

# Western Law

2019 ALUMNI MAGAZINE

## COURTING CANNABIS

Alumni explore opportunities  
amid emerging sector

### **ALSO IN THIS ISSUE:**

**Tea with  
Albert Oosterhoff**

**Cheryl Milne's  
tenacious advocacy**

**The Olympic goals of  
David Shoemaker**



Western



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On the cover: Illustration by Frank Neufeld



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### WESTERN LAW MAGAZINE

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TENACIOUS ADVOCACY  
CHERYL MILNE, LLB '85  
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# A YEAR TO CELEBRATE

The year 2018-19 brought much to celebrate for Western Law. It was a banner year for our alumni: Geoffrey Morawetz, LLB'78, was named Chief Justice of the Ontario Superior Court of Justice; David Shoemaker, LLB'96, was appointed CEO and Secretary General of the Canadian Olympic Committee as it ramps up for the 2020 Summer Olympics in Tokyo; and Jacqueline Moss, LLB'88, was named one of Canada's 100 Most Powerful Women by the Women's Executive Network. Canadian Lawyer magazine named Mitch Frazer, LLB'99, Sunil Gurmukh, LLB'08, and Emmanuel Pressman, LLB'96, Top 25 most Influential in the justice system & legal profession in Canada for 2019 and several others were appointed to the bench and honoured by professional associations.

Our 2018 Alumni Awards of Distinction celebrated three of Western Law's finest. Christopher Bredt, LLB'79, Michael Copeland, LLB'93/MBA'99, and Dale Ponder, LLB'80, were honoured for their accomplishments in the fields of community service, business leadership, and contributions to the Western Law community.

Along with Shoemaker, we feature several alumni successes in this year's magazine. Professor Emeritus Albert Oosterhoff, LLB'64, was celebrated with a host of professional awards this year, including the OBA Award for Distinguished Service in recognition of his contributions as an author, educator and lawyer in the fields of trusts and estates. In another major distinction, Cheryl Milne, LLB'86, won a Law Society Medal for her constitutional advocacy and her work as Executive Director at the David Asper Centre for Human Rights.

We also profile several Western Law graduates who are blazing trails in the cannabis industry, seizing the opportunities presented by this newly recognized and rapidly growing market.

These alumni successes are a testament to the high-quality legal education, leadership capacity and entrepreneurial spirit fostered at Western Law.

There's plenty to celebrate within the law school, too. In July, Professor Alan Miller



PHOTO BY GEOFF ROBINS

joined Western Law as our first ever Canada Research Chair, and will lead research and academic programming in the field of Law and Economics. Professor Rande Kostal, LLB'81, published a ground-breaking book with Harvard University Press on the legal reconstruction of Japan and Germany after the Second World War; and Professor Roxana Banu published a book on the history of private international law with Oxford University Press. Several other faculty won research grants for projects that engage with critical legal issues facing society.

In addition to Professor Miller, I'm pleased to welcome two new faculty to Western Law: Professor Martin Petrin, who was appointed to the new Dancap Private Equity Chair in Corporate Governance (held jointly with the Faculty of Social Science) beginning in January 2020, and Professor Frankie Young, whose expertise is in Indigenous economic development.

In May, Community Legal Services celebrated 50 years of service to the under-represented members of the London community with a reunion and Access to Justice Conference. We also celebrated the 100th graduate of our Area of Concentration in Intellectual Property, Information and Technology Law.

This year brought a number of distinguished speakers to the school including the Honourable Justice Andromache Karakatsanis of the Supreme

Court of Canada and the Honourable Bob Rae. And in a homecoming of sorts, former Governor General and Dean of Western Law (1974-79), the Right Honourable David Johnston, delivered the 10th annual Coxford Lecture on the rule of law.

In all of our activities, we benefit from the support of our alumni community. In the fall of 2018, Western completed its highly successful "Be Extraordinary" fundraising campaign (chaired by Western Law alumnus Geoff Beattie, LLB'84), with a final tally of \$805 million. Here in the Faculty of Law, we exceeded our campaign goal and raised a total of \$28 million. Your generous support has provided essential financial aid to students, supported academic scholarships, provided engaging learning opportunities for students both within the law school and internationally, and helped us to bring a host of world-renowned scholars and eminent practitioners to Western Law.

Finally, I'm pleased to welcome Holly Gati as our new Director of Development. Holly joined us from the Ivey School of Business and has been busy meeting our alumni and building initiatives for renewed alumni engagement. I know she'll play a key role as we seek to enhance our programming and provide our students with the best possible foundations for success in law school and beyond. **WVL**

Erika Chamberlain, LLB'01



Alan Miller

## Alan Miller becomes Law's first Canada Research Chair

Western Law is pleased to announce Professor Alan Miller will join the Faculty of Law as a Canada Research Chair (CRC) beginning July 1. Miller has been named as a Social Sciences and Humanities Research Council (SSHRC) CRC (Tier 2) in Law and Economics.

"We're excited to be appointing the first ever CRC at Western Law," said Dean Erika Chamberlain. "It's a sign of our growing research strength and our diversity of research methodologies. Professor Miller will add an important new dimension to our scholarly community."

For the past ten years Miller has been a faculty member in the Department of Economics and in the Faculty of Law at the University of Haifa in Israel, and was a visiting professor at the Pritzker School of Law at Northwestern University in Chicago in 2015-16.

His primary area of research draws from an area of economics called social choice theory that he uses to study normative questions in law, such as whether and when courts should decide cases on the basis of community standards and how corporations should conduct shareholder votes.

"Social choice is important for the study of law because it provides a formal methodology that can be used to evaluate normative legal propositions," said Miller. "It allows us to clarify arguments and to test them through thought experiments. Legal doctrines and judicial decisions are full of normative principles,

so this is a good way to study their implications."

Miller holds a PhD in Social Science from the California Institute of Technology (2009), a JD from Northwestern University (2001) and a B.A. from the University of California, Berkeley.

The author of numerous scholarly articles in leading journals in law and political science, he has presented his work more than one hundred times at conferences and at colloquium talks at universities around the world. Miller's work in patent licensing contracts was awarded the prestigious Jerry S. Cohen Award for Antitrust Scholarship in 2018.

He serves frequently as a referee for leading academic journals and is an associate editor for the interdisciplinary journal *Mathematical Social Sciences*.

Miller was one of nine newly named CRCs at Western University recently announced by Kristy Duncan, federal Minister of Science and Sport. The CRC program invests around \$295 million per year to attract and retain some of the world's most accomplished and promising minds.

"These are some of the most respected researchers whose backgrounds represent the diversity of Canada," said Ted Hewitt, SSHRC President. "Together with their Chair colleagues across the country, their contributions to research excellence across a wide variety of fields will benefit the quality of life for all Canadians and others around the world."

"Social choice is important for the study of law because it provides a formal methodology that can be used to evaluate normative legal propositions."

Alan Miller



Julie Lee

## CLS welcomes new legal counsel

Supported by new funding from Legal Aid Ontario, Julie Lee, LLB’99, and Ian Dantzer, LLB’80, have joined Community Legal Services (CLS) and will mentor Western Law students and assist low-income persons in need of representation.

“I’m thrilled to have Julie and Ian join our team of lawyers,” said Doug Ferguson, CLS Director. “Our students will benefit from their wisdom and guidance, and our clients will benefit from their experience and tenacity.”

Lee had her own practice in London with an emphasis on custody/access, separation, child protection and children’s law and is a former commissioner of the Ontario Human Rights Commission. She joins CLS as the family law review counsel.

Dantzer was a partner in civil and commercial litigation at Lerner LLP for more than thirty years and Managing Partner for eight.

As the housing, employment and human rights review counsel, Dantzer will supervise law students providing legal services and assistance to low-income persons in need of representation before the Landlord & Tenant Board, Small Claims Court and the Human Rights Commission.

The review counsel positions are supported by funding from Legal Aid Ontario, The Law Foundation, and students of Western and Fanshawe College.



Ian Dantzer

Zachery Sippel (left) and Matthew Patterson (right)

## Western Law strikes gold at Hicks Cup

Law students Zachery Sippel and Matthew Patterson won the 2019 provincial labour law moot competition known as the Hicks Cup. Hosted by Hicks Morley LLP, the moot provides an opportunity for students from Ontario law schools to litigate current legal issues of significance in the areas of labour and employment law.

Competing against teams from the University of Windsor, Osgoode Hall Law School, Queen’s University, and the University of Ottawa, Sippel and Patterson argued the management side of several real-life workplace law issues involving Suncor Energy and Unifor that have recently been litigated in the Alberta courts.

“This is a wonderful achievement for Zachery and Matthew. The Hicks Cup is a demanding moot competition, with challenging legal issues to argue and top-drawer teams from other Ontario law schools,” said Professor Michael Lynk, the team’s faculty advisor.

“Their success is particularly noteworthy because they are first-year students, competing against mostly upper-year teams. This reflects well on the depth of our moot program here at Western Law,” he said.

This is the third time since the moot was established in 2006 that a Western Law team has taken home the Hicks Cup.



Elizabeth Steyn

## Staking a unique claim in mining law

A collaboration between Western’s Faculty of Law and the Department of Earth Sciences is laying the groundwork for a new initiative, unique at a Canadian university.

The Mining Law, Finance and Sustainability program involves an interdisciplinary approach to the field, and brings together academics, industry leaders, innovators and regulators to teach law students and graduate students in Law, Business, and Earth Sciences.

The program includes: a Mining Finance Speaker Series; an Extractive and Indigenous Perspectives Moot Competition; a Graduate Diploma in Mining Law, Finance and Sustainability; Deans’ Certification Programs in Sustainability in Law and in Earth Sciences; as well as various collaborative research initiatives.

The Speaker series, supported by a gift from resource financier Stephen Dattels, LLB’72, is structured around the procurement of financing for the various production cycles of a mine, including exploration, evaluation (feasibility studies), construction (risk analysis), production, continuing obligations (environmental and social responsibility), as well as the digitization of mining (which impacts everything from shareholder spread to physical operations).

The series kicked off with a talk by Jon Wylie, President, Global Natural Resources for Proudfoot who presented a detailed case study of the development of Rio Tinto’s Oyu Tolgoi mine in Mongolia.

“This program is going to set new standards in industry-university collaboration,” said Elizabeth Steyn, who is co-director of the Mining Law, Finance and Sustainability program along with Professor David Good from Western’s Department of Earth Sciences.

“We called on industry leaders to help us bridge the perceived gap between university and the extractive industry, and the response has been just incredible,” she said.

Steyn, who is the Cassels Brock Fellow in Mining & Finance Law, says the objective with the Speaker Series is to expose Western students to the realities of industry and the marketplace.

“We’re privileged to work in close collaboration with industry leaders such as Proudfoot, and we appreciate senior executives taking the time to engage with our students. There really is no substitute for the kind of learning that such a classroom encounter offers,” Steyn said.

Dean Erika Chamberlain expressed her thanks to the generous donors who have made these programs possible, including Dattels, Cassels Brock LLP, and Yamana Gold Inc. “There are so many Western Law graduates who have built careers around the extractive industries, and we are grateful that they are helping to educate the next generation of legal and industry professionals,” Chamberlain said.

## Courthouse placement “invaluable” experience for student

Students are gaining valuable real-world experience in the areas of criminal law, family law, and equity, through the school’s January Term internships.

For third-year Western Law student Callie Hill, The Ontario Court of Justice Placement Program (OCJPP) provided an exceptional opportunity for her to observe the inner workings of the main criminal trial court in Ontario. She participated in the OCJPP at the London Courthouse and clerked for justices at the Court during her placement.

Hill said she gained insight into how the legal system works in practice and enjoyed speaking with justices informally about current legal issues and real-life legal matters.

“The justices’ genuine interest in listening to my thoughts and opinions were very helpful, and reduced the typical anxieties law students and young lawyers face when first appearing in court,” said Hill.

Although Hill says she doesn’t know where her legal career will take her long-term, she called her OCJPP experience “invaluable”.

“I witnessed many of the topics covered in my courses, such as jury selection, guilty pleas, trial procedure, specialized courts, and preliminary inquiries,” said Hill. “It’s given me a more holistic legal education, and was one of the greatest opportunities I’ve had in my law school career thus far.”



Callie Hill





Judith Njokuji Ogechi (right)

## Interdisciplinary connections forged at Research Day

Graduate students and professors from the faculties of Information and Media Studies (FIMS), Music, and Law at Western discovered interdisciplinary connections at a research day held last Spring at Western Law.

