 1940 and joined the law firm of Vandeventer & Black that same year. He volunteered for service in the U.S. Navy in 1941 and served aboard minesweepers in the North Atlantic and South Pacific Oceans during World War II, including having command of the *USS Lucid* in 1945. He returned to the law firm after the war and became a partner in 1949, after which the firm's name was changed to Vandeventer, Black & Meredith. During a distinguished legal career of nearly fifty years Hugh was regarded as one of the leading admiralty attorneys of his day. Hugh's survivors include his three children, three grandchildren, and three great-grandchildren.

**Roy J. Moceri**, '82, died August 15, 2019 at the age of ninety. Roy was a Phi Beta Kappa graduate of the University of Washington, after which he attended UW Law School, where he was Editor of the Law Review and a member of the Order of the Coif. After graduation, he served as a JAG officer in the U.S. Navy, deployed in the Pacific. Roy completed his active naval duty in 1955 and joined Brethorst, Fowler, Bateman, Reed & McClure – where he specialized in insurance defense until his retirement. Roy was president of the Washington State Bar Association and served as the College's Washington State Committee Chair in 1985-87. Roy loved history, Winston Churchill, opera, the fine arts, and fine wine. Roy leaves his wife Donna, six children and stepchildren, and a granddaughter.

**Michael J. Mooney**, '93, passed away at home on May 10, 2019, at the age of eighty-two. Mike is survived by his wife of fifty-seven years, Sue; his three children, and eight grandchildren. Mike practiced law with several Omaha law firms beginning in 1963 and continuing through his retirement in 2019. Mike was Chairman of the House of Delegates for the Nebraska State Bar Association and was a fellow in the Nebraska State Bar Foundation. He served as President of the Nebraska Defense Counsel Association and was its first recipient of its Master Emeritus Award in May of 2011. Mike also served as President of the Nebraska Association of Trial Attorneys.

**Thomas J. O'Reilly, Q.C.**, '92, died as he lived, with peaceful dignity, on November 16, 2019 after a brave but brief battle with cancer at age seventy-nine. Called to the

Bar of Newfoundland and Labrador in 1968, Tom was an icon in the legal profession and an inspiration to his colleagues. He was appointed Queen's Counsel in 1980 and Master of the Supreme Court of Newfoundland and Labrador in 1988. He served as President of the Law Society of Newfoundland and Labrador, President of the Newfoundland and Labrador Branch of the Canadian Bar Association, and Province Committee Chair for the College. Tom gave generously of his time and expertise to the greater community. Tom served on many civic boards and committees over the years; he was Chair of Marystown Shipyard, Director of St. Clare's Mercy Hospital, serving as Chairman of its Ethics Committee, and he was an invaluable contributor to the Gathering Place, which provides care, support, and compassion to some of St. John's most vulnerable residents. Tom is survived by his wife of fifty-two years, Joan, his two children, and three grandchildren.

**Nicholas H. Patton**, '80, passed on November 2, 2019; he was eighty. Nick grew up in Lewisville, Arkansas and was educated at the University of Arkansas both as an undergraduate and at the law school, to which he later returned to teach. Nick served as President of the Texarkana Bar Association, and he was named Outstanding Trial Lawyer of 1994 by the Arkansas Trial Lawyers Association. His hobbies ranged from photography to writing to going to rivers and coasts to let the wind blow in his hair. He enjoyed golf, fishing, and being anywhere the Razorbacks were playing. His biggest smiles were when he had a kid on his knee. Nick's survivors include

his wife of forty-one years, Sally, his five children, twelve grandchildren, and two great grandchildren.

**John Yeardley Pearson, Jr.**, '92, died on September 12, 2019 in his hometown of Norfolk, Virginia, surrounded by family and loved ones. He was seventy-seven. John attended college at Washington and Lee University in Lexington, Virginia from 1960 to 1964, where he played football and ran track; John holds the Washington and Lee retired school record for the 330-yard hurdles. In 1964, John entered the U.S. Navy as an officer and served until 1968. John attended the University of Virginia School of Law, graduating in 1971; John was a member of the Virginia Law Review and Order of the Coif. John practiced at Willcox & Savage in Norfolk from 1971 until his retirement in 2009. John held a deep love of music, reading, and the beach. John is survived by his wife, Ellen, and their three children and six grandchildren.

