



LAW Quadrangle

NOTES FROM MICHIGAN LAW



Like most everything in the era of COVID-19, this issue of the *Law Quadrangle* looks a bit different than normal. Circumstances related to the pandemic have required this temporary shift to a shorter print magazine with additional content posted online at quadrangle.law.umich.edu. We look forward to delivering a full print issue of the *Law Quadrangle* as soon as circumstances permit. In the meantime, stay safe, stay healthy, and Go Blue!



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“I was probably one of the happiest lawyers around ... But then I got the proverbial offer I couldn’t refuse.”

—DAVID BREACH, '94



**READ MORE
ONLINE**

Class Notes year by year and In Memoriam are online for this issue of the *Law Quadrangle*. Visit quadrangle.law.umich.edu to read updates from your classmates, as well as profiles of **Dan Bergeson, '82**, and **Laurence Kahn, '77**.

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BRIEFS



Professor from Practice

Barbara McQuade, '91,

has launched a new podcast, #SistersInLaw, alongside three co-hosts. Since its January launch, topics have included President Trump's second impeachment trial, sexism in law and politics, the future of the filibuster, and ongoing legislative efforts around voting rights.



Eli Savit, '10, was sworn in as Washtenaw County Prosecutor by Michigan Supreme Court Chief Justice Bridget Mary McCormack during a socially distant ceremony in the Law Quad. Savit previously served as senior adviser and legal counsel to Detroit Mayor Mike Duggan, '83, and is a lecturer at the Law School.

LESSONS FROM THE PAST

To commemorate Martin Luther King Jr. Day at Michigan Law, **Bentina Chisolm Terry, '94,** delivered a virtual keynote on the continued relevance of the reverend's final writings. The lecture examined Dr. King's 1967 book, *Where Do We Go From Here: Chaos or Community?*, in the modern context, and explored the myriad ways lawyers can help empower underserved communities.

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INTERNATIONAL LAW MOOT
COURT COMPETITION

The number of Michigan Law students who participated in each moot competition—modified to be conducted virtually—during the 2020–2021 academic year

anecdota

[an-ik-dey-tuh, -dat-uh, -dah-tuh]

noun

1. Information or evidence based on reports of individual cases rather than systematic research or analysis; anecdotal evidence.

First coined by Edson R. Sunderland Professor of Law **Don Herzog** in a 1989 *Michigan Law Review* article, the word “anecdota” has been added to the Oxford English Dictionary.



WORLD CHAMPIONS

Fresh off of winning an NBA championship, **Rob Pelinka, '96**, president, basketball operations, and general manager of the Los Angeles Lakers, met with Michigan Law students via Zoom to discuss how a legal education can be applied to a career in sports agency and organizational management. The conversation took place during Rules of Play: Sports and Games as Legal Systems, a class taught by Rich Friedman, the Alene and Allan F. Smith Professor of Law.

INNOCENCE TRIUMPHS

Walter Forbes, a client of the **Michigan Innocence Clinic**, was exonerated and released after spending nearly 40 years in prison for a crime he did not commit. He was convicted of arson and murder in 1983; in 2017, a key witness admitted they had lied during their testimony. Last November, a judge vacated his sentence and prosecutors declined to seek a new trial, clearing the way for his release.



Tim Laderach, a rising 2L who remotely attended 1L classes from his home in Northern Virginia, is using his experience as a pharmacist in the U.S. Navy to assist in vaccinating long-term care residents in his area.



BRIAN CHANG, '12, was a seven-time “Jeopardy!” champion during his January appearance on the game show. He accrued \$165,904 in earnings during his winning streak and will return to compete in the show’s Tournament of Champions.

Photo courtesy of Jeopardy! Productions Inc.

CAN COVID-19 HELP EXPAND ACCESS TO JUSTICE?

By J. Lester Feder

When you arrived for a hearing at Michigan's 36th district court before 2020, the most important question you might face was: where do you put your phone?

Located in Detroit, the 36th District Court is the state's busiest—it's also the one that serves the most self-represented litigants. The courthouse long barred cell phones yet provided no cell phone lockers. So if you arrived with your phone, you'd be forced to choose to miss your hearing—and perhaps have a warrant issued for your arrest—or stash your phone in the bushes until your hearing was over.

