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
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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 alumnae Geoffrey Morawetz, LLB ’78, who 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, who 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 honouned by professional associations. Our 2018 Alumni Awards of Distinction celebrated three of Western Law’s finest. Christopher Brett, LLB ’79, Michael Copleand, LLB ’93/ABA ’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. Also, 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 Mine, 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 and critical legal issues facing society. In addition to Professor Miller, I’m pleased to welcome two new faculty to Western Law: Professor Martin Petrini, 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 Canada 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 (championed by Western Law alumnus Geoff Beattie, LLB ’84), with a final tally of $100 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 and student 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. — Erika Chamberlain, LLB ’01

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 (2003), and a B.A. from the University of California, Berkeley. The author of numerous scholarly articles in leading legal 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 $259 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.” — Alan Miller

DEANS MESSAGE

OF NOTE

“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
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 Lerners LLP for more than thirty years and Managing Partner for eight.

As the housing, employment and human rights review counsel, Dantzer will supervise the CLS legal services program. He will provide opportunities for student placements as an employment law placement at the London courthouse.

Competition 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.

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The review counsel positions are supported by funding from Legal Aid Ontario, The Law Foundation, and students supported by funding from Legal Aid Board, Small Claims Court and the Human Rights Commission. She joins CLS as the housing, employment and human rights review counsel, Dantzer will supervise the CLS legal services program. He will provide opportunities for student placements as an employment law placement at the London courthouse.

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In their third year of study, Zachary Sippel and Matthew Patterson won the 2019 provincial labour law competition known as the Hicks Cup. Hosted by Hicks Morley LLP, the Hicks Cup provides an opportunity for student teams from Ontario law schools to litigate labour law issues with the supervision of a legal counsel and a professor, as well as gain valuable experience in this field.

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“The Hicks Cup is a demanding moot competition, with challenging legal issues to argue and top-tier legal counsel from from other Ontario law schools,” said Professor Michael Lynk, the team’s faculty advisor.

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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 cited her OCJP experience as 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.”

The OCJPP is an annual program that provides students with the opportunity to observe the inner workings of the main criminal trial court in Ontario. This is the third time since the moot was established in 2006 that a Western Law team has taken home the Hicks Cup.

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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 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.

“FIMULAW has always been a space for interdisciplinary research,” said Professor Robert Howse of New York University School of Law. “We 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 essentially 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.”

CUSLI Distinguished Lecture explores populism and democracy

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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.

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.

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.

OF NOTE
SOCIAL MEDIA SCRAPBOOK

Western Law
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Western Law Retweeted
Erika Chamberlain @lawdeanerika • Jul 15
Great @westernuLaw contingent at today’s OUT in the Sun event! #westernupride #loveislove #prideldnfest

Western Law Retweeted
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 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 $220,000 for @sjhospicelondon palliative and bereavement care, and we couldn’t be prouder! #LdnOnt

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 @westernuLaw • Apr 12
Merel, a court-facility @NatlServiceDogs 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.”

Follow
Alumni explore opportunities amid emerging sector

Story by Jim Middlemiss  |  Illustrations by Frank Neufeld
When 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.


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 “say 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.

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Eric Foster

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Eric Foster

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

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
Robert 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 naive 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 “Ninanderthal” 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 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 Danforth has a very strong interest in ensuring cannabis is marketed in a lawful and responsible manner,” Solomon said.
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. 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. 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 multi-layered, 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. Why are you heroes?
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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. Have you 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.
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.”
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.
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 these 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 in the evening and sang. And we still sing when my siblings and I get together in the evening and sang. And while the law is demanding, it was nice … that sort of thing. So, the other thing I do is go to the rich archives of legal history. "But back in those days, there weren’t many opportunities to study Canadian law from a historical perspective. "

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.”

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, 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.”
Research explores rights of transgender children

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.”