**Ray Scott Plain**, '80, passed away on November 3, 2019 at the age of eighty-two. Scotty attended Indiana University in Bloomington, earning a degree in business. He married his high school sweetheart Sally Wilson in 1959 and promptly entered the United States Army as a commissioned First Lieutenant. He served for two years in Germany and returned to Indiana University for his law degree, which he earned in 1964. He joined the Owensboro law firm that would become Wilson, Wilson and Plain, where he practiced until his retirement in 2012. Scotty was a past president of the Davies County Bar association, past president of the Kentucky Bar

Association, and a member of the Board of Governors of the American Bar Association. In addition to Sally, he is survived by his son, daughter, and three grandsons.

**Daniel A. Pollack, '85**, died suddenly and unexpectedly on the morning of October 25, 2019. He was eighty. Early in his career, Dan came to public notice in a lengthy trial against Goldman Sachs arising from the collapse of Penn Central. His groundbreaking work in that trial was chronicled in several books published in recent years. He led the Pollack & Kaminsky law firm for more than forty years, then joined McCarter & English in 2009. Most recently, as a court-appointed Special Master, he successfully managed the historic negotiations that enabled Argentina's 2016 return to the global capital markets. Dan attended Harvard College, Harvard Law School, and University College Oxford. Dan was an avid tennis player, watercolor painter, wine lover, and collector of early American paintings and silver. A voracious and wide-ranging reader, Dan was also a tremendous correspondent and communicator, keeping in steady touch with friends. Dan leaves behind his wife of forty-six years, Susan, their two children, and five grandchildren.

**Robert L. Pottroff, '06**, passed away on October 26, 2019 at the age of sixty-six. Bob graduated cum laude from Kansas State University in 1975 and earned his J.D. from the University of Kansas School of Law in 1979. Though he attended both of Kansas' major state universities, he displayed his preference openly. UK's color, of course, is blue; KSU's is purple. Bob drove a

purple Jeep, not an easy color to get accidentally; and the Jeep sported the license plate "GTBZLVN," standing for Bob's motto and mantra, "Get Busy Living." Bob was a plaintiffs' lawyer who specialized in railroad cases. Bob is survived by his wife, Viktoriya, his children and stepdaughter, and a step-granddaughter.

**Theodore H. Rachlin, Q.C., '88**, died on December 2, 2019 at the age of eighty-six. Ted was a graduate of both the University of Toronto Faculty of Law and Osgoode Hall Law School. He was admitted to the Ontario Bar in 1959 and to the Bar of New York State in 1985. He was appointed Queen's Counsel in 1975. He was certified as a specialist in civil litigation by the Law Society since the inception of certification in 1988. His practice was concentrated in personal injury and insurance litigation, including medical malpractice. He was a founding member and past president of The Advocates' Society. Ted was first and foremost committed to family. He was always ready with guidance and advice, and he especially loved his time with his grandchildren, including regular Friday night family dinners and Blue Jays games. Ted leaves his wife of sixty-one years, Merle Rachlin, their two children, and nine grandchildren.

**John David Rhodes, '82**, passed away peacefully on September 24, 2016 at the age of ninety, surviving by nine months his beloved wife of sixty-five years, Grace. Part of the Greatest Generation, Dave served in the Army Air Corps in the Pacific Theater during World War II. Dave graduated with high honors in 1948 from the University of Pittsburgh and in 1951 from the University of

Pittsburgh Law School, where he was Editor of the Law Review. He began a fulfilling and devoted law career with Pringle, Bredin & Martin and later co-founded the firm, Thompson, Rhodes & Cowie, where he mentored a new generation of attorneys. In 1954, Dave and Grace built a home on a former farm property in Sewickley, where Dave spent most of his free time enjoying landscaping, gardening, planting trees, and creating horse pastures and a network of bridle trails. He instilled a love of nature in his children through hunting, camping, and fishing, where he preferred the quiet of a canoe to the convenience of an outboard. Dave was survived by his five children and their families.