The practice was so well known that the bushes became a popular spot for cell phone thieves. If you were disabled and depended on a taxi or ride-hailing app like Uber to get to court, or you were a single parent forced to leave kids at home and out of reach, this rule alone could make it impossible for you to access justice.

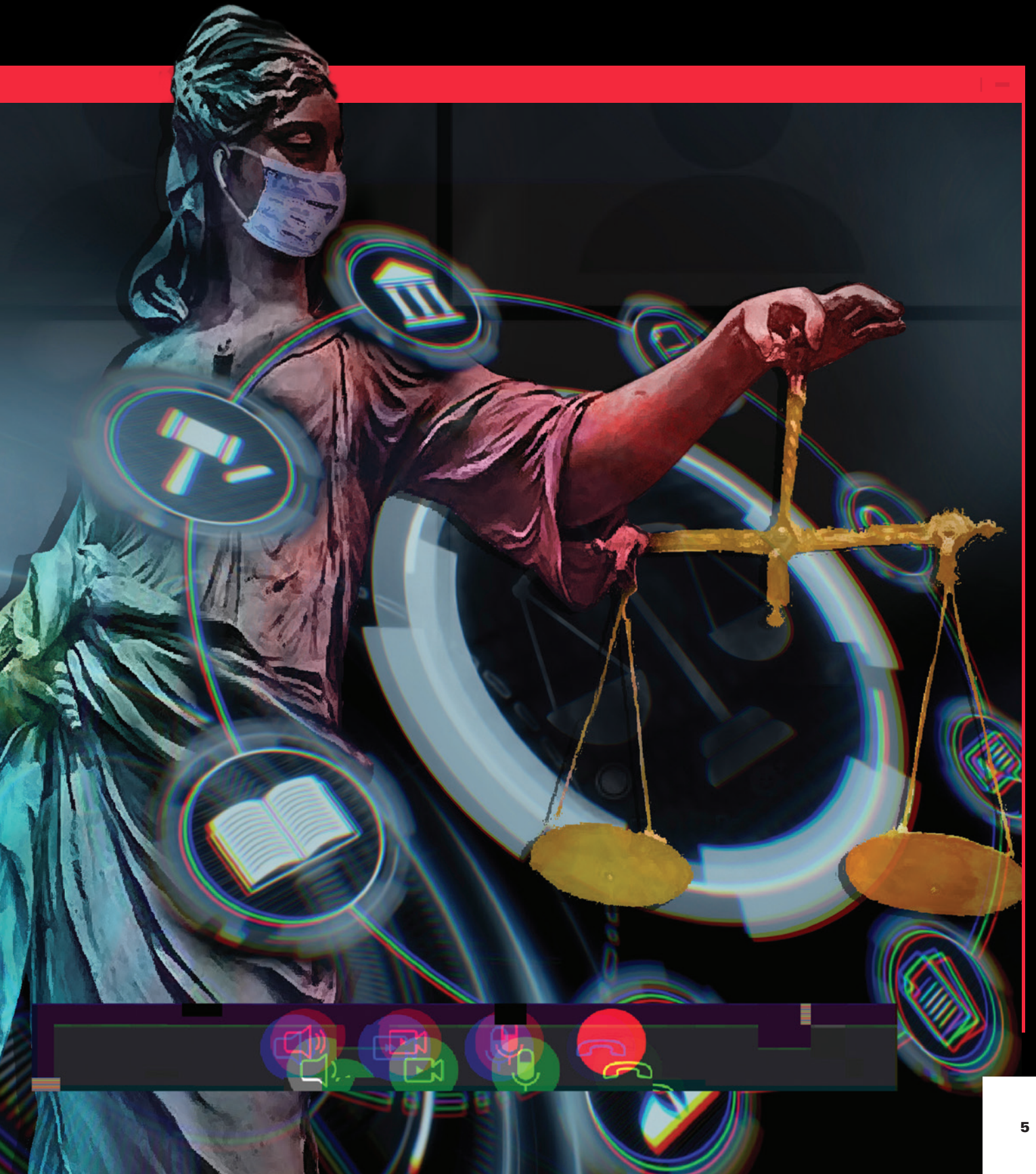
Michigan's courts, like many across the country, confronted a phobia of even the most basic technology when COVID-19 hit, replacing it with a rush to take the antiquated judicial system online.