CLAIRE HOUSTON

Project focuses on pipeline debate

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 views and preferences of children who wish to socially or physically transition (using medical procedures) deserve respect,” 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 programs and engage students in leading-edge research.

“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.”

CLAUDE HOUSTON
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 Randie 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 sociocultural 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.”

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 contributions to the study of private law of the late eminent 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.


The panels were expertly moderated by Justice David Stratas of the Federal Court of Appeal, Justice Myra Bibey of the Court of Appeal of Alberta and Judges Lynne Letch 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 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.

Project eyes campus freedom of expression policies

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 $70,000 Social Sciences and Humanities Research Council (SSHRC) Explore Grant, as well as a $30,000 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, and sticking points have been around which 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 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 applicability 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.”
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
The 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.

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 Heitland ’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 ’04, Rajah Lehal ’07
9. Emmanuel Pressman ’96, John Valley ’04
10. Christine Tabbert ’98, Janet Leiper ’85
During 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 Lerners LLP, Cohen Highley LLP and Harrison Pensa for their generous support of the Community Legal Services 50th anniversary reunion.

PHOTOS BY RACHEL LINCOLN
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) for more details on upcoming events, news and contact information.

Holly Gati
Director of Development

Class of ’93 creates new student bursary

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.
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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“...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

DONALD CRAWFORD, LLB 65, EMILY OWENS

DEVELOPMENT NEWS 2019 EDITION

WESTERN LAW ALUMNI MAGAZINE
Scholarships, Awards and Bursaries

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Norton Rose Fulbright Canada LLP Award
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Osler, Hoskin & Harcourt Excellence in Business Law Award
Paul Bradley Award in Real Estate Law
Peter Barton Award in Civil Procedure

Rawal Family Entrance Scholarship in Law Rhodes Western Law Award
Right Honourable Brian Dickson Dickson Award
Robert and Anne Aziz Award
Robert Ninham Entrance Scholarship
Robert Solomon Scholarship in Tax Law
Sandra Oosterhoff Memorial Bursary

Shaun Finnie LLB ’99 Bursary
Sheard Kuzz LLP Labour and Employment Law Achievement Award
Sonia J. Gundersen Awards

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Torkin Mann LLP Entrance Scholarships

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UWO Law Alumni Association Bursaries
UWO Law Alumni Association Entrance Scholarships

STEP Canada Law Achievement Award
Stephen R. Coxford T.J. Laskowsky Class Entrance Scholarship

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Torys LLP in Canada LLP

Stewart Storie LLP
Taylor Family Entrance Scholarship
M. M. Taylor Foundation Scholarship

Torchonsamy Scholarship in Law

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UWO Law Alumni Association Entrance Scholarships

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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 of 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 Olster 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.

1980
Timothy G. Price, partner at Little, Inglis, Price & Ever 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 MHNN 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.

1985
David Chaikof has been named managing partner of Torys LLP, New York Office.

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
David Judson, was welcomed as Partner in the Business Law Group at Minden Gross LLP. David focuses on public and private mergers and acquisitions as well as domestic and cross-border capital markets transactions of all types.

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.
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.

Kelly C. Tranquilli, a partner at Lerners LLP, was appointed as Senior Vice-President of Media Strategy at Rogers Communications Inc.

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

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.

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

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

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

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.

Matthew Kindree, a Partner at Pallett Valo LLP, was honoured as one of Lezpet’s Rising Stars: Leading Lawyers Under 40.

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

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

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.

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 IMP’s Toronto Office.

Alysia Christiaen, Partner at Lerners 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 Torys Manes LLP.

2010

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.

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.

2012

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

2013

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

2014

Devesh Gupta, Principal lawyer and owner at Prudent Law was named as one of 2013’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.

2015

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

2016

Jacob Damstra, an associate at Lerners LLP was named among BioLondon Magazine Twenty in Their 20’s list.

2017

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.

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 28, 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 “nonsensical” 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.

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