**Norman Blanchard Richards**, '73, died at his Sausalito home shortly after his ninetieth birthday on February 1, 2015, with his wife at his side. Norm received a B.S. degree in mathematics from Bowdoin College in 1944. While still at college, Norm attended Bates College in the Navy V-12 Program, so he entered the U.S. Navy as an officer. Norm became the skipper of an LCT landing craft in New Guinea and spent almost three years in the South Pacific. After his service, he attended Stanford Law School on the GI bill and received his degree in 1951. Norm was hired by McCutchen, Doyle, Brown & Emerson, where he practiced his entire career. He became head of the firm's admiralty department and a leading figure in admiralty law in the Bay Area. Norm gave back to the legal community by teaching a number of trial advocacy courses for Hastings Law School. After retirement from McCutchen, he continued to be involved with the legal community.



*The V-12 Navy College Training Program was designed to supplement the force of commissioned officers in the United States Navy during World War II. Between July 1, 1943, and June 30, 1946, more than 125,000 participants were enrolled in 131 colleges and universities in the United States. Numerous participants attended classes and lectures at the respective colleges and earned completion degrees for their studies. Robert F. Kennedy, second from left in this photo, also participated in the program at Bates at about the same time.*

Norm traveled extensively, both before and after retirement. The McCutchen firm instituted a sabbatical program for its partners in 1979 in response to his announcement that he was going to take a three month leave of absence to travel with his wife. He was a fearless and curious travel companion, willing to go anywhere and do anything. He took up snorkeling in his fifties and continued to snorkel all over the world through his mid-eighties. He especially loved Italy and its culture, and he made his final trip there at age eighty-three. In his seventies, Norm took up Argentine tango dancing, an activity which coalesced with his love of travel. He made several trips to Buenos Aires to dance and experience the culture. Norm was survived by his wife of thirty-seven years, Diane Richards, his two children, and his granddaughter.

**James Robertson**, '84, a retired Federal Judge and Judicial Fellow, died on September 7, 2019. He was eighty-

one. After growing up in Ohio, Judge Robertson attended the Woodrow Wilson School of Public and International Affairs at Princeton on an R.O.T.C. scholarship and graduated in 1959. Shortly after graduation, he married Berit Persson and entered service in the Navy as a gunnery officer on a destroyer — where he had his first experience with Guantánamo, when his ship docked there. Judge Robertson graduated first in his class from George Washington University Law School in 1965, where he served as Editor-in-Chief of the *Law Review*, and joined the D.C. firm now known as Wilm-Hale. A former president of the District of Columbia Bar, Judge Robertson was nominated for the federal bench by President Clinton and confirmed by the Senate in 1994. In the early 2000s, Judge Robertson was one of eleven judges on the Foreign Intelligence Surveillance Board — the “FISA Court” — which was created in 1978 in response to reported excesses by law enforcement agencies that were spying on foreign agents in the United States without authorization. Judge Robertson publicly and noisily resigned from that court in 2005 after press reports revealed that President Bush had secretly sanctioned the National Security Agency to eavesdrop on Americans without court orders in the wake of the 9/11 terrorist attacks. A year earlier, Judge Robertson, while sitting on the federal bench in D.C., ruled that Salim Ahmed Hamdan, a Yemeni chauffeur for Osama bin Laden, could not be tried by a military court as an enemy combatant because the government had neglected to prove, as warranted by international treaties, that he was a prisoner of war. Mr. Hamdan had been seized

by American troops during the invasion of Afghanistan and was being held at the detention center at Judge Robertson’s old port of call, the Guantanamo Bay Naval Base in Cuba. An appeals court overturned Judge Robertson’s decision in 2005. But the next year, in *Hamdan v. Rumsfeld*, the U.S. Supreme Court ruled that the commission that had been created to try Mr. Hamdan violated both the code of military justice and the Geneva Conventions. After retirement from the bench in 2010, Judge Robertson became a sought-after arbitrator and mediator. Judge Robertson is survived by Berit and their three children and six grandchildren.