Chief Justice Bridget Mary McCormack of the Michigan Supreme Court, who is also on the Michigan Law faculty, wrote in an op-ed that the pandemic has forced jurists to ask, "Why is our system of justice held together with the threads of 20th-century technology and 19th-century processes?"

Michigan's Supreme Court had been nudging lower courts to modernize before the pandemic hit, but it was slow going. The Supreme Court barred courts from banning cell phones shortly before lockdown began and had provided judges Zoom licenses for years. But hardly any judges used the technology.

When COVID-19 turned the world upside down, McCormack, who serves as co-chair of the Post-Pandemic Planning Technology Workgroup of the Conference of Chief Justices and Conference of State Court Administrators, saw an opportunity.





“Sometimes it’s only through disruption that you really can make the kind of change that is more fundamental,” says McCormack.

Between March and August of 2020, Michigan judges conducted more than 1 million hours of hearings by Zoom, McCormack says. The state also expanded an online dispute resolution system that enables people to fight traffic tickets, evictions, and other matters through their computers or phones rather than appearing in court.

These steps not only make courts more efficient, they have the potential to make justice easier to access for millions of Americans who don’t have the time or know-how to navigate the courts on their own. Technology obviously doesn’t solve all problems—and unequal access to reliable internet creates problems of its own—but,

McCormack says, it addresses many of the longstanding challenges that keep people from getting a fair hearing in the courts.

Concerns about access to technology “pale in comparison to the access to justice concerns that predated March 2020—like transportation, childcare, language barriers, all the ways in which people were just simply not showing up to court,” says McCormack.

The experience during the pandemic has already shown how technology can reduce barriers to justice. Now the fight is to keep the momentum for change growing nationwide.

“This is a moment where we have to be really thoughtful about what things make sense,” says McCormack. “I am worried that now that we have a vaccine, everybody will want to backslide to the way it used to be.”

“Why is our system of justice held together with the threads of 20th-century technology and 19th-century processes?”

—Michigan Supreme Court Chief Justice Bridget Mary McCormack



THE RACE TO GET ONLINE

The speed with which some jurisdictions have moved to get online since COVID-19 hit is mind-boggling. In Texas, for instance, “we were basically at nothing on March the first [2020],” says David Slayton, administrative director for the Texas judicial branch. No online hearing had ever been conducted in the state, and the Texas courts did not have Zoom licenses. But the state courts were determined not to interrupt their services amid the pandemic.

“When the world around us is in chaos, the judiciary ... needs to be consistent and available—that was our motto,” says Slayton.

Within four hours of the Texas governor declaring an emergency on Friday, March 13, 2020, the state Supreme Court issued orders allowing judges to hold remote hearings. The Office of Court Administration spent the weekend exploring teleconferencing platforms. By Monday, they’d recruited about 20 judges for a test run, and the judges gave Zoom the thumbs up. Even Slayton seemed surprised by the response.

“Within two days, [the judges] reported back, ‘Oh my gosh, we definitely can do that!’” says Slayton.

The state immediately bought Zoom licenses for its 3,000 judges. Since then, two-thirds of judges have become regular Zoom users, holding more than 800,000 hearings statewide. The state also started livestreaming court proceedings on a centralized website, streams.txcourts.gov, in order to ensure the public’s right to observe court proceedings.

Texas has even begun experimenting with remote jury trials for minor offenses, holding more than a dozen over Zoom. They started with low-stakes cases, such as traffic offenses.

“It was a huge success,” Slayton says. “We’re now doing a couple a week.”

Federal courts, too, switched to remote hearings and have been operating with great success, says Judge Roger Gregory, ’78, chief judge of the U.S. Court of Appeals for the Fourth Circuit.

"We haven't missed a beat," he says. Gregory also sees potential for technology to diversify the pool of law clerks. He plans to do interviews for potential new clerks remotely going forward, opening those jobs to applicants who may not be able to fly in for an in-person interview.

"I think that opening up access to opportunities for people to clerk and broadening diversity in the judiciary are good things we should plan on continuing," says Gregory.

But as far as oral arguments go, "we'll go back in court as soon as it is responsibly safe to do so," says Gregory. "I think the judges missed that."

It doesn't necessarily take rewiring court systems from top to bottom for technology to dramatically smooth the process of navigating the courts. One tool that's helped hundreds of thousands in Michigan is a website called Michigan Legal Help, which provides advice and self-help tools for Michiganders handling their own legal issues without lawyers.