“Students came together to communicate and collaborate across disciplines,” said Christina Catenacci, a Western Law PhD. “We explored new ways of thinking and problem solving, and approached common issues from different yet compatible perspectives.”

At a panel presentation, Catenacci addressed whether there should be a mandatory Indigenous law component in legal education.

A wide-range of fascinating research was shared as part of the conference’s “lightning talks”. Topics presented included storytelling, renewable energy, social media use by musicians, workplace privacy in the context of emerging electronic surveillance technologies, phylomemetic cataloguing, classical music rondos, clinical practice guidelines and trademark law in emerging technologies. In a networking research “speed dating” event, participants shared research ideas and explored possible connections in a fast-paced and friendly environment.

“FIMULAW has always been a space for interdisciplinary topics,” said Kirstyn Seanor, FIMS PhD student and one of the conference’s organizers. “And this year we supported people in stepping out of their silos and confronting unfamiliar topics, and it was amazing to see how well our presenters and attendees rose to the challenge.”



Robert Howse

## CUSLI Distinguished Lecture explores populism and democracy

Professor Robert Howse of New York University School of Law explored the subject of political populism at the annual Canada-United States Law Institute Distinguished Lecture last fall.

In his address, Howse spoke on the current political climate in the United States asserting that while populism is often viewed negatively, “many virtues of the populist movement could be considered to be essentially democratic virtues”.

“Populism can be something quite healthy and maybe necessary because of the decline or rot that has arguably set into many of our democratic institutions,” he said.

Howse noted that change is starting to be apparent with the rise of progressive populism in the U.S., represented by figures such as Bernie Sanders and Alexandria Ocasio-Cortez.

“We’re now moving away from the idea that the political class is basically a kind of money class or celebrity class, to the idea that any citizen can imagine that in the right circumstances they might be eligible for and be able to directly participate in elected political office,” Howse said.

“We were fortunate to have a distinguished lecturer with such a binational background to provide insight into current political trends at this unsettled time in Canada-U.S. relations,” said Professor Chi Carmody, Canadian National Director of the Institute. “Robert fit the bill admirably.”



Frankie Young (Mi’kmaw)

## New appointment to focus on Indigenous law

Frankie Young (Mi’kmaw) has joined Western Law as an Assistant Professor and will enhance the Faculty’s scholarship and teaching in fields related to Indigenous law and communities.

Young’s scholarly research and teaching areas include Indigenous economic development and self-government, banking and finance law, and secured property transactions. She has also published in the area of the taxation of Indigenous Trusts and researches how trusts may be used as a viable means to advance Indigenous economic development.

Young received her JD and LLM from the University of Saskatchewan, and is completing her PhD at the University of Ottawa, where she is researching Indigenous economic development options and legal frameworks related to secured property transactions on First Nation lands.

After working overseas on Native Title claims in Sydney, Australia, for which she received the Saskatchewan Innovation and Opportunity Scholarship, Young articulated at a national Indigenous law firm and practiced in the area of specific claims, trusts, secured transactions and litigation funding.

Young is a research partner with the Legal Reform for Indigenous Economic Growth Project, a multi-jurisdictional initiative that explores legal options for Indigenous economic growth and aims to make research more readily accessible.



David Johnston

## Johnston: Build upon the law’s firm foundation

It was a homecoming of sorts for David Johnston, the 28th Governor General of Canada, as he returned to Western’s Faculty of Law, which he led as Dean from 1974-79.

Johnston was on campus as part of the 10th Annual Coxford Lecture series, which brings outstanding scholars and jurists to Western to lecture on public law issues. Johnston spoke on lawyer’s commitment to professionalism and the rule of law.

During his lecture, Johnston spoke of how the rule of law, which he sees as married to the constant pursuit of justice, is what makes us free. While he has developed a profound admiration for how precious the rule of law is in our country, Johnston admitted how thin and vulnerable it can be.

He emphasized the constant need to take Canada’s strong foundation in the law and continue to make it better.

Prior to his installation as Governor General in 2010, Johnston was a professor of law for 45 years and, in addition to his time at Western, served as president of the University of Waterloo for two terms and principal of McGill University for three terms.

During his mandate as Governor General, Johnston established the Rideau Hall Foundation (RHF), a registered charity that supports and amplifies the Office of the Governor General in its work to connect, honour and inspire Canadians. Today, he is actively involved as chair of the RHF Board of Directors. He also serves as an executive advisor at Deloitte and a global advisor to Fairfax. In 2018, he was appointed Colonel to the Royal Canadian Regiment.





# SOCIAL MEDIA SCRAPBOOK

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**Erika Chamberlain** @lawdeanerika • Jul 15  
Great @westernuLaw contingent at today's OUT in the Sun event! #westernupride #loveislove #prideidnfest



**Western Law** @westernuLaw • Jun 5  
Congratulations to John Sadler, Director of @westernulibsLAW, elected an Honoured Member of the Canadian Association of Law Librarians for "outstanding contribution to the advancement of law librarianship". John is retiring July 1 so a fitting tribute to a great career!



**Western Law** @westernuLaw • Apr 16  
Western Law is offering free LSAT Preparation for low-income students. Course includes all study materials and practice tests, LSAT fees waived. Registration Deadline June 3. Thank you to @LawFoundationOn and @LSAC\_Official for support of this program.



↻ Western Law Retweeted



**Erika Chamberlain** @lawdeanerika • Apr 10  
A fond farewell to our winter term #exchange students at @westernuLaw. Thanks for enriching our classrooms and for enduring a nasty Canadian winter! All the best as you travel home.



↻ Western Law Retweeted



**Western University** @WesternU • Jun 11  
This week on the #podcast @JacobShelley from @westernuLaw and @westernuFHS joins host @notninoricci to chew the fat on the role law and public policy can play in making the world a healthier place.



**Western Law** @westernuLaw • Jun 4  
Our talented law students have raised more than \$120,000 for @sjhospicelondon palliative and bereavement care, and we couldn't be prouder! #LdnOnt



**Western Law** @westernuLaw • Apr 12  
Merel, a court-facility @NatServiceDogs from the #Ldnont Courthouse, visited our law students to demonstrate how facility dogs help children deal with the fear and stress of testifying in court.



**Western Law** @westernuLaw • Mar 14  
Very grateful to Justice Andromache Karakatsanis of the @supreme @SCC\_eng for sharing her life & vast career experience. She told the #lawstudents "You're in for an exciting and unpredictable journey, stay optimistic, take risks and keep an open mind."







**Western Law** @westernuLaw • Feb 5  
Thank you to @McCarthy\_ca panel of @NikkiGershbn @adamgoldenberg @atrishalewis and Saqib Butt for candid talk on facing “invisible barriers” & shifting the culture around LGBTQ & race. Great insight & advice to students. #InclusionNow



**Western Law** @westernuLaw • Dec 4  
Thank you to @laughinggoat Yoga Studio for bringing the relaxation of yoga and the adorableness of baby goats to our #lawstudents as part of #westernu Wellness Week! #goatyoga



↗ Western Law Retweeted



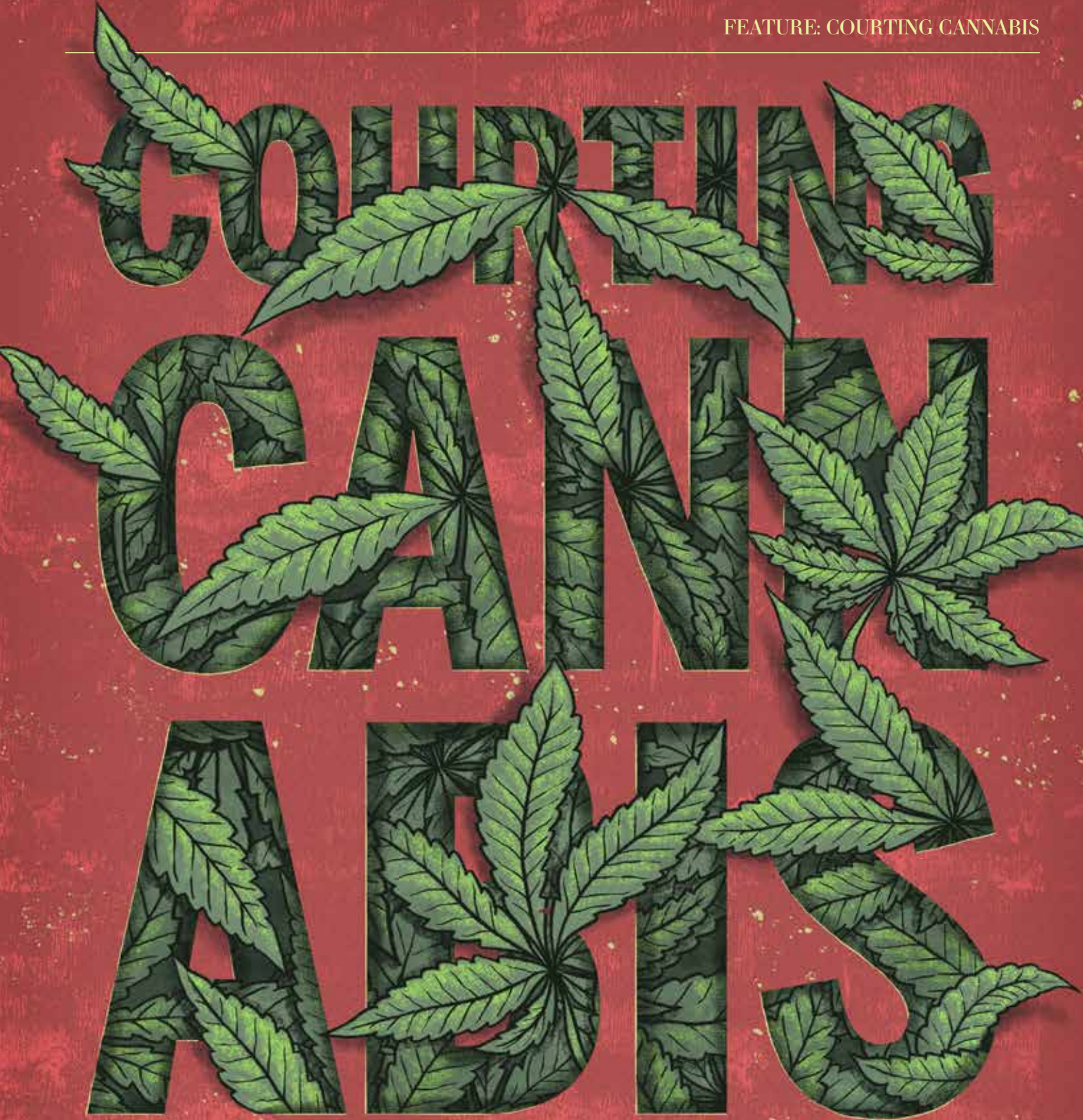
**Erika Chamberlain** @lawdeanerika • Mar 10  
Thanks to Walpole Island First Nation for hosting the Anishinaabe Law Camp for @westernuLaw students and faculty this weekend. It was a powerful immersion experience.



**Western Law** @westernuLaw • Oct 30  
Our canine ambassador Max enjoying the glorious sunshine on a beautiful autumn day at @WesternU #officedogs #autumnleaves #LdnOnt #Westernu #lawdog #campus



**Western Law** @westernuLaw • Oct 17  
Thanks to terrific group of @Osler\_Law associates and #westernulaw Alumni for sharing their expertise about #businesslaw at the Biz Basics series. Great having you back at #westernuLaw!



# Alumni explore opportunities amid emerging sector

Story by Jim Middlemiss | Illustrations by Frank Neufeld



**W**hen Matei Olaru, JD'15, applied for a Western Law Internship Program in his second year, little did he know the profound impact it would have on his career.

Olaru—who is now chief executive officer at Lift & Co. Corp., a cannabis marketing and information technology company—landed the Thornton Grout Finnigan LLP World Bank internship in Washington, D.C. in 2014.

He needed a place to live and his roommate turned out to be one of the main lobbyists for the cannabis industry in the United States. Olaru saw the huge opportunity that was emerging.

By the time Olaru started articling at a Bay Street law firm, Justin Trudeau announced that if elected, the Liberals would end Canada's marijuana prohibition and allow recreational consumption. Courts had already forced the federal government to allow marijuana sales for medical purposes, and that area was booming.