**Jesse F. Ruiz**, ’01, surrounded by his family, passed away at the age of sixty-seven on October 17, 2019. Jesse was born in Sault Ste. Marie, Ontario, Canada, raised in Hollister, California, and received his education at the University of California at Berkeley (A.B., 1974) and Stanford Law School (J.D., 1977). Jesse spent the first forty years of his career as an associate and then partner at Robinson & Wood, Inc., and the last two years as a partner at Messner Reeves LLP. Jesse focused his practice on product liability defense and labor and employment. His friends related that you could always find Jesse tailgating before a local Bay Area sports game, snowboarding down the black diamonds at Northstar, or golfing with his decades-old foursome from Stanford. Jesse’s survivors include his wife, Lucy, his three children and two grandchildren.

**William J. Rush**, ’77, passed away on October 8, 2019 at age eighty-five. After attending the College of Puget

Sound and University of Washington School of Law, Bill began his career in 1958 as a general sole practitioner before establishing the law firm known today as Rush, Hannula, Harkins and Kyler, LLP, focusing on medical malpractice, personal injury and wrongful death. Bill enjoyed Huskies football as a season ticket holder for fifty years. Also an avid traveler, Bill and his wife Patricia (a professional photographer) visited almost every corner of the world – all seven continents. Highlights include a people-to-people trip to China in the early 1980s to discuss medical malpractice issues with Chinese doctors and court representatives; a behind-the-scenes tour of Oman, Dubai, and Kuwait before 9/11; a 1991 trip to his parents' Ukrainian birthplace where he met nine first cousins still living there; and journeys to both the North and South Poles. The trip to the North Pole was on a 300-foot Russian icebreaker and included a brief swim in a hole carved out of the ice over 8400-foot deep water while the ship's armed crew kept a lookout for polar bears – Bill's idea of fun! Sadly, two of Bill's three children predeceased him. Bill leaves his wife of fifty-seven years, one child, and four grandchildren.

**Harry G. Shaffer**, '68, died March 9, 2019, at Woodlands Retirement Community in Huntington, West Virginia, at age ninety-three. Gus was preceded in death by the love of his life, his wife of sixty-seven years, Mary Lee Kenney Shaffer. Gus attended Scott High School and Greenbrier Military Academy and served in the U.S. Army Air Corps prior to enrolling at West Virginia University. He graduated from the West Virginia Univer-

sity College of Law in 1950 and joined his father in the law firm Shaffer & Shaffer, PLLC, where he practiced for the duration of his distinguished legal, business, and civic career. He was the mayor of Madison for sixteen years, past president of the Madison Rotary Club, longtime Chairman of Boone National Bank, and past president of the West Virginia State Bar.



**Charles E. Sharp**, '80, died at home with his family on October 11, 2019 at the age of ninety. While attending the University of Alabama, Charlie enlisted in the U.S. Naval Reserve and was called to active duty during the Korean War, serving as a machinist mate on the aircraft carriers *USS Antietam* and *USS Bennington*. After service, Charlie graduated from the University of Alabama in 1952 and from the University of Alabama Law School in 1956. Charlie returned to Birmingham and opened a sole law practice while clerking for U.S. District Judge H.H. Grooms. He soon joined the firm of Sadler and Sadler, where he eventually became the senior partner of the firm, later known as Sadler Sullivan. In January 2011, Charlie became Of Counsel with the Friedman Dazzio firm in Birmingham, where he continued to practice at age ninety. Charlie relished walking, fishing, and hunting at his farm in Shelby County. He tried over 300 jury trials and argued before the Supreme Court of Alabama sixty-two times, and before the 11th Circuit Court of Appeals sixteen times. Charlie is survived by his wife of sixty-one years,

Katherine Gaillard (Gail) Sharp, four children, four grandchildren, and one great-granddaughter.