The initiative, funded in part by the Michigan Supreme Court and the Michigan State Bar Foundation, launched in 2012. But its use has exploded since COVID-19 hit, says Angela Tripp, Michigan Legal Help's director. The site has been getting around 60,000 visits per week since March of last year, a 36 percent increase compared to the previous year. Every day, around 350 people use their online tools to generate the forms they need to do business in the courts—everything from the paperwork tenants needed to invoke the Center for Disease Control's moratorium on evictions to the forms to file for divorce.

During the pandemic, Michigan Legal Help has worked with courts to take even more business online. In Detroit, for instance, the platform worked with the Third Judicial Circuit of Michigan to allow people to file for personal protective orders directly through an online portal.

One place online tools may have an important impact during the pandemic is with evictions. Most tenants facing eviction don't have attorneys; many can't even make it to their eviction hearings and just move out of their homes without putting up a fight. But Michigan Legal Help's website has made filling out the paperwork to invoke the CDC's eviction moratorium relatively easy—it's been used by 200 to 300 people each week—and Zoom hearings have made it easier for tenants to show up to hearings on their cases.

"It has been pretty incredible the way technology has increased access to justice," says Tripp. "One thing it has really done is gotten more people to engage in their court hearings."

WHAT IS A COURT, ANYWAY?

Bringing America's courts into the 21st century requires more than simply integrating remote hearings and electronic filing systems. It requires fundamentally rethinking the role of courts and the services they provide, and then connecting them to users in ways that make sense in modern life.

That's according to J.J. Prescott, Michigan Law's Henry King Ransom Professor of Law and co-director of the Empirical Legal Studies Center. For too long, courts have been conceptualized as physical locations rather than a "nexus of services ... a set of people or tools or processes that help to resolve disputes."

In many cases, Prescott says, there's no good reason the parties to a dispute need to meet face to face, or

even engage on a matter at the exact same time. Traffic tickets, evictions, and other civil matters are far more easily resolved online, where parties can lay out their cases in writing. This doesn't require anyone to take time off work, and it can even help remove bias from cases, since it's possible for the dispute to be adjudicated without judges ever seeing what someone looks like.

This premise is at the heart of Matterhorn, an online dispute resolution system that emerged from Prescott's U-M Online Court Project in 2014, which turned into a company with help from the University of Michigan's Office of Technology Transfer. Last August, Prescott won U-M's Distinguished University Innovator Award for this work.



Matterhorn is now running or about to start operating in 21 states, with more than 150,000 cases moving through its system. It's used more extensively in Michigan than anywhere else, operating in dispute resolution systems in every one of Michigan's 83 counties. That's nearly five times the number of counties in which Matterhorn operated at the start of the pandemic. The system spread fast as the courts responded to COVID-19, and the company's reach is now about three times what the company expected at this point, says M.J. Cartwright, Matterhorn's CEO.

"We're talking about a lot of people who we know we're helping—especially during a pandemic. They don't have to go to court to deal with their cases and can be much safer," Cartwright says. "People are realizing they need to do this sooner rather than later."

"I was gung-ho when they first approached me about it," says Andrea Andrews Larkin, Chief Judge of 54B District Court in East Lansing, one of the first judges to put Matterhorn into practice.

The opportunity to take court business online seemed especially useful in her area near Michigan State University—students were far more comfortable conducting business online.

Her comfort with technology made her one of the most innovative judges in responding to the pandemic. She was especially concerned about her treatment courts for people dealing with addiction, who were used to seeing a judge every two weeks to stay on track.

"We have a system now that I think is as good as any in the state to keep true to the program and what's supposed to be the close, frequent monitoring," Larkin says. "And it's working."

CRIMINAL MATTERS REMAIN A CHALLENGE

Technology has not solved all the challenges for courts operating during the pandemic, of course. While online tools have kept many civil matters—and some minor criminal ones—running, it's been far more difficult to handle serious criminal cases without being able to give defendants their day in a physical court.

"I think on the criminal side, things have been more of a mixed bag than they have been on the civil side," says Kim Thomas, who co-directs Michigan Law's Civil-Criminal Litigation Clinic.