Olaru had a keen interest in the cannabis space – an interest his firm didn't share – so to learn more, he spent his spare time attending cannabis conferences and seminars.

He went from "kind of moonlighting", as a contractor at a Lift conference in the summer of 2015 during his articling period, to running the company in 2016, after he struck up a relationship with their CEO.

Olaru is part of a rising wave of Western Law grads making their mark in this quickly emerging industry, which Grand View Research predicts will become a global US\$147-billion sector by 2020. While each has taken a different path, all understand the near limitless potential of the sector.

Michael Lickver, JD/MBA'11, was one of the first Bay Street lawyers to co-found a cannabis practice when he was an associate at Bennett Jones LLP. When a cannabis-related deal came across his desk, he and the partners "saw that this was going to be huge."

Lickver got up to speed on the

issues and even persuaded Western Law to allow him to teach one of the first Canadian law school cannabis courses in 2015.

When Hugo Alves, a Bennett Jones senior partner, moved to Auxly Cannabis Group Inc. as President, (now CEO), Lickver followed, along with fellow Western Law alumnus Ron Fichter, JD'12.

Lickver, Senior Vice-President (Strategy) at Auxly, likens his role to chief of staff, overseeing the company's business strategy. Fichter serves as general counsel.

In its early stage, Auxly mimicked the mining industry to help finance upstart cultivators, using streaming deals to secure a steady supply of cannabis. Auxly is now into phase two of its growth strategy – building a vertically integrated international cannabis company.

Lickver embraces the pace and uncertainty of the cannabis market. He says you need a high tolerance for risk, and an ability to "move quickly and adapt to change. If you're looking for an industry with an established growth rate that is flat or curving up slightly, and want some kind of security, then cannabis probably isn't for you."

Eric Foster, LLB'06, heads the Canadian cannabis group at Dentons LLP in Toronto.

"We can't hire people fast enough," he said of the demand for cannabis legal talent. Most of the companies in this space are start-ups, even though some now have multi-billion market caps. They are young companies "experiencing the growing pains and pressures most commonly associated with start-ups."

For a lawyer, that can be exciting and challenging.

"While some people think this is a risky industry, it's the exact opposite. It's highly regulated and there's a clear set of playing rules," Foster said, stressing that he remains surprised at the "speed with which the industry has become both sophisticated and legitimized."

Mariana Fonar, JD/MBA'12, also likes the pace. She is senior legal counsel and corporate secretary at Lift & Co., where she works with Olaru.



**Matei Olaru, JD'15**  
Chief Executive Officer, Lift & Co. Corp



**Michael Lickver, JD/MBA'11**  
Senior Vice-President (Strategy), Auxly



**Eric Foster, LLB'06**  
Partner, Dentons LLP



**Mariana Fonar, JD/MBA '12**  
Senior Legal Counsel and Corporate Secretary, Lift & Co.



**"While some people think this is a risky industry, it's the exact opposite. It's highly regulated and there's a clear set of playing rules."**

**Eric Foster**



She says her current role “fell into her lap,” after a friend brought it to her attention when she was working at a solar company. “It’s very exciting to be with a group of trailblazers in the law,” she said of joining the cannabis industry.

“This is essentially the end of prohibition.”

Lift runs cannabis expos in Canada and Europe, bringing together business and consumers to learn about the latest products and developments in the industry.

The company was also instrumental in setting up the CannSell training program, used by cannabis retailers to train their employees.

Fonar notes that “there’s a lot of uncertainty in the industry and things can change quickly.” She says that requires lawyers to be creative and flexible problem solvers. “We have to figure out how we can make things happen.”

Olaru observes that cannabis is becoming a consumer packaged goods (CPG) business, and that means companies need data to build their brands, similar to any other CPG business, such as cereal or soft drinks. He says because Canadian regulations on what cannabis companies can and can’t say are so stringent “effective marketing and understanding consumers is paramount.”

Through its subsidiary, Dosecann Inc., Auxly is developing derivative adult-use products for the next phase of cannabis regulations – edibles and topical creams. Lickver says the federal government’s expected move into these products will be a major milestone for the nascent industry.

What excites many in the field is how rapidly the market is developing globally, and Canada, as one of the world’s first federally regulated markets, is at the centre.

At least for now.

Fonar notes that “other countries are moving very quickly and catching up. As changes happen south of the border, it’s going to change things here as well. We can’t stand still as a company and industry.”

Foster adds, “it’s a global industry” that is here to stay. “You can’t put toothpaste back in the tube.” **WL**

## Western Law prof plays role in cannabis training program

**R**obert Solomon knows about cannabis. For more than 45 years, the Western Law professor has been at the forefront of the cannabis debate in Canada.

He researches and writes about alcohol, drug policy and impaired driving and has had a front-row seat on the cannabis debates since the early 1970s, when he and several colleagues called for the removal of criminal sanctions for the possession of small quantities of cannabis.

“At the time, we were considered to be naïve and drug-crazed,” he said, looking back over that period.

How the world has changed. Canada is the first G7 country to broadly commercialize the recreational cannabis market and the industry is soaring.

However, Solomon now finds himself viewed as a “Neanderthal,” because “I have a lot of concerns” with the current legislation. He worries that the government has now “over-legalized and under-regulated cannabis” and ignored the risks that it poses, particularly to youth.

The federal legalization policy is not based on empirical evidence and research about the benefits and pitfalls of cannabis consumption, he said.

“One of the problems, has been the failure of the government to initiate and fund some of that research.”

Solomon argues that “once you commercialize something, public health and safety issues tend to go down the tubes. It’s as if we have learned nothing from our experience with alcohol and tobacco.”

Nonetheless, he notes, “Cannabis is not going to kill

anywhere near the number of people as alcohol or tobacco.”

Solomon has played a role in one area of cannabis regulation—the creation of CannSell, the mandatory certificate training and education program for Ontario’s budding cannabis retailers and their staff.

CannSell is similar to the alcohol SmartServe program for bar owners and their staff. It was developed as a partnership between Lift & Co. and MADD Canada, with which Solomon has had a long relationship as the National Director of Legal Policy.

CannSell was approved by the Alcohol and Gaming Commission of Ontario as the only approved training program for private cannabis retailers in Ontario. Employees, managers and licence holders must be certified prior to working in a store.

“If we are going to have a recreational cannabis market it’s important that the people involved in the industry have a good working understanding of the law that governs their behavior,” Solomon said.

He says the mix of federal and provincial laws governing the industry is complex and Solomon reviewed and edited the program’s materials to ensure they were legally accurate, clear and spoke to a lay audience.

He worked with Western Law grad Eric Dumschat, JD’16, MADD’s in-house Legal Counsel, to ensure that the course complied with the laws.

“MADD Canada has a very strong interest in ensuring cannabis is marketed in a lawful and responsible manner,” Solomon said.



**Robert Solomon**  
Professor Emeritus

# Ten Questions

for •  
**David Shoemaker**

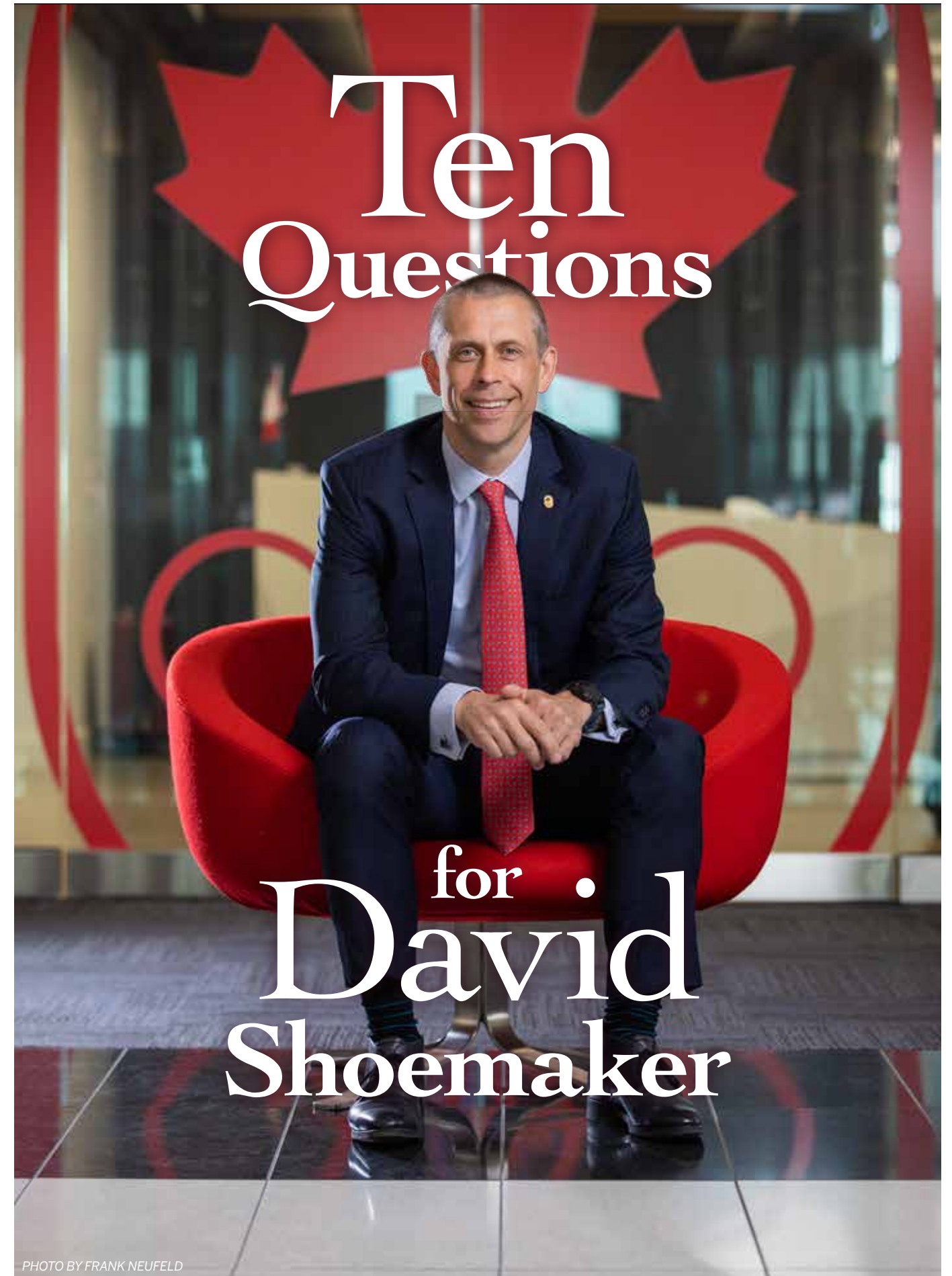


PHOTO BY FRANK NEUFELD





PHOTO BY FRANK NEUFELD

**A**fter seven years as the head of NBA China, David Shoemaker, LLB'96, has come home to lead the Canadian Olympic Committee as its Chief Executive Officer and Secretary General.

Shoemaker left a legacy of record revenue growth at NBA China, including the creation of the largest digital media partnership in sports with Tencent. Before joining the NBA, he was President of the Women's Tennis Association where he led an unprecedented expansion of women's professional tennis and helped secure equal prize money for women at the French Open and Wimbledon.

Prior to that, Shoemaker practiced law in New York City at Cravath, Swaine & Moore LLP and Proskauer Rose LLP, where his clients included the National Hockey League, the Association of Tennis Professionals, Major League Soccer, the Philadelphia Eagles and the Florida Marlins.

Upon graduating as Western Law's gold medalist in 1996, Shoemaker was a law clerk to the Right Honorable Antonio Lamer, Chief Justice of Canada.

**Q. What excites you most about your new role?**

**D.S.:** The possibility of helping to bring Canada its fourth Olympics. There is no bigger deal in the world and Canada has always shown that we are incredible hosts.

**Q. Where do you find inspiration?**

**D.S.:** In athletes; in their victories but even more so in their failures. Talk to any successful athlete and they will have a story about a major obstacle they had to struggle with, which in the end made them a better competitor and person. It could be an injury or a failure to perform their best in competition, but the best overcome their disappointment and keep their focus on what's next. Athletes, the great ones, know that challenges, falling short, not always being the hero, are temporary things. An athlete's life is a study in perseverance.

**Q. What is the best piece of advice you've ever received?**

**D.S.:** I'll paraphrase, but basically, 'nobody ever complained a speech was too short'. I try to be concise and to the point.