**Jay Henry Topkis**, '65, passed at the age of ninety-four on September 1, 2018. Jay entered Columbia College in New York in 1941 when he was sixteen, but left in 1943 to join the U.S. Army, returning after World War II to graduate cum laude, and then go on to Yale Law School, where he earned his degree in 1949. After a year as a clerk to Justice Jerome Frank on the U.S. Court of Appeals, he joined the firm of Paul, Weiss, Rifkind, Wharton & Garrison, and soon became a protege of Judge Simon Rifkind. In his earliest days at Paul Weiss, Jay helped defend Lenny Bruce against charges of obscenity, and J. Robert Oppenheimer against the House Un-American Activities Committee, but though he went on to specialize in corporate litigation, with a particular expertise in antitrust issues, Jay will perhaps be best remembered for his work on the national stage. He represented Vice President Spiro Agnew on charges of criminal tax evasion; he represented Curt Flood in his case against Major League Baseball that ushered free agency into the sport; he represented teachers in *Edwards v. Aguillard*, the case which succeeded in restricting the teaching of "Creation Science" in public schools. His commitment to justice and human decency was amply demonstrated by his pro-bono work. He spent twelve years on the executive committee of the board of the Lawyers Committee for Human Rights, in which capacity he traveled to Russia, Kenya and Poland to monitor elections and the trials of dissidents and to assist in drawing up legislative frameworks.

And he spent more than thirty years on the board of the NAACP Legal Defense Fund, primarily representing clients facing the death penalty. Jay is survived by his wife, Jackie and their daughter.

**George Gordhammer Walker**, '85, passed away at his home on February 15, 2019 at the age of ninety-five. A paradigmatic member of the Greatest Generation, George piloted a B-26



Marauder on sixty-three combat missions in the European theater during WWII. He was awarded the Croix de Guerre and the Legion of Honor's Chevalier medal for his participation in the liberation of France. After the war, George enrolled at the University of California Berkeley, where he was a star basketball player for the Golden Bears, earning the nickname "Spider." After Hastings Law School, George became a preeminent criminal lawyer, defending hundreds of clients, from Hells Angels to a Nicaraguan Bishop involved in the Iran Contra Affair. George was a founding member and past President of the American Board of Criminal Lawyers. He served three terms as President of the California Trial Lawyers Association and was founding member of the California Attorneys of Criminal Justice. His courtroom style placed him among the elite trial lawyers in the country; he was at one point ranked in the top three trial lawyers by Harvard University. George was predeceased by his first wife and their son; he was survived by his wife of nineteen years, Evelyn.

**Matt J. Whitworth**, '07, a Judicial Fellow, passed away at St. Luke's North Hospital on October 8, 2019 at age sixty-one. Judge Whitworth – Matt – was a proud Eagle Scout and a recipient of the “God and Country” Award from the Boy Scouts of America. He graduated from Baker University where he graduated with a double major in English and political science and a minor in religion. Matt then attended the University of Arkansas School of Law, graduating in 1983. Matt clerked for the Hon. Jack E. Gant in the Jackson County Circuit Court. From 1984-1987, Matt served as an Assistant Prosecuting Attorney at the Jackson County Prosecutor's Office and was a Trial Team Leader from 1986-1987. After a year in private law practice, Matt embarked upon a twenty-two-year journey in the United States Attorney's Office for the Western District of Missouri, ultimately serving in nearly every capacity. During his time at the U.S. Attorney's Office, Matt prosecuted some of the most violent crimes and most complex criminal cases in the country. By the end of his prosecutorial run in 2009, he was simultaneously serving as the Chief of the Criminal Division, First Assistant U.S. Attorney and the Acting U.S. Attorney. In 2010, Matt was appointed as a Federal Magistrate Judge for the Western District of Missouri; he was Chief Magistrate Judge at the time of his death. Matt's survivors include his wife, Jeanie, his four sons, and his grandchildren.

**Silas Williams, Jr.**, '89, died on December 10, 2011 at age eighty-nine. Silas was married for fifty years to Marilyn Miller Williams, who predeceased him. Silas attended

The University of the South at Sewanee, Tennessee. His college education was interrupted by World War II and his service in the United States Army. During and after his military service, he continued his education and completed his degree, after which he attended Duke University Law School, returned to Chattanooga and joined the firm of Spears, Moore, Rebman & Williams, where he practiced until his retirement. Silas was survived by his three children, eight grandchildren and eight great-grandchildren.