There have certainly been advantages to shifting online. By far the biggest, Thomas says, is that the pandemic has forced policymakers to take a hard look at whom they put in jail and why. Detention is being used far more carefully in order to slow the spread of COVID-19 in jails.

"There's been a recognition of how unsafe it is to be in jails and prisons right now, given the inability to socially distance," says Thomas. "It's caused us to think about questions that we should have been thinking about already, as to whether or not someone needed to be held pre-trial or on a minor case, or whether [someone convicted needs an] incarceration sentence or a community sentence."

Online hearings can be useful for some matters involving defendants who are not in custody. But it may never be possible to have jury trials in serious criminal cases outside a courtroom, Thomas says, and the Constitution is one big hurdle to taking criminal proceedings online. The Sixth Amendment, which guarantees defendants the right to confront witnesses, may not be satisfied unless a defendant can come face to face with them in a courtroom. It may also be essential to have face-to-face trials in cases where jurors need the opportunity to assess the credibility of people involved in the case.

“I do think that the ability to have fair hearings—and especially the ability to have jury trials on the criminal side—is much more challenging,” says Thomas. “People who have committed incredibly serious crimes are in custody, and they’re awaiting trial with no end in sight.”

This has created a Catch-22 for those facing serious charges, Thomas says. “Do you insist on your constitutional right to a jury trial? Or do you plead?” Thomas says, and notes that more research is also needed on how video conferencing affects judges’ and jurors’ responses to defendants and witnesses.

There’s reason to worry that video hearings blunt judges’ empathy for criminal defendants, for instance. A 2010 study found that bail amounts jumped 51 percent—\$21,000—when the Cook County, Illinois, jail began using video for initial bail hearings. And a recent report from the Center for Court Innovations and the National Legal Aid and Defender Association highlighted the ways videoconferencing affects the nonverbal cues people rely on to assess credibility.

Take, for instance, eye contact, which we treat as an important signal of sincerity and attentiveness. Video conferencing systems make eye contact impossible—often a user has no idea of the right camera angle to simulate eye contact. If a defendant or a witness appears to be looking down or away from the camera, will judges or jurors discount their credibility?

One study, which examined how credible child witnesses were perceived to be when testifying by video, found children were perceived as “significantly less accurate, believable, consistent, confident, able to testify based on fact not fantasy, attractive, and intelligent.”

This experiment was conducted in 2001 using closed circuit television, so it’s possible viewers would react differently today now that screens have become ubiquitous. Some judges have reported they believe they get more candid answers from child witnesses over Zoom, since the kids don’t have to testify in the intimidating setting of a courtroom. But until this is systematically tested today, there’s reason to worry Zoom hearings may skew outcomes.

“We just don’t know that much about how making decisions over Zoom impacts people’s perceptions and impacts their decision making,” says Thomas.

But Zoom hearings may also help humanize the people involved, says Judge Larkin of Michigan’s 54B District Court. The chance to see litigants in their homes “gives me a window into their lives that’s deeper than what I can get in a courtroom”—people Zoom in with babies on their laps, for example.

Sometimes that window can open a little too wide. She once began a hearing to discover a litigant Zooming in from bed, wearing lingerie with her shirtless partner beside her. As valuable as technology is, Larkin says, incidents like this are a reminder that there is still a value to appearing in a physical courtroom.

“The courtroom experience lends the amount of gravitas that I think these hearings deserve or need,” says Larkin. “There’s something about actually being in the courtroom that impresses upon you the nature of our constitutional system of justice, and I think a lot of that is lost on a Zoom call.”

But overall, it has been a net win, according to Larkin. “There are definitely advantages for litigants and parties in the system,” she says. “For that reason I don’t think we’re ever going to go back to where we were before this started.”

“I think on the criminal side, things have been more of a mixed bag than they have been on the civil side.”

—Kim Thomas, co-director of Michigan Law’s Civil-Criminal Litigation Clinic



READ MORE about the transition to remote proceedings in this issue’s profile of Dan Bergeson, ’82, who practices complex business litigation in the Bay Area. Available at quadrangle.law.umich.edu



FROM BOTTLED JUICE TO HIGH FINANCE,

MOST PRIVATE EQUITY EXECUTIVES start out in banking, finance, or business law, accruing contacts and know-how that they use to support the growth of emerging companies or stabilize promising but struggling businesses. For David Breach, '94, that's mostly true. But if you unfurl his resume and squint somewhere near the bottom, there is work experience you won't see on the curriculum vitae of most private equity titans: six years spent selling meat products and bottled juice in southeastern Michigan while an unfinished undergraduate degree burned a hole in his pocket.