**Q. What surprises you?**

**D.S.:** The universality of sports both surprises and thrills me. I've been deep in the west of China's Sichuan Province, and heard kids talking about the NBA with all the knowledge and sophistication you would hear from their counterparts on the streets of New York City. Sports really does bring people together, breaks down barriers, creates common bonds, despite our differences.

**Q. What was your last Netflix or Podcast binge?**

**D.S.:** Killing Eve, the psychological thriller with Sandra Oh. The characters were multilayered, and I couldn't stop watching. Ozark is another show I devoured in great chunks. As for podcasts, I'm a fan of Rich Roll.

**Q. What's at the top of your bucket list?**

**D.S.:** I'd like to compete in an Ironman Triathlon. I've done a half Ironman and to prepare for that I had to train eight times a week for nearly six months – I took Mondays off. I'm a little too busy with my job right now to put in those kinds of hours, so this one stays firmly in the bucket for now.

**Q. Who are your heroes?**

**D.S.:** Certainly, at the top of my list, are Venus and Serena Williams who are such incredible inspirations to young girls.

Another one of my heroes is Steve Podborski. I'm not an Olympian and I'm not a high-performance athlete, but I am a product of the Olympic dream. For me, it all started on Thursday February 14, 1980 on whiteface mountain in Lake Placid. I wasn't there. I was an aspiring 9-year old ski racer in Ottawa. But I watched from a TV at home as Steve Podborski brought home what was then the most momentous medal in Canada's history. It impacted everything I did. Walking around corners like it was a downhill gate; to shoveling snow to earn money to buy the next piece of racing gear for the racing season; to working that much harder at school to justify the weekday training days that lay ahead. Today, I'm lucky to work with him as a peer at the COC's Board of Directors.

**Q. What's your favorite journey?**

**D.S.:** I would say that despite all the amazing places I have had the luck to visit, a Sunday morning stroll around the shops and cafes of St. Clair West with my family is my favourite. The most inspiring journeys are sometimes just around the corner.

**Q. What profession other than your own would you like to attempt?**

**D.S.:** I think I would like to attempt being a chef. I have some kitchen skills, and I find the act of preparing a meal to be transporting, like meditation, almost. I like to cook for others, and I do like to know what I'm putting in my own body. These days, making a good meal for my family is always a rewarding experience.

**Q. You have 60 seconds with a first-year Law student. What do you tell him/her?**

**D.S.:** Make the most of your first year. So much of your future will depend on your first year of studies and how you apply yourself now.

The second thing I would say is, don't be fixated on getting the job right out of law school. If you are looking to a career in a sport that you have a passion for, get a job at the best possible law firm to start. Develop your skills and work with the smartest people possible. Get yourself a depth of background that will then help you find the job - or having gained broad experience, maybe you might even change your mind about what that perfect job may be. Hurry slowly.



# TENACIOUS ADVOCACY

## Cheryl Milne, LLB'85, gives voice to children and youth

By Drew Hasselbach LLB'96

Cheryl Milne, LLB'85, an important voice in Canadian constitutional law, was this year awarded one of the highest honours an Ontario lawyer can receive: the Law Society Medal.

It's a remarkable tribute for someone who very early in her career walked away from a job as a Bay Street real estate lawyer so she could earn a Master's degree in Social Work.

Yet in a lot of ways, the honour accorded to Milne should come as no surprise. Milne has been executive director of the David Asper Centre for Constitutional Rights since it was founded in 2008. Located within the University of Toronto's faculty of law, the centre regularly intervenes in Charter cases argued before the Supreme Court of Canada.

So these days, Milne runs one of the most influential legal clinics in Canada in a career that blends her litigation acumen with her passion for human rights. But looking back, one can see a hint of her eventual success as a litigation manager.

During her third year at Western, she was one of five student directors of Western's legal clinic, Community Legal Services.

When the students realized the legal

clinic's financial position was in dire straits, Milne and her fellow directors looked for ways to keep the clinic's lights on, lobbying for funding from Legal Aid and advocating for a student levy. The students would eventually get the clinic back on track and would be honoured by Western's Student Legal Society for their efforts.

"It really was very formative," she recalls. "That experience had a lasting impression on me."

Indeed, you can see that lasting impression at play in 2008, when she was recruited to be executive director of the newly established Asper Centre. The University of Toronto created the centre with an endowment from David Asper, a member of the family that at the time was the primary shareholder in one of Canada's largest media companies.

Yet as things turned out, the centre launched just as the stock market crashed amid the 2008-2009 financial crisis. Since it was to be funded using proceeds from the investment of the endowment, Milne discovered she would have to run the new centre on a tight budget.

"At the beginning, it was a bit rocky," Milne

said. "We weren't going gangbusters and saying we would do this case or that one. We had to be very strategic about what we could do."

Of course, the centre survived those early days and has gone on to become a key player in Canadian rights litigation. Milne's name appears in more than 20 Supreme Court of Canada cases and the centre actively seeks to intervene in cases where it can raise unique *Charter* arguments.

Milne herself appeared for the Asper Centre in its first case before the Supreme Court. In that 2010 decision, *Conway*, she successfully argued that the Ontario Review Board, which reviews the status of those found not criminally responsible for criminal offences, has the authority to find *Charter* violations.

These days, though, the centre is more likely to be represented in court by a well-known human rights litigator. For example, Western Law alumnus Joe Arvay, LLB'74, appeared in court on behalf of the centre in the recent *Bedford* case, which decided the fate of Canada's prostitution laws. In her ruling on behalf of the court, then Chief Justice Beverley McLachlin quoted with approval from Arvay's factum.

The Asper Centre position is a dream job for a lawyer with Milne's passion for human rights. After she was called to the bar in 1987, she took a stab working as a real estate lawyer on Bay Street. The business world didn't take. "I think it became painfully clear to everyone that this was not really my passion."

What she really wanted to do was help kids.

Once she realized she wasn't cut out for the commercial real estate world, she left the firm to earn a Master's degree in Social Work and then spent 17 years working with a group called Justice for Children and Youth. "It was a good fit for me because I had always worked with children and youth through law school and prior to law school. It was a really good match."

And then came the Asper Centre, which came with the opportunity to teach a constitutional advocacy class in which the students help prepare cases for the centre.

And this past year, she started teaching a class in her longtime area of expertise, child and youth law.

"I'm now doing the kind of work that is very academically stimulating and that's practical; so I'm very lucky." **WL**

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Cheryl Milne, LLB'85

PHOTO BY FRANK NEUFELD



# Tea with Albert Oosterhoff



Professor Emeritus Albert Oosterhoff, LLB'64, has had an exemplary year of honours. In the spring of this year he was awarded the Ontario Bar Association Award for Distinguished Service; and the OBA Award for Excellence in Trusts and Estates. As well, the Society for Trust and Estate Practitioners (STEP), admitted him as an honorary member - only the second person in Canada to receive this honour, and one of only 11 worldwide.

Oosterhoff, counsel with WEL Partners Professional Corporation in Toronto, has authored Trusts and Wills texts that are widely used in law schools across Canada. He joined Western Law in 1972 and held positions of Associate Dean (Academic), Associate Dean (Administration) and Acting Dean. Upon his retirement in 2005, he was named Professor Emeritus.

Western Law recently sat down with him for a cup of tea and conversation.

**Western Law:** You've received a number of impressive honours, how does it feel to be so feted?

**Albert:** Yes, there were three awards this year. And they were rather unexpected. I didn't really think I deserved them. You know, I've worked diligently throughout the years. I've done a lot of publishing and writing and presenting papers and so on. And I've enjoyed doing that. But I didn't think it was all so special that I should be recognized in this way. But having said that, it was all very nice, and I appreciated it very much.

**Western Law:** You've made many important contributions to legal education. Do you have a particular contribution of which you are most proud?

**Albert:** Yes: my two texts, *Oosterhoff on Trusts* and *Oosterhoff on Wills*. I started them in 1980, and the Trusts text is now in its 9th edition. The Wills text is in its 8th edition and we'll do a new one in a couple of years. They're used in many Canadian law schools, they're also used a lot by lawyers, and they're often cited by all levels of courts across Canada. So, it's very gratifying to know I've touched the lives of many, many students over the years - even students I haven't taught. And, also, to have been recognized by the legal profession and the courts through the books.

**Western Law:** You're remembered very fondly by many of your former students. How did you forge such a strong connection with them? And are you still in touch with some of your former students?

**Albert:** I'm still in touch with quite a number of them! I don't know ... I think I was a good lecturer and tried to present the material in an understandable way to them. I also made myself available for questions after class and always maintained an open door policy. When I was Associate Dean and Acting Dean I got to know many of the students in a different context. Then they would come to me with particular issues and problems that they needed help with. And I always enjoyed helping students, both in and out of class. So, I like to think that being there for them made a difference in their lives.



**Western Law:** You're a graduate from the Class of 1964, do you have a favourite memory from your time here.

**Albert:** My time as a student? In many ways, it was extraordinary because when I started in the law school, it was only in its third year of operation. The big thing for me and for my classmates, was the privilege of being taught by Dean [Ivan] Rand. He was a retired judge of the Supreme Court of Canada and accepted the offer of being appointed as Dean of Western's law school. And we thought that was amazing, because he had a wealth of knowledge of the law, and he had the ability to get that across to us. So, we greatly appreciated him and his teaching. I also had very good relations with my classmates and with students in the other years. And my classmates and I still get together annually to remember those times.

**Western Law:** Tell us about the photo and the lookalike contest.

**Albert:** We had a particularly fun group of students one year and I got to be known as dressing up a bit with checked jackets and wearing shorts when the weather was nice ... that sort of thing. So, the students decided they'd do something fun and called it the Albert Oosterhoff Appreciation Day. Quite a number of the guys dressed up in clothes like mine; a fair number of women took part, too, with moustaches painted on their faces. Three of my colleagues wore gowns, sat at a table in the front hall as the students came down the stairs, and acted as the judges, and awarded prizes. The photo was taken on the front steps. It was a really fun day.

**Western Law:** What role has music played in your life?

**Albert:** It's always been a big part of my life. My parents had a large family: there were 11 of us. My parents didn't have a lot of money, but we often got together in the evening and sang. And we still sing when my siblings and I get together. When we had hockey games at the law school between the students and the faculty I would be asked to sing the national anthem and sang it too at the annual law awards ceremony. When I

ALBERT OOSTERHOFF (SECOND FROM LEFT) AND STUDENTS AT THE "ALBERT OOSTERHOFF APPRECIATION DAY" MARCH 12, 1981



lived in Toronto I took voice lessons for about eight years from an operatic tenor. And I've often sung in choirs.

**Western Law:** Do you have any plans for retirement?

**Albert:** I had to retire from Western when I was 65, but really, I've never retired. I taught as an adjunct at U of T for eight years. I've continued publishing and writing and I present papers regularly at continuing legal education seminars. And since I became Counsel to WEL Partners, I do a lot of opinions for them, and for other lawyers as well. And the other thing I do is translation, from Dutch to English. And, all of these things give me a lot of pleasure.

**Western Law:** You're very busy.

**Albert:** Well, when you get older, as I have, you have to keep your mind active, as well as your body. And for my body I do Pilates and Tai Chi twice a week. I really enjoy both forms of exercise.

**Western Law:** What's your advice for the class of 2019?

**Albert:** Be true to yourself. Remember that while the law is demanding, it should not dominate your life, because there are other very important personal relationships in your life and those are ultimately more important than the practice of law. But in everything that you do you should demonstrate humility, but also integrity, and especially civility toward others. These are principles that my parents taught me and they've moulded my life. I've tried to follow them, though I admit that I've done so very imperfectly.

## Albert's partial playlist:

### Arias and songs:

Gaudeamus igitur -  
Medieval student song  
Panis angelicus - César Franck  
Di Provenza il mar -  
Verdi, "La Traviata"  
Deh vieni alla finestra -  
Mozart, "Don Giovanni"  
Madamina! il catalogo è questo -  
Mozart, "Don Giovanni"  
Se vuol ballare, Signor contino -  
Mozart, "Le Nozze di Figaro"  
La calunnia - Rossini,  
"Il Barbiere di Siviglia"  
In diesen heil'gen Hallen -  
Mozart, "Die Zauberflöte"  
O du, mein holder Abendstern -  
Wagner, "Tannhäuser"  
Ombra mai fu, Handel, "Serse"  
Ave Maria - Franz Schubert

Plus many arias from Handel's and Bach's Oratorios, as well as other sacred and profane classics

I enjoy many opera singers including Dietrich Fischer-Diskau, Dmitri Hvorostovsky, Paul Robeson, Measha Brueggergosman, Luciano Pavarotti and Plácido Domingo.