**Tilden Perkins (Chip) Wright III**, '93, age seventy-three, died February 27, 2016 at Washington Regional Medical Center. Chip attended Georgia Tech from 1960 to 1962 and then the University of Arkansas at Fayetteville, graduating in 1964. He was commissioned in the United States Air Force in 1964 and was discharged in 1968 as a Captain. Chip graduated with High Honors in 1971 from the University of Arkansas School of Law at Fayetteville, where he was Comment Editor for the University of Arkansas Law Review. Chip's practice was general civil litigation, including insurance defense, with a heavy emphasis on product liability as well as architect and engineer liability. Chip was a certified diver and enthusiastic boater. He loved life and frequently captured special moments through his avid interest in photography. Chip was survived by his wife of fifty-one years, Mary Sturgeon Wright, two children, and four grandchildren.

**Matias A. Zamora**, '77, died September 1, 2019 at the age of ninety-two. He died knowing that he had kept the promise he had made to his mother when he was eleven

years old: “ser un hombre bueno” – “to be a good man.” Matt was born in Mora, New Mexico, on April 14, 1927, the youngest of five children. His father, a school superintendent, encouraged Matt to help others in the community and emphasized the importance of education. During the early stages of World War II, Matt worked as a food server at the Fuller Lodge, which served the scientists developing the Atomic Bomb at Los Alamos. Matt later joined the U.S. Army, first as a military police officer in Germany and then in counterintelligence; during those postings, he became fluent in German and Russian, in addition to English and Spanish. Matt took advantage of the G.I. Bill to attend and graduate from

New Mexico Highlands University. Matt received his law degree from Georgetown University in 1954. In 1965, Matt was appointed as a New Mexico District Judge for the Fourth Judicial District. Before and after his stint as a judge, Matt was a trial lawyer, helping families throughout Northern New Mexico, until his retirement in 1993. From playing golf, to playing cards, listening to mariachi music, fishing or reading Shakespeare and Edgar Allen Poe, Matt lived life through laughter, honesty, faith, respect for others, and integrity. Matt was predeceased by one of his sons but is survived by his wife Emeline and his other four children, seven grandchildren, and five great-grandchildren.

**Rhoda “Rusty” Burks Baylor Harrell**, the widow of College Past President Morris Harrell, died December 15, 2018 at age ninety-six. Daughter of a Texas ranching family, she spent much of her childhood on a ranch. An avid reader and writer, as a child she was disappointed with *Gone With the Wind*, so she wrote a new final chapter. At Baylor University, named for an ancestor, she met a young law student, Morris Harrell, whom she married after her 1943 graduation. After he served as an officer in the United States Navy in the South Pacific, they moved to thriving Dallas where she became both a religious and civic leader – Junior League, women’s and garden clubs, theater board, PTA president, active in her Baptist Church and a classic homemaker, mother and grandmother. Meanwhile, Morris climbed the heights of his profession as President of his local Bar, the State Bar of Texas, the National Conference of Bar Presidents, the American Bar Association, and the American College of Trial Lawyers, becoming one of the most important legal figures in the country. She shared, and her presence enhanced, his journey to the top of his profession. Once asked who had had the most impact on his life, Morris replied without hesitation “my wife.” Rusty never left her ranch roots. One Past President relates that he was welcomed there and left to shower at the foot of an outdoor water tower topped by a bucket penetrated with holes, while the Harrell’s went off horseback riding to give their guest some privacy. In her later years she offered her home as a temporary residence for three grandchildren, explaining that she would manage this arrangement by “riding a little loose in the saddle.” Her nightly prayer ended with, “I believe that I am guided. I believe that I will take the right turn in the road. I believe that the Lord will make a way when there is no way.” With that assurance, she shared Morris’ life for fifty-seven years and then survived his loss for another eighteen. Her survivors include a son and two daughters. ■



# UPCOMING EVENTS



Mark your calendar now to attend one of the College's upcoming gatherings. Events can be viewed on the College website, [www.actl.com](http://www.actl.com), in the 'Events' section.