Breach, the chief operating officer and chief legal officer at Vista Equity Partners, was born in a suburb of Toronto, Canada, and moved to Michigan in his teens with his parents and two brothers. He didn't grow up in an academically oriented household—neither of his parents graduated from high school—but hard work was a core family value, and he had a front row seat to his father's rise from a butcher by trade to a regional vice president at a national supermarket chain. After graduating high school at 16, Breach enrolled at Eastern Michigan University to pursue a business degree with a concentration in sales and marketing. But like many first-generation college students, he couldn't afford to wait until after graduation to start working.

"The family business, so to speak, was to work in the food industry, and my dad helped me get my first job as a retail salesperson," says Breach. "I was this teenage kid talking to butchers while they're slicing meat, and I'm trying not to get my sport coat splattered with blood. It was really a great experience for me."

Over time, Breach found himself more focused on career success than academic accolades, and eventually took a full-time job in food sales, shifting his academic schedule to night classes.

"At the ripe old age of 19, I was given an opportunity to be a sales rep with a real salary and a company car, and I thought it was the greatest thing in the world," says Breach. "I did that for five or six

years but eventually started to think about a different life for myself. As a young kid, I'd always said I wanted to be a lawyer because I thought, 'Lawyers are people who talk a lot, and they make a lot of money.' I had learned how to be good at talking, but I wasn't making a lot of money. I realized that in order to do that, I needed to finish my degree."

Four credits shy of receiving his undergraduate degree, Breach was able to satisfy the requirement with co-op credit from his work experience. He enrolled at Detroit College of Law on the advice of the only lawyer he knew—a staff lawyer at the juice company—and for the first time found himself engrossed in academic studies. After two semesters of straight As, Breach transferred to the University of Michigan Law School.

"As a transfer student, you don't come in with any sort of entitlement mentality—you're just grateful for the opportunity," says Breach. "I remember when we did fall recruiting, at Detroit College of Law there were maybe 15 firms that would visit students. At Michigan Law, there were hundreds, and I could look at Atlanta, New York, Chicago, anywhere. It was amazing to me to have all this opportunity."

Breach graduated from Michigan Law as a member of the Order of the Coif, and within days started at Honigman Miller in Detroit while studying for the bar at night. He threw himself into the job and worked on a little bit of everything in the world of corporate law but quickly gravitated toward representing private equity firms, drawn by the industry's fast pace and higher risk tolerance compared to the average corporate client. After five years with Honigman Miller, Breach joined the private equity practice at Kirkland & Ellis in Chicago.

After a few years in Chicago, he was recruited to be one of the founding partners of a new Kirkland office in San Francisco. Breach knew there was some level of risk—the early 2000s internet bubble had recently burst, for one thing—but he believed that Kirkland's private equity expertise would meet an unmet need in the Bay Area, where most large law firms specialized in venture capital and technology. That premise

DAVID BREACH INVESTS IN HARD WORK

BY JAMES WEIR

was borne out by early and sustained growth. By the early 2010s, the office comprised more than 150 lawyers, and Breach had brought in a dozen or so new clients and joined the firm's global executive committee.

"I was probably one of the happiest lawyers around," says Breach. "I worked with my partners to build a strong team and a good office, and I loved my clients. But then I got the proverbial offer I couldn't refuse."



In 2014, Breach received an unexpected call from Robert Smith, the founder and chief executive of Vista Equity Partners—an investment firm that had been a client since the early days of the Kirkland office in San Francisco. Smith asked him to help manage the next chapter of Vista's growth as chief operating officer and chief legal officer of the firm.

"It forced me to rethink the next phase of my life, because leaving Kirkland was not something I was considering—but I came to believe it was going to give me a new set of experiences that I probably wouldn't be able to get even as a very senior partner at Kirkland," says Breach. "The last six years have more than lived up to what I'd hoped for. When I think about how you only get to go around once, I want it to be interesting and challenging, and joining Vista has just been another way to express that."