PHOTO BY FRANK NEUFELD



# SCHOLAR'S JOURNEY

## Rande Kostal, LLB'81, mines rich archives of legal history

By Susanna Eayrs

**C**atching up with Rande Kostal, LLB '81, today means catching up with a Western Law professor deeply engaged in the past and its impact on our lives and institutions.

"Like every other part of the social order," Kostal said, "law – especially legal change – is a product of historical forces. There can be no profound understanding of one without the other."

In 1978, Kostal arrived at Western Law as a student eager to learn about law not only as a professional practice, but as a facet of Canadian and world history. "But back in those days, there weren't many opportunities to study Canadian law from a historical perspective."



Should he ever become a law professor, he thought at the time, he would change that.

The opportunity came soon enough. He earned his LLB from Western in 1981 and was then awarded a full scholarship to study law and history at Oxford University. After a year teaching at McGill, Kostal returned to Western Law as a professor in 1988.

Over the last three decades, he has worked to impart rigorous knowledge of tort law but also a keen awareness of the forces of legal change. For Kostal, it's important students comprehend that law and legal institutions unfold within a dynamic social environment – one where change is the norm, not the exception.

"I try to provide students with a sense of where the law has been and where it might be going," he said. "I want students to understand they are taking part in the great human experiment called the rule of law, a world-historical set of ideas and institutions that are constantly evolving."

Which brings us to Kostal's new book, *Laying Down the Law: The American Legal Revolutions in Occupied Germany and Japan* (Harvard University Press, Fall 2019).

Drawn from original, rich archival sources, *Laying Down the Law* tells the story of what Kostal calls two "simultaneous Manhattan Projects of socio-legal engineering" following the Second World War – the attempt by the United States to reconstruct occupied Germany and Japan as liberal rule-of-law states.

The book documents how American leaders, brimming with self-confidence after the defeat of the Axis powers in 1945, decided to mount legally and politically transformative military occupations of fascist Germany and Japan. Americans set out "not just the physical territory, but the politics, laws,

**"I want students to understand they are taking part in the great human experiment called the rule of law, a world-historical set of ideas and institutions that are constantly evolving."**

Rande Kostal

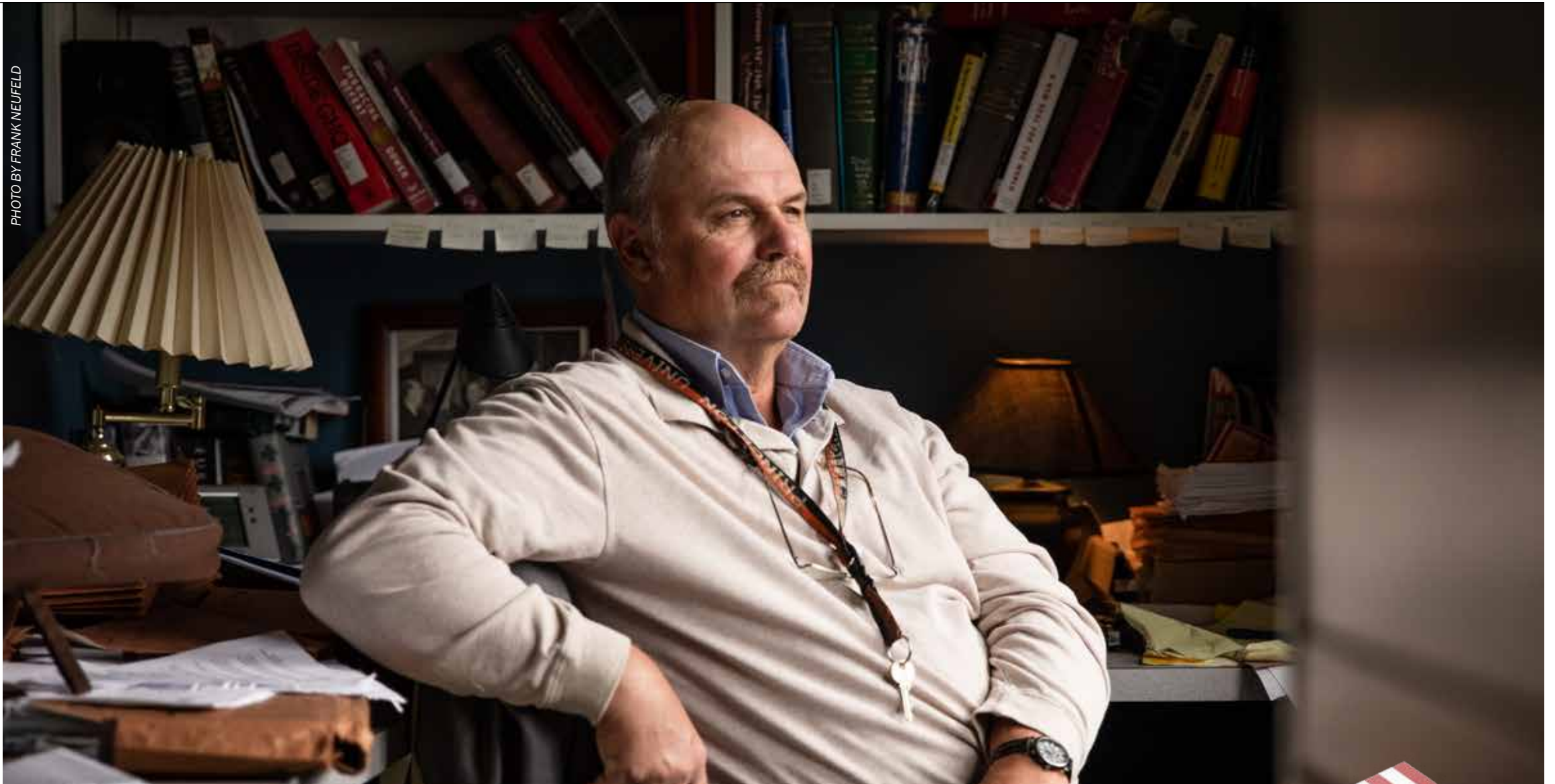


PHOTO BY FRANK NEUFELD

legal institutions, and even minds of their vanquished foes."

Kostal sees his latest work as a bookend to his previous book, *A Jurisprudence of Power: Victorian Empire and the Rule of Law* (Oxford University Press, 2005). That book concerned a pivotal debate concerning the nature and meaning of the "rule of law" in the greatest empire of the 19th Century.

If *A Jurisprudence of Power* focused on one nation's struggle to define the rule of law, *Laying Down the Law* concerns unprecedented efforts to implant its ideas and institutions in foreign soil.

"In recent years, we've heard American politicians claim the

United States brought democracy and the rule of law to Nazi Germany and Imperial Japan after the war. My book is an assessment of that claim," he said.

The book describes a more nuanced historical reality, one in which American action both helped and hindered the development of liberal democracy in Germany and Japan. In Kostal's view, "if Germany and Japan are now liberal rule-of-law states, it is mainly as a result of German and Japanese, not American, agency."

With more than thirty years of deep dives into the archival record of modern law and society, Kostal's fascination with history remains undiminished.

His latest project, a collaborative effort with Western Law Dean Erika Chamberlain on the history of Canadian private law in the 50 years after 1945, brings Kostal full circle.

After teaching tort law for many years, he noticed a new and distinctly Canadian private law jurisprudence emerged in the 1970s and 1980s. "Starting in the late 1960s, Canadian common law lawyers began to advance and win new kinds of private lawsuits," he explains.

Their new research project will bring together the dramatic social and legal histories of Canada in the postwar period, and analyze how and why private law litigation was reinvented in this era.

"It's one of the great but untold stories of Canadian legal history," said Kostal, "and I look forward to telling it." **WL**





# Research explores rights of transgender children



CLAIRE HOUSTON

*“With more children and young people identifying as transgender or expressing GNC behaviour, family courts are now being asked to resolve family conflicts stemming from this gender variance.”*

CLAIRE HOUSTON

A grant awarded to Western Law Assistant Professor Claire Houston will help inform family law cases involving transgender and gender non-conforming (GNC) children. Houston has received a \$6,800 Western University Social Sciences and Humanities Research Council (SSHRC) Explore Grant for her project, “Respecting and Protecting Trans and Gender Non-conforming Children.”

“With more children and young people identifying as transgender or expressing GNC behaviour, family courts are now being asked to resolve family conflicts stemming from this gender variance,” said Houston.

“However, because these cases are new, family court judges have limited guidance for resolving these disputes,” she said.

Houston’s research will focus on how Canadian family court judges decide cases involving conflicts over a child’s trans identity or GNC behaviour, and what factors should guide family court judges deciding these cases.

Drawing from children’s rights and anti-discrimination theoretical frameworks, her project will provide legal decision-makers with a principled approach for deciding these cases.

Houston says conflicts can evolve centering on whether and how a child should be able to transition to a gender different from the one they were assigned at birth.

“These conflicts typically pit one parent against the other or, sometimes, both parents against the child,” she said.

Houston notes family law cases involving children are generally decided according to the “best interests of the child” standard, but determining what is in the best interests of a particular trans or GNC child may be challenging.

“The views and preferences of children who wish to socially or physically transition (using medical procedures) deserve respect,” she said. “On the other hand, parents have legal rights over children, and parents and the state are legally obligated to protect children from harm.” **WL**

# Project focuses on pipeline debate



WADE WRIGHT

Western Law Assistant Professor Wade Wright is the recipient of the 2019 Dean’s Research Fellowship for his project, “Democracy and Dissent in Canada’s Federal System: Lessons from the Interprovincial Pipeline Debate.”

This timely project will explore the debate which has erupted in recent years around proposals to build new or modify existing interprovincial pipelines, like the Trans Mountain Expansion Project.

Wright will look at neglected issues in Canadian federalism, and provide important insight into the roles that federal, provincial, municipal and Indigenous decision-makers are playing in relation to federally-regulated interprovincial pipelines.

“The conventional view has long been that the federal government has the exclusive – or at least primary - jurisdiction to regulate interprovincial pipelines,” said Wright.

“However, in recent years other

governments – provincial, municipal and Indigenous - have become alternative sites for engagement, and for dissent about federal decision-making,” he said. “This project will provide insights into what this might suggest for the health and future of federalism in Canada, and the role it might play in helping to secure justice for Indigenous communities.”

The Dean’s Fellowship, valued at \$10,000, was established by Dean Erika Chamberlain in 2018 to enhance the faculty’s research program and engage students in leading-edge research.

“Professor Wright’s project will provide important insight into the health of the administrative state and democratic institutions in Canada,” Chamberlain said. “The adjudication committee was impressed by his focus on a current issue of national importance and by the critical methodologies he proposed. We look forward to seeing the results of his research.” **WL**

**Kate Berger** has been awarded \$23,144 from Western’s Social Sciences and Humanities Research Board for her project, “The Administrative State in Canada’s Constitutional Order.”

**Joanna Langille** successfully defended her University of Toronto SJD dissertation “The Limits of Legality: The Rule of Law Principles Governing the Common Law Public Policy Exception in Private International Law”.

**Margaret Martin** has joined the editorial board for the *American Journal of Jurisprudence* - one of the leading journals in legal philosophy.

**Valerie Oosterveld** and **Ryan Liss** have received a SSHRC Exchange program grant to hold an international criminal law workshop. “Canadian Visions of International Justice” will be hosted by the Public and Private International Law Research Group at Western Law in September.

**Melanie Randall** and Dr. Lori Haskell have co-authored the report “The Impact of Trauma on Adult Sexual Assault Victims” commissioned by Justice Canada.

**Zoë Sinel**, along with Principal Investigator Sophia Moreau from the University of Toronto and Co-Investigator Jean Thomas from Queen’s, have been awarded a SSHRC Insight Grant of \$130,227 for their project, “Tort Law in Its Social Context.”



# Grant supports study of private law doctrinal ‘revolution’

Though typically less headline-grabbing than public law, private law affects the lives of everyday Canadians in critical ways.

Private law is the body of law governing private persons, their properties, contracts, compensation for injury, and consent to treatment, for example, and it protects vital individual interests in personal security and economic well-being.