## NATIONAL MEETINGS



**2020 SPRING MEETING**  
JW MARRIOTT  
TUCSON, ARIZONA  
MARCH 5-8, 2020



**2020 ANNUAL MEETING**  
JW MARRIOTT  
WASHINGTON, D.C.  
SEPTEMBER 24-27, 2020

## REGIONAL MEETINGS

- April 24-25, 2020 **3RD CIRCUIT REGIONAL (DELAWARE, NEW JERSEY, PENNSYLVANIA)**
- May 8-10, 2020 **ARKANSAS, LOUISIANA, MISSISSIPPI, TEXAS**
- May 29-31, 2020 **NE REGIONAL (ATLANTIC PROVINCES, MAINE, MASSACHUSETTS, NEW HAMPSHIRE, PUERTO RICO, RHODE ISLAND)**
- July 9-12, 2020 **NORTHWEST REGIONAL MEETING (ALASKA, ALBERTA, BRITISH COLUMBIA, IDAHO, MONTANA, OREGON, WASHINGTON)**

## STATE/PROVINCE MEETINGS

- |                 |                                                                                       |               |                                                           |
|-----------------|---------------------------------------------------------------------------------------|---------------|-----------------------------------------------------------|
| Mar 26-29, 2020 | <b>North Carolina Fellows Meeting</b>                                                 | May 19, 2020  | <b>Nova Scotia Fellows Dinner</b>                         |
| April 24, 2020  | <b>CLE – Arkansas, Mississippi, Tennessee</b>                                         | May 20, 2020  | <b>Newfoundland and Labrador Fellows Dinner</b>           |
| May 1, 2020     | <b>Southern California Fellows Dinner</b>                                             | May 21, 2020  | <b>Quebec Fellows Dinner</b>                              |
| May 8-10, 2020  | <b>Missouri Fellows Annual Retreat</b>                                                | May 22, 2020  | <b>Upstate New York Fellows Dinner</b>                    |
| May 16, 2020    | <b>Boot Camp (Task Force for Boot Camp Trial Training Programs for Young Lawyers)</b> | June 13, 2020 | <b>Maryland and Washington, D.C. Supreme Court Dinner</b> |
| May 18, 2020    | <b>New Brunswick Fellows Dinner</b>                                                   | June 26, 2020 | <b>Texas Fellows Summer Luncheon</b>                      |
|                 |                                                                                       | June 30, 2020 | <b>Ontario Fellows Dinner</b>                             |

## LAW SCHOOL COMPETITIONS

- Feb 10-13, 2020 **NATIONAL MOOT COURT COMPETITION FINAL ROUNDS**
- Feb 14-15, 2020 **GALE CUP**
- Mar 13-14, 2020 **SOPINKA CUP**
- April 2-5, 2020 **NATIONAL TRIAL COMPETITION**

# JOURNAL

American College of Trial Lawyers  
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## Statement of Purpose

The American College of Trial Lawyers, founded in 1950, is composed of the best of the trial bar from the United States and Canada. Fellowship in the College is extended by invitation only, after careful investigation, to those experienced trial lawyers who have mastered the art of advocacy and those whose professional careers have been marked by the highest standards of ethical conduct, professionalism, civility and collegiality. Lawyers must have a minimum of 15 years' experience before they can be considered for Fellowship. Membership in the College cannot exceed 1% of the total lawyer population of any state or province. Fellows are carefully selected from among those who represent plaintiffs and those who represent defendants in civil cases; those who prosecute and those who defend persons accused of crime. The College is thus able to speak with a balanced voice on important issues affecting the administration of justice. The College strives to improve and elevate the standards of trial practice, the administration of justice and the ethics of the trial profession.

"In this select circle, we find pleasure and charm in the illustrious company of our contemporaries and take the keenest delight in exalting our friendships."

*Hon. Emil Gumpert  
Chancellor-Founder  
American College of Trial Lawyers*