Pursuing the next challenge is something of a family trait, and Breach cites his mom, Marie, as an inspiration. Although Marie never received her high school diploma, she earned a GED in her 50s and became a tutor through the continuing education department in Plymouth, Michigan, for more than 15 years. Growing up, that spirit of community could be seen in his parent's generosity with their immediate family and neighbors, and that commitment to helping others influenced Breach's turn to philanthropy in his own adult life.

"My parents were the type to give you the shirt off their back, but philanthropy was not a cornerstone of our household growing up because they were just trying to get their kids through college," says Breach. "Once I knew I could take care of my family's necessities, I started to think more about creating

opportunities for those who are disadvantaged, in particular educationally, because I've seen firsthand how a better education can fundamentally change your trajectory in life."

Breach recently made a \$5 million gift to permanently endow the David A. Breach Deanship at Michigan Law, creating a discretionary fund for the dean to use toward initiatives that advance the Law School's mission. In 2017, Breach and his wife established the David A. and Emily A. Breach Law School Scholarship Fund—a \$1 million need-based scholarship that gives preference to students from socioeconomically disadvantaged backgrounds or those who already have student loans. He also contributed \$100,000 to a Law School building project in 2010, participating in a collective gift of over \$4,000,000 from Michigan Law alumni partners and retirees at Kirkland; their gift is now recognized in the Quad as the Kirkland & Ellis Cafe.

"Being admitted to the University of Michigan Law School was a real inflection point in my life and opened me to a world that I frankly didn't know existed and wouldn't have had access to otherwise," says Breach. "I've always worked hard to embrace every opportunity, and I'm blessed with an incredibly supportive wife and family who have been on this journey with me."



Daniel Fryer, '18, will join the Michigan Law faculty as an assistant professor. He currently serves as a research scholar in the Quad, writing about issues of race and law as it relates to political and legal institutions, the history of African American political thought,

criminal justice, and race theory. Previously, he clerked for Chief Judge Roger Gregory, '78, of the U.S. Court of Appeals for the Fourth Circuit, and worked as an assistant district attorney in Philadelphia.



Assistant Professor Emily Prifogle, a legal historian, recently led a series of events titled *Race and Property in Historical Perspective*. The remotely conducted discussions featured scholars who examine how race and historical context influence our understanding of modern property law.

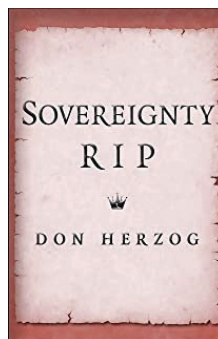
“Public service is really important to me, and the opportunity to work in a new administration is very exciting. OMB is the nerve center of the executive branch, so I confront an incredible array of interesting issues—including COVID, the economy, climate change, and racial injustice—in all sorts of areas of law. It’s important, high-level work with a huge potential impact on society, and it’s very intellectually interesting, which is something that’s really appealing to my nerdy side.”

Samuel Bagenstos, the Frank G. Millard Professor of Law, on taking a temporary leave of absence to serve as general counsel of the White House Office of Management and Budget.

JUST PUBLISHED



William Miller, the Thomas G. Long Professor of Law, published *Outrageous Fortune: Gloomy Reflections on Luck and Life* (Oxford University Press, 2020), in which he applies his trademark “playful pessimism” to cover topics from personal disasters to literary and national ones. Using philosophy, theology, literature, and history, Professor Miller carefully examines the negative beliefs, angst, and anxieties that often arise, unanticipated, from so-called good things.



Edson R. Sunderland Professor of Law **Don Herzog** recently published *Sovereignty, RIP* (Yale University Press, 2020), which posits that not only is sovereignty no longer helpful in framing legal and political problems, but in fact is a “pernicious bit of confusion.”



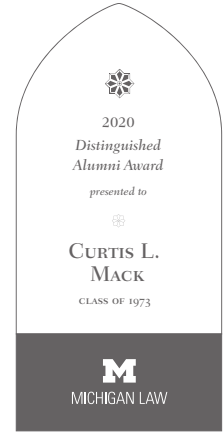
Tamar Alexanian, '21, has been named a 2021 Skadden Fellow, a prestigious two-year fellowship awarded to aspiring public interest lawyers. Alexanian will join the Children's Law Center of California, where she will work to enforce the rights of LGBTQ+ foster youth in Los Angeles dependency proceedings.