A Social Sciences and Humanities Research Council Insight Grant of \$79,029, awarded to Western Law Professor Rande Kostal and Dean Erika Chamberlain in 2018, will fund research to explore the roots of the swift and dramatic transformation of Canadian private law beginning around 1970. Their research will explore how shifts in rights-thinking in the previous quarter-century effectively fostered a doctrinal

“revolution” in Canadian common law.

“From 1970 to 2000, Canadian common law lawyers and judges seem to have been strongly influenced by the major socio-cultural shifts of the previous quarter century, and began to develop a distinctly Canadian version of private law,” said Chamberlain, a tort law scholar.

The first phase of their research project will analyze the rights-claims of the main social movements from 1945-70, a time of immense social and economic change.

“It was a period in Canada in which there was a discernible shift in individual and collective consciousness of private ‘rights’ and corresponding obligations,” Kostal said.

But while Canadian society changed significantly during this tumultuous period, Canadian private law litigation and doctrine remained relatively fixed.

“Our overarching goal is to forge a fundamentally new approach to the study of doctrinal change in the private law of Canada’s common law provinces, one recovering the socio-historical dynamics of litigation and the ongoing exchange between social, cultural and legal phenomena,” he said.

According to Chamberlain, because private law is governed by common law, rather than statute, there is little public debate, or popular understanding, about how the principles of private law undergo change.

“To the extent that socio-political ideas are reflected in private law, the process is one of indirect translation through new types of claims, creative legal pleadings, and judgments of the courts,” Chamberlain said. “This process is typically slow and haphazard.” **WVL**

# Workshop celebrates Fridman’s impact on private law scholarship

A workshop hosted at Western Law brought together world-renowned scholars and judges to honour the extraordinary contribution to the study of private law of the late emeritus professor, Gerald Fridman.

The two-day international workshop “Gerald Fridman and the Law of Obligations” held October 12-13, 2018 celebrated and critically explored the extensive impact of Fridman’s work on three core areas of private law: contracts, tort, and unjust enrichment.

Fridman, who died in November 2017 at the age of 89, was associated with Western Law for more than 40 years.

A prolific private law scholar known for his numerous book editions, case notes, comments, and book reviews, Fridman’s work has been cited in over 50 Supreme Court of Canada decisions and as an authority by the highest courts of Australia, New Zealand, Singapore, and the United Kingdom.

Participants in the workshop included Allan Beever, Joost Blom, Greg Bowley, Erika Chamberlain, Robert Chambers, Jonathan de Vries, Margaret Hall, Lewis Klar, David Mangan, John McCamus, Mitchell McInnes, Eoin O’Dell, Zoe Sinel, Sophie Stoyan, Angela Swan, and Stephen Waddams.

The panels were expertly moderated by Justice David Stratias of the Federal Court of

Appeal, Justice Myra Bielby of the Court of Appeal of Alberta and Justices Lynne Leitch and Duncan Grace of the Ontario Superior Court of Justice.

“As a tort law scholar, I was delighted to host this workshop in Professor Fridman’s honour,” remarked Dean Erika Chamberlain.

“It was a poignant opportunity to gather together a distinguished group of obligations scholars. The participants engaged in spirited debate, which Gerald would have thoroughly enjoyed.”

Papers from the workshop will be published in a special edition of the Supreme Court Law Review and also as a stand-alone edited collection. **WVL**

# Project eyes campus freedom of expression policies



PHOTO BY GEOFF ROBINS

SAM TROSOW

An unprecedented look at freedom of expression policies on Ontario postsecondary campuses will offer new insights into how governments, universities and administrators understand their roles in protecting those foundational freedoms.

Western Law Professor Sam Trosow will explore the applicability of the *Charter of Rights and Freedoms* on new freedom of expression policies at Canadian colleges and universities. This timely project recently received a \$7,000 Social Sciences and Humanities Research Council (SSHRC) Explore Grant, as well as a \$10,000 grant from the Foundation for Legal Research.

Last fall, the Ontario government issued a mandate requiring all colleges and universities to prepare a Freedom of Expression Policy; all institutions have responded.

Trosow’s team has collected and reviewed these policies and is currently working on a comparative analysis of the documents. This analysis, Trosow explained, should show the internal understanding of freedom of expression rights and obligations throughout the Ontario postsecondary sector.

The provincial government will be also be reviewing these policies for compliance with the provincial mandate.

Although the *Charter* guarantees everyone “freedom

of thought, belief, opinion and expression, including freedom of the press and other media of communication,” Trosow explained, the issue of the application to Canadian colleges and universities is an “unsettled question under Canadian law.”

He noted there has been some question about whether the *Charter* is directly applicable to publicly supported universities. “There’s conflicting current case law on the issue of whether Canadian colleges and universities are public entities which are subject to *Charter* limitations.”

The research project will look at potential scenarios under which a *Charter* challenge to the campus policies might arise, for

example the denial of campus facilities to a controversial group or speaker or the cancellation of a scheduled program. Issues could also arise over charging unreasonable fees for the use of facilities or the suppression of protests at a controversial event.

“Assuring that members of the university community maintain the right to criticize university or governmental policies can also become an area of contention,” Trosow said.

He added that “balancing the values of freedom of expression with concerns of equity, inclusion and maintaining a respectful learning environment can be especially challenging for campus policy makers.” **WVL**



# Alumni Gatherings

➤ From Dennings to class reunions to Homecoming, alumni are keeping their Western Law spirit alive.  
Here's how you can stay connected - visit:  
[alumni.westernu.ca](http://alumni.westernu.ca)

KELLY MCTAVISH '09, JESSICA ESPLEN '08



CHELSEA HOOPER '08, JENNIFER DRAKE '08, TYLER MACDONALD '08, ANDREW BEAMER '06, ALEXANDRA CARR '08



ADRIENNE DIPOLA '08, VICTORIA HUGHES '08



MICHAEL MANN '93, KELLY RIVARD '93, DAVID FLYNN '93



CLASS OF '88 (L-R), DEREK KNIPE, ADAM BROWN, RICHARD MCLAREN, DAVID TOSWELL, RICHARD HIGA, CHRIS HARRIS, FRANK ARNONE, SARI SPRINGER, KEN GORDON, SHARI SEGAL



SAHIL ZAMAN '12, ALEX COLANGELO '01, STEVE BROUDE '01



NEIL SKINNER '93, DIANA HORSMAN NAKKA '93



CLASS OF '63 (L-R BACK), ERNIE POPOVICH, BRIAN SINCLAIR, PETER PARTINGTON, DAVID STEINBERG, LEON SHANFELD; (L-R FRONT) COLIN MCNAIRN, JOHN MCGARRY, TOM CLINE



ADAM BANACK '08, SUNIL GURMU KH '08, ORI MANDOWSKY '07



PAUL MCKAY '93, TRACEY PATEL '93



# ALUMNI LAUDED AT AWARDS CEREMONY

**T**he 2018 alumni awards of distinction, held November 20 in Toronto, honoured three of Western Law's finest. Christopher Bredt, LLB '79, Michael Copeland, LLB '93, MBA '99 and Dale Ponder, LLB '80, were celebrated for their accomplishments in the fields of community service, business leadership, and contributions to the Western Law community.

"All three of our award winners have had singularly impressive career paths and their achievements and accomplishments tell the story of what makes Western Law so special," said MC Alex Colangelo, LLB '01. "They've trailblazed on Bay Street, championed for global literacy, and led the resurgence of a great sports team and league. They've made major contributions in their fields and we're so proud that each of their extraordinary journeys began at Western Law."

The Community Service Award was presented to Christopher Bredt, senior litigation partner at Borden Ladner Gervais LLP, who through his dedicated volunteer work with the Canadian Organization for Development through Education (CODE) has been a champion for women's and children's literacy.

Michael Copeland received the W. Iain Scott award for Business Leadership. Copeland brought his bold vision and effective business leadership approach to senior roles with the Canadian Football League and Toronto Argonauts, 2017 Grey Cup Champions. His most recent leadership role was with Maple Leaf Sports & Entertainment, where he led a

comprehensive digital fan engagement strategy.

The 2018 Ivan Rand Alumni Award honouree was Dale Ponder.

"Dale Ponder has had a storied career on Bay Street," Colangelo said. "She's been a true role model for the Canadian legal community and an inspiration to a new generation of lawyers."

As co-chair of Osler LLP, and in her top leadership roles at the firm, Ponder has led some of the country's most innovative mergers and acquisitions. She's been lauded with a very impressive list of awards over the course of her distinguished career and still has found the time to give back to her alma mater. **WVL**

1. Michael Copeland '93, Dale Ponder '80, Christopher Bredt '79
2. Mark McAuley '17, Randy McAuley '15
3. Sue Lawson '85, Michelle Lally '90
4. Brook Wong '16, Matt Helfand '18, Claire Chapman '18, Jesse Leonard '17
5. Charles Boulakia '00
6. Paul Brown '80, David Williams '79
7. Alexandra Teodorescu '12 and Kathryn Shani '12
8. Christopher Lee '06, Joshua Hollenberg '19, Srijan Agrawal '06, Rajah Lehal '07
9. Emmanuel Pressman '96, John Valley '04
10. Christine Tabbert '98, Janet Leiper '85



PHOTOS BY MARVAN KWAN





# CLS celebrates 50 years of service to the community

**D**uring its 50 years, Western's Community Legal Services Clinic (CLS) has made a significant impact on the London community, and on the law students who've worked there, by helping those who fall between the cracks of the justice system.

On May 10, 2019 a reunion of CLS alumni gathered to celebrate the 50th anniversary of the clinic and reflect on its legacy.

"From its humble start, literally in a broom closet with a desk and two chairs, thanks to the dedication of its lawyers, staff, and students, CLS has grown into one of the leading student clinics in Canada," said Doug Ferguson, LLB '81, the Clinic's director.

CLS represents low-income persons who do not qualify for legal aid but can't afford a lawyer and provides free legal advice and representation to Londoners and Western and Fanshawe students.

"We've saved people from homelessness and insolvency, helped acquit those unfairly charged with a crime, enabled international grad students to remain in Canada to build a new life, and helped single mothers obtain custody of their children and collect support," said Ferguson. "This

is our legacy for access to justice."

The impact on the students working at the Western's legal clinic is just as significant. On average, CLS has 125 Western Law students working in the clinic annually, handling 800-1,000 files – giving them hands-on legal experience and insight.

"The practical legal skills they gain really helps their careers, but working at the clinic also does something else – it builds a sense of compassion and ethical responsibility," said Ferguson.

In her keynote address, Justice Eileen Gillese of the Ontario Court of Appeal reflected on the important role CLS plays in access to justice.

"Our legal system works best when individuals with legal problems are represented. While they are not a panacea, student legal clinics are a vital component of the landscape of legal services," she said. "I know CLS provided many here with the inspiration to keep striving toward ensuring that Canada has a robust and accessible justice system."

Thank you to Lerner LLP, Cohen Highley LLP and Harrison Pensa for their generous support of the Community Legal Services 50th anniversary reunion. **WL**



LUCY LEE '99, JOHN PETERS '99, EILEEN GILLESE



JUDY RICH '08, PATRICK GROOM '06



ERIN RANKIN NASH '08, MALCOLM MERCER, DOUG FERGUSON '81



ARAKUA LAMPTEY '12, JULIE LEE '99, ARNAB QUADRY '12



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ALEX CARDELLA, GRACE GALANTE, VIVIAN MCPHEE, PETER FRAGISKATOS



JASON VOSS AND BRIAN WHITE '04



SHERNAZ PATEL '20, ALEXANDRA MAMO '14, MELANIE PETERS '09, MANA KHAMI '09



CAMILLE TANCIOCO '19, ANTHONY ROBERTAZZI '19, KELSEY VICARY, STEPHANIE McDONALD '19

PHOTOS BY RACHEL LINCOLN



# Building an exceptional future



HOLLY GATI

I began my role as Director of Development last October, and the past year has flown by.

As I write my first message to you, I find myself reflecting on how fortunate I am to work within this remarkable law school.

As you already know, Western Law's faculty and staff are exceptional - bright, talented, and deeply dedicated to their work in preparing our leaders of tomorrow. My workplace is a bright atmosphere of collegiality and openness, and extends far beyond the walls of the Josephine Spencer Niblett Law Building. I have had the privilege of connecting with exceptional alumni from around the world, and look forward to strengthening these relationships, as well as establishing new ones, in the months ahead.

As Western Law graduates, you are one of our most valuable assets. You serve as mentors to today's students, ambassadors in your communities, and as donors. Our alumni are integral to Western Law's future and vital to its success. I am grateful for the level of alumni engagement and your participation in the strong tradition of giving back.

As a fundraiser, I continue the task of building on the exceptional efforts of my predecessors in generating financial support for Western Law. Dean Erika Chamberlain is identifying critical priorities that will further enhance our educational experience. These include:

- Financial Aid, which will assist with student recruitment and help the next generation of lawyers make career decisions based on their interests and values;
- New teaching and learning initiatives, which will continue to modernize our JD curriculum and equip our students for the changing legal profession and life-long learning in law and
- Student wellness programming, which will provide our students with the resources and skills they need to thrive in law school and beyond.

I welcome your thoughts and I encourage you to stay connected! Call me or visit our Western Law website ([law.uwo.ca](http://law.uwo.ca)) for more details on upcoming events, news and contact information.

Holly

**Holly Gati**  
Director of Development

## Class of '93 creates new student bursary



CLASS OF '93

A new \$3,000 annual student bursary will help attract top students to Western Law thanks to a generous gift of more than \$15,000 from the Class of 1993.

Richie Borins, LLB'93, coordinated the gift in honour of his class's 25th reunion and says it demonstrates the pride that Western Law alumni have in their school.

"It feels good to give back to the school and to help others who are starting their legal careers," Borins said. "Recruitment of top law students is becoming increasingly competitive, and our class hopes this bursary will be another selling point to help attract the best students to Western Law."

"It's in all of our interests to do what

we can to help Western Law maintain its position as one of Canada's leading law schools," he said.

The Law Class of 1993 Bursary gift supports one of the Faculty's highest priority needs – student aid – and will be awarded annually for the next five years to a full-time law student, based on demonstrated financial need.

## T.J. Laskowsky Class of 2001 Entrance Award in Law

A new Western Law entrance award has been established in memory of T.J. Laskowsky, LLB'01.

T.J.'s classmates, Erin Nicholas LLB'01 and Andrew Blunt LLB'01, led the initiative to create the award which is generously funded by the Law Class of 2001 and family and friends of T.J.

T.J. Laskowsky graduated from Western's Law Class of 2001 and returned to his hometown in Oshawa, Ontario where he worked at his father's

law firm, Laskowsky and Laskowsky. T.J. died in 2015 at the age of 42.

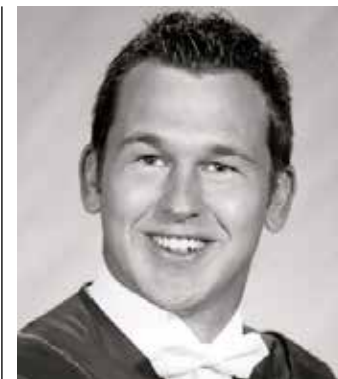
"T.J. was the epitome of the type of law school classmate someone would want," said Blunt. "He was a friend to all and his light-hearted personality and happy, social, and stress-free approach to life and school made him a valued member of our class."

"We wanted to do something in T.J.'s name to help ease a little bit of the financial burden

for new law students," said Nicholas.

The T.J. Laskowsky Class of 2001 Entrance Award in Law is valued at \$1,000 and awarded annually to a full-time student, based on demonstrated financial need and community service.

Fundraising efforts continue for this award as the goal is to raise enough funds for it to be given out in perpetuity. To learn more please visit [www.westernconnect.ca/tjlaskowsky](http://www.westernconnect.ca/tjlaskowsky).



T.J. LASKOWSKY



# Faculty of Law Donors

We would like to recognize the following donors who gave to Western’s Faculty of Law between May 1, 2018 and April 30, 2019. We also wish to thank those donors who have chosen to remain anonymous and those who have made previous commitments to the Faculty of Law.

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DONALD CRAWFORD, LLB '68, EMILY OWENS

“I’m very grateful to Mr. Crawford for funding this scholarship and taking the time to attend our class of 2019 graduation ceremony. His generous support, along with Western Law’s inspiring professors and courses, has empowered me to explore my passion for criminal procedure during my articles as a Judicial Clerk with the Superior Court.”

Emily Owens, JD'19

Recipient of the Mr. Donald H. Crawford Q.C. Scholarship in Criminal Procedure



## Scholarships, Awards and Bursaries

We would like to thank the donors who have generously contributed to the following awards valued at \$1,000 or more. We also wish to thank those donors who have chosen to remain anonymous. Your support of student scholarships, awards and bursaries provides exceptional opportunities for students to be inspired by leading faculty while also providing recognition for their academic achievements.

A.B. Siskind Scholarship	Cheryl Waldrum	Harold G. Fox Education	Michael Allen Harte Award	Shaun Finnie LLB '89
A.T. Little Scholarship and Gold Medal	Global Opportunities Award in Law	Bursary Fund	Mitch and Leslie	Bursary
Ailbe C. Flynn LLB '97 Memorial Scholarship	Clarke-Osborne Family Entrance Scholarship	Harold G. Fox Education Fund Awards	Frazer Scholarship	Sherrard Kuzz LLP
Aird and Berlis Award in Contracts	Class of '97 Law Grad Pact Bursaries	Harold G. Fox Entrance Scholarships	MM Entrance Award in Law	Labour and Employment Law Achievement Award
Albert Oosterhoff Award in Property	Colin D. Leitch Award	Harte Law Award	Mr. Donald H. Crawford Q.C. Scholarship in Criminal Procedure	Sonja J. Gundersen Awards
Alex Kennedy Memorial Scholarship	Crawford Chondon & Partners LLP Award in Labour Law	Hasham-Steele Bursary in Law	Myer and Sarah Solomon Entrance Scholarships	Stanley C. Tessis Memorial Award
Anne Marie Gutierrez Award	Darlene and Brian Empey Law Award	Hayes eLaw LLP Scholarship	Newton Rowell Entrance Scholarships	STEP Canada Award in Trusts
Badun-Gillese Entrance Scholarship	David and Betty Nelson Global Opportunities Award	Robert D. Preston Entrance Award in Law	Nidhi Kanika Suri Memorial Award	Student Legal Society Entrance Scholarship
Bernard and Bessie Wolf Scholarship	David L. Johnstone Award in Corporate Law	Insolvency Institute of Canada Prize in Insolvency Studies	Norman Craig Brown QC Continuous Bursary in Law	T.J. Laskowsky Class of 2001 Entrance Award in Law
Beryl E. Theobald Entrance Scholarship	David Thompson Alumni Entrance Scholarship	J.G. McLeod-McSorley Scholarship in Family Law	Norton Rose Fulbright Canada LLP Award	The Solomon and Lent Family Entrance Scholarship
Blake, Cassels & Graydon LLP Scholarship	Dez Windischmann Memorial Bursary	J.S.D. Tory Writing Prize	Osler, Hoskin & Harcourt Award in Legal Research, Writing and Advocacy	The University of Western Ontario Bursaries - Law
Blake, Cassels & Graydon LLP Entrance Scholarships	Earl Palmer QC Entrance Scholarship	James G. McKee Award	Osler, Hoskin & Harcourt Excellence in Business Law Award	Thorsteinssons LLP Award in International Tax
Bredt/Cameron Entrance Scholarship in Law	Edna Yuet-Lui Chan Memorial Award	Joanne Poljanowski Memorial Bursary in Law	Osler, Hoskin & Harcourt Leadership Award	Torkin Manes LLP Award
Brown & Partners Scholarship in Insurance Law	Edward C. Elwood Q.C. Prize in Wills and Trusts	Kevin J. Comeau Continuing Scholarship	Paul Bradley Award in Real Estate Law	Torys LLP Award in Business Law
Bruce Alexander Thomas Bursary	Eric K. Gillespie Professional Corporation Writing Scholarship	Law Class of 1993 Bursary	Peter Barton Award in Civil Procedure	Tremayne-Lloyd Family Bursary
Carlyle Peterson Award	Erika Gross Chamberlain Bursary in Law	Law Class of 2007 Tim Edgar Memorial Award	Rawal Family Entrance Scholarship	UWO Law Alumni Association Bursaries
Catalyst Capital Entrance Scholarship	Fasken Awards	Law Society of Upper Canada Education Equity Award	Rhodes Western Law Award	UWO Law Alumni Association Entrance Scholarships
Catalyst Capital Scholarship in Bankruptcy and Insolvency Law	Filion Wakely Thorup Angeletti LLP Award in Labour and Employment	Leonard J. Carter Bursary	Right Honourable Brian Dickson Award	W.R. Poole, QC Criminal Law Moot Award
Catalyst Capital Scholarship in Bankruptcy, Insolvency and Restructuring Law	Francis Marie Clark Award in Law	Lorna Cuthbert Bursary in Law	Robert and Anne Aziz Award	Waterloo Region Law Association-Catherine Malvern Entrance Scholarship
Catalyst Capital Writing Scholarship in Advanced Restructuring and Insolvency Law	Gowling WLG (Canada) LLP Entrance Scholarship	MacKewn, Winder, Kirwin Entrance Scholarship in Law	Robert Ninham Entrance Scholarship	Western Alumni Global Opportunities Award in Law
	Grad Pact Law Bursary	Margaret E. Rintoul Award in Wills	Robert Solomon Scholarship in Tort Law	Western Law Entrance Scholarships
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## Cumulative Giving Donors

Donors who have cumulative giving of \$25,000 or more to the Faculty of Law, from May 1, 2004 to April 30, 2019.

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		ZSA Legal Recruitment Ltd.

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academically and  
gives them the  
opportunity to  
participate in high-  
quality advocacy,  
clinical, research,  
and international  
experiences."

## Erika Chamberlain



# CLASS NOTES

1964

**Albert H. Oosterhoff**, Professor Emeritus and Counsel to WEL partners, was a recipient of the 2019 Ontario Bar Association Distinguished Service Award. He was a recipient the 2019 Ontario Bar Association Award of Excellence in Trusts and Estates Law.

1965

**James Lewis**, was appointed to the chair of the Minett joint policy review steering committee.

1971

**Richard McLaren** was awarded the Sir William Osler medal from Trinity College School in Port Hope, Ontario in recognition of his outstanding career in law and sports mediation at the Olympic level.

1976



**Stephen Herschel Diamond**, has been appointed as Chair/CEO of Waterfront Toronto.

1978

**The Honourable Geoffrey B. Morawetz** was appointed as Chief Justice of the Superior Court of Justice of Ontario, effective July 1, 2019. He was appointed to the Superior Court of Justice of Ontario in 2005 and served as the Court's Team Leader of the Commercial List from 2010 to 2013, when he was appointed Regional Senior Justice for the Toronto Region. Chief Justice Morawetz is a Fellow of the Insolvency Institute of Canada, a Fellow of the American College of Bankruptcy, and an editor of the *Canadian Bankruptcy Reports*.

1980

**Timothy G. Price**, partner at Little, Inglis, Price & Ewer LLP, was appointed a Judge of the Superior Court of Justice of Ontario, a member of the Family Court Branch and a Judge ex officio of the Court of Appeal for Ontario.

1981



**Philip Squire** was re-elected to London's City Council (Ward 6) for the term 2018-2022.

1982

**Robert McLeod**, partner at MHN Lawyers, was appointed a Judge of the Superior Court of Justice of Ontario, a member of the Family Court Branch and a Judge ex officio of the Court of Appeal for Ontario.

1984



**Mary Anne Aldred** was appointed General Counsel and Chief Operating Officer of the Ontario Energy Board in October 2017, following eleven years as General Counsel.

**The Honourable Gregory Elies**, a Judge of the Superior Court of Justice in North Bay was appointed Regional Senior Judge for the Northeast Region.

1985



**David Chaikof**, has been named managing partner of Torgs LLP, New York Office.



**Janet Leiper**, a sole practitioner at Janet Leiper Law, was appointed a judge of the Superior Court of Justice of Ontario.

**Cheryl Milne** was awarded the Law Society Medal. Cheryl has had a profound and unique influence on the Canadian Legal landscapes as a child rights advocate. She is a leading constitutional and Charter rights litigator, an innovative experiential legal educator, and a generous legal community volunteer.

1987



**Karen Douglas**, a partner at Harper Grey LLP, was appointed a judge of the Supreme Court of British Columbia.

1988



**Jacqueline Moss** was named a recipient of the 2018 Canada's Most Powerful Women: Top 100 Award. She is a corporate board director at IMCO and at Minto REIT and chairs the human resources and nominations and governance committees. After holding a variety of senior corporate and legal positions, she launched Giftgowns in 2016 - hospital gowns meant to boost morale and bring a smile to those that find themselves in the hospital.