“Creating a level playing field requires not that taxes on U.S. and foreign operations be equal, but instead that the foreign operations of U.S. firms not be subject to a tax regime that disadvantages them relative to their true competitors, which are foreign companies.”

James R. Hines Jr., the L. Hart Wright Collegiate Professor of Law, testified before the United States Senate Committee on Finance during a hearing titled “How U.S. International Tax Policy Impacts American Workers, Jobs, and Investment.”



Jennifer Fischell, '16, will clerk for Supreme Court Justice Elena Kagan for the 2021–2022 term. Fischell most recently worked as an associate at the boutique litigation firm MoloLamken LLP in New York City, where her practice focused on complex civil litigation and appeals. Previously, she clerked for Judge Raymond Kethledge, '93, of the U.S. Court of Appeals for the Sixth Circuit and Judge Ronnie Abrams of the U.S. District Court for the Southern District of New York.



Curtis Mack, LLM '73, was presented with the 2020 Distinguished Alumni Award for his years of service to the Law School and the greater legal community. The ceremony took place virtually during Michigan Law's third African American Alumni Reunion, conducted via Zoom in March.



Directing a Historic Election

By James Weir

When **Jonathan Brater, '11**, was appointed Michigan's director of elections in January 2020, the upcoming election cycle was already set to be groundbreaking. Recent changes to Michigan's election laws, combined with its stature as a critical swing state in the presidential contest, ensured the state would be under intense scrutiny during an election all but guaranteed to break turnout records. And then, on the night of the presidential primary in March, Governor Gretchen Whitmer announced the state's first confirmed case of COVID-19.

From 2011 through the end of 2018, Brater specialized in election policy as counsel at the Brennan Center for Justice, and he joined the Michigan Department of State as a legal policy director in January 2019. Brater spent much of that year working with other election officials to implement changes mandated by a 2018 ballot proposal that instituted automatic and same-day voter registration, no-reason absentee voting, and other measures to expand the franchise. In Michigan's decentralized system, local officials are responsible for administering elections, and the Michigan Bureau of Elections, working under the direction of the Secretary of State, sets policies, procedures, and guidance.

"A lot of the recommendations and lessons learned during conversations in 2019 and from the presidential primary were still applicable during the pandemic, but we made adjustments for our local elections in May and again in August, and then again for the general election in November," says Brater. "It was really a back and forth with local officials, trying to understand what resources we have at the state and federal level to support them as best we can within the confines of the law."

One lesson from the presidential primary in March concerned same-day voter registration, which is only available at the clerk's office as opposed to individual polling places. Clerks in many jurisdictions, particularly college towns, saw extremely long

lines as people registered to vote and then immediately applied for an absentee ballot to vote on the spot. It was clear that more staffing resources were needed and that additional offices to encourage voter registration could help manage demand on election day. In Ann Arbor, for example, the City Clerk partnered with the University of Michigan to open a satellite office at the Museum of Art, which provided more access to potential voters and helped spread out registration in the lead up to the election.

In the August primary, more than 60 percent of voters opted to vote by mail, demonstrating how widespread the practice would be in November. (The general election ultimately saw a similar percentage of votes by mail.) The August results led to the purchase of additional voting machines and high-speed letter openers and scanners—an undertaking complicated by pandemic-related supply-chain issues—and a push to get the Michigan legislature to allow clerks to start counting ballots prior to election day. Under pressure to act, the legislature ultimately passed a bill that provided a limited amount of time on the Monday before the general election to open envelopes, but workers remained unable to tabulate votes until election day. As a result, officials were bracing for some jurisdictions to take three or four days to finish counting, but with the lessons from August and by devoting as many resources as possible, Michigan's election—its largest ever by more than a half million voters—was called about 24 hours after polls closed.

Despite efforts by some partisan actors to falsely paint Michigan's presidential results as fraudulent in the weeks after the election, it was "the most secure election we've ever had," says Brater. "We have a resilient system, and it relies on people from all different backgrounds and different partisan perspectives doing the work collaboratively and with the good of the country in mind first and foremost. Election officials across the state did a really heroic job in being able to allow our democracy to continue under these extremely difficult circumstances."

At the Nexus of Law, Media, and Advocacy

By James Weir

Last September, **Jerika Richardson, '07**, joined the National Urban League as senior vice president of equitable justice and strategic initiatives, a newly created role within one of the oldest civil rights organizations in the country. Richardson will work