1990



**Patrick Buchholz**, Partner at Lavery in Montréal, was appointed a Judge of the Superior Court of Québec for the district of Montréal. For just over a decade, Justice Buchholz was Vice-President, Legal Affairs and Corporate Secretary at the daily news publication La Presse, where he was responsible for all of its legal and intellectual property matters.

1991

**Karen Fields**, will serve as city solicitor for the city of Sault St. Marie. She will oversee the Legal Department, including Provincial Offences Act Division and will provide legal services and advice on matters associated with the city.

**Tim Lukenda**, was appointed to the Lake Superior State University Board of Trustees.



## 1992



In recent years, **Damhnait Monaghan** has become a writer. Her flash fiction and creative non-fiction have won or placed in several competitions and her writing is widely published and anthologized. She has been nominated for a Pushcart Prize, Best Small Fictions, and Best Microfiction. Her flash fiction chapbook, *The Neverlands* was published by V Press (UK) in 2019 and is garnering fantastic reviews. Her novel, *UP SHE RISES*, was short-listed in the international Caledonia Novel Award.

## 1996



**Emmanuel Pressman**, a Partner at Osler Hoskin & Harcourt LLP, was named one of Canadian Lawyer's Top 25 Most Influential in the justice system and legal profession in the Business category.

**David Shoemaker**, has been named chief executive officer of the Canadian Olympic Committee. David spent almost a decade based in Beijing as CEO of the NBA China and in a prior post with the Women's Tennis Association.



**Kelly C. Tranquilli**, a partner at Lerner's LLP, was appointed a judge of the Superior Court of Justice of Ontario.

## 1997

**Daniel Stephen Goldberg**, was appointed as Senior Vice President of Media Strategy at Rogers Communications Inc.

## 1998

**Scott Goodman** was appointed as Chief People and Legal Affairs Officer at Avante Logixx in October 2018.

## 1999



**Jennifer Broderick** was appointed to the Ontario Court of Justice.



**Mitch Frazer**, a Partner at Torys LLP, was named one of Canadian Lawyer's Top 25 Most Influential in the justice system and legal profession in the Business category. He was also recipient the 2019 Ontario Bar Association Award of Excellence in Pensions & Benefits.

## 2001



**Eva Bellissimo** has joined the Board of Directors for Euro Sun Mining Inc.

## 2002

**Paul Rand**, has joined the Toronto office of Bentham IMP as Investment Manager and Legal Counsel. Paul will undertake due diligence on individual commercial litigation claims.

## 2003

**Kathryn Meehan**, was welcomed as Partner at Hicks Morley LLP as a labour and employment lawyer practicing out of the Waterloo office.

## 2004

**Daniel Schwartz**, was welcomed as Partner at Thornton Grout Finnigan. David is experienced trial and appellate counsel.

## 2005



**Chad Finkelstein**, a partner, business lawyer and Registered Trademark Agent at Dale & Lessmann LLP was honoured as one of Lexpert's Rising Stars: Leading Lawyers Under 40.



**Matthew Kindree**, Pallett Valo LLP, was honoured as one of Lexpert's Rising Stars: Leading Lawyers Under 40.



**Katy Pitch**, Wildeboer Dellelce LLP, was honoured as one of Lexpert's Rising Stars: Leading Lawyers Under 40.



**Leila Rafi**, of McMillan LLP won the Rising Star Lexpert Award: Leading Lawyers Under 40 in 2018 and was appointed to the Securities Advisory Committee at the Ontario Securities Commission for a three-year term beginning in January 2019.

## 2007

**Daniel Michaelson** was welcomed as Partner at Neinstein Personal Injury Lawyers. Daniel has represented clients at all levels of court including administrative tribunals, the Superior Court of Justice and the Ontario Court of Appeal.

**Derek Powers**, was appointed as Investment Manager and Legal Counsel for Bentham IMF's Toronto Office.

## 2008



**Alysia Christiaen**, Partner at Lerner's LLP was awarded a 2018 20 Under 40 Award.



**Sunil Gurmukh**, Counsel at the Ontario Human Rights Commission, was named one of Canadian Lawyer's Top 25 Most Influential in the justice system and legal profession in the Human Rights, Advocacy and Criminal category.



## 2009



**Sandra De Carolis**, was welcomed as Partner in the Insurance Defence Group at Torkin Manes LLP.

**Lorin MacDonald** received the inaugural Chappell Partners/June Bushell Award, which honours a female lawyer with five or more years post-call who experienced, or is experiencing, adversity in pursuing her career and despite that adversity is making a positive contribution. The award was presented at the Women's Law Association of Ontario's 100th Anniversary Gala.

## 2010

**Raj Kehar**, was welcomed as Partner at Wood Bull LLP. Raj's practice involves all aspects of land use planning and development law, representing both public and private sector clients in Ontario.

**Omar Ha-Redeye** joined the Durham Community Legal Clinic as their Executive Director in September 2019.

## 2011

**Joel Aaron Freudman**, was appointed to the Board as an independent director and Chair of the Board's Audit Committee of Aura Health Inc.



**Cara Nawrocki**, was appointed as vice-president, investor relations of Auxly Cannabis Group Inc.

## 2012



**Devesh Gupta**, Principal lawyer and owner at Prudent Law was named as one of 2019's Top 25 Canadian Immigrants by RBC. (Pictured left to right: Kelly Montague, Devesh Gupta, Zanita DiSalle, Sanjay Agnihotri)

**John Mather**, joined DMG Advocates as an associate, practicing corporate commercial litigation.

**Jared Schwartz**, was welcomed as Partner as Fogler, Rubino LLP. Jared is a member of the firm's Health Law, Litigation and Dispute Resolution Groups.

## 2013

**Kristal Chopp**, was elected Mayor of Norfolk County (HQ Simcoe ON) in December 2018.

**Matt Frontini** has joined Deeth Williams Wall LLP as an associate and will focus on intellectual property litigation. Frontini earned his PhD in biochemistry from Western University in 2013 and published the results of his research regarding vascular disease and regenerative medicine in pre-eminent journals including *Nature Biotechnology* and *Circulation Research*.

## 2014

**Odette S. Fraser** has joined Dutton Brock LLP. Odette has a passion for litigation and experience in a wide range of insurance defence matter.



**John McGowan '84, Tamara Zdravkovic '13, John Rider '90 and Dany Horovitz '10** performed in the musical Mamma Mia! for "The Lawyer Show", a fundraiser for Canada's flagship feminist theatre, Nightwood Theatre.

## 2015



**Jacob Damstra**, an associate at Lerner LLP, was named among BizLondon Magazine Twenty in Their 20's list.

## 2016



**Michael Slattery**, joined Goldblatt Partners as an associate. Michael represents Indigenous peoples in their land claims against the government to affirm traditional territories and treaty rights.

## 2017

**Benjamin Bugar**, joined Blaney McMurtry as an Associate.

**Tierney GB Deluzio**, joined Smart & Biggar as an Associate. Tierney practices intellectual property litigation, with a focus on life sciences field, representing clients in the pharmaceutical, biologics, medical devices and natural health products industries.

**Sara Iaconis**, joined Hicks Morley as an Associate.

**Sean Lewis**, an Associate at Lenczner Slaght, appeared at the Supreme Court of Canada in October, 2018 on behalf of the Canadian Civil Liberties Association in *R v Le*, an important case concerning Charter rights under s. 8 and 9.

**Taleen Ohanessian**, joined Fogler, Rubino as an Associate in their Business Law Group and is developing a diverse corporate practice.

## IN MEMORIAM

**Cettina "Chet" Cornish (nee Giampapa)**, LLB '85, died on April 17, 2019.

**Ian Kerr**, LLB '95, Law Professor at the University of Ottawa, died August 26, 2019 at age 54.

**Duncan Fraser Ross MacIntyre**, LLB '69, died in October 2018.

**Alison MacLennan**, LLB '93, died March 19, 2018 at the St. Catharines General Hospital at the age of 56.

**Peter Pegg**, LLB '69, died at Grey Bruce Health Services Lion's Head on April 4, 2019 at the age of 74 years.

**Don Tait**, LLB '69, died August 26, 2019 in Durban, South Africa aged 75.

**Joyce Thomas**, JD '09, a passionate advocate for access to justice who played important roles at Western's Community Legal Clinic, died on August 4, 2019.

**Michael John Webber** LLB '93, died on February 26, 2019.



# Ontario government seeking to insulate itself from lawsuits

By Erika Chamberlain

Buried within the Ontario government's April budget is a new *Crown Liability and Proceedings Act* that threatens to severely restrict our ability to sue the provincial government.

It will roll back Crown liability by more than 70 years.

Not only that, but changes will be applied retroactively as to extinguish existing lawsuits, like a class action by juvenile inmates who were placed in solitary confinement. In some cases, plaintiffs and their lawyers will have already invested years in litigation.

## HISTORICAL CONTEXT

The historical common law rule that "the King can do no wrong" meant that the government was immune from civil liability. Beginning with Great Britain's *Crown Proceedings Act* in 1947, various Commonwealth jurisdictions introduced legislation that permitted governments to be sued in the same way as private citizens. The government was no longer "above the law."

The growth of the administrative state in the second half of the 20th century meant that government activity could harm citizens in new ways. And with their deep pockets, governments became an increasingly attractive target of lawsuits. In Ontario, this included class action suits for their mishandling of the SARS crisis, as well as claims against licensing officials and ambulance authorities.

But not every government act could be subject to a lawsuit. Over time, the courts have extended immunity to government officials for lawsuits based on their legislative actions, quasi-judicial decisions

and matters of policy. This immunity reflects the separation of powers between courts, the legislature and the executive, and prevents the courts from second-guessing the decisions of elected officials.

The Ontario government has claimed that its new legislation merely codifies these common law rules. In fact, it goes much further to restrict Crown liability, and will also impose substantial procedural hurdles for potential plaintiffs.

## PROPOSED RESTRICTIONS

The proposed new act restricts Crown liability in three main ways.

First, it prohibits lawsuits based on government policy decisions. Although this is based on an existing common law principle, the new act extends policy immunity by defining "policy" in a very broad way.

For example, it includes not just the creation or funding of government programs, but also the way that those programs are carried out. Under the common law, the implementation of programs is subject to potential tort liability. In other words, once the government decides

to do something, it must use reasonable care not to harm people in the process.

The proposed act therefore extends well beyond the common law.

Second, the act prohibits lawsuits based on "regulatory" acts or omissions that are made in good faith. This means that, no matter how incompetent government officials are, they cannot be sued. For example, if an official negligently inspected a licensed establishment, resulting in licence restrictions that caused a loss of revenue, the establishment would have no civil recourse.

Such regulatory actions can only be the subject of lawsuits if the government official acted in bad faith.

But in lawsuits involving bad faith, plaintiffs must now get permission from a court before they can sue, and show that their claim has a reasonable possibility of success. During this process, the Crown can examine the plaintiff, but need not produce any documents or witnesses itself.

This puts plaintiffs in a tough position. Bad faith is essentially a state of mind, so it's typically

difficult to prove without at least some evidence from the defendant. For instance, it may require disclosure of internal communications showing that an official was acting for an improper purpose or with bias against the plaintiff.

Without disclosure of these documents or the ability to question government officers, plaintiffs will only be able to speculate that bad faith was involved. This may not be sufficient to get a court's permission to proceed.

## AVOIDING SCRUTINY

Although it's not uncommon for governments to include legislative reforms within budget bills, it leaves the impression that the government is trying to hide the change from the scrutiny it might otherwise attract.

The Ontario Attorney General's office described the legislation as "housekeeping," but comments by Premier Doug Ford suggest that it was at least partly motivated by a desire to eliminate what he described as "nonsense" lawsuits.

Lawsuits are an important measure by which citizens can hold the government accountable for its negligence or abuse of power. They can be used to bring systemic injustice to the public eye, or just to make sure that public decision-makers act fairly.

For instance, one federal inmate successfully sued for abuse of office because prison authorities refused to provide him with shoes that fit his extra wide feet. He only obtained \$6,000, but the lawsuit was necessary to make authorities comply.

A government whose election promises include to "restore accountability and trust" should not be seeking to avoid liability when its officers cause harm. **WL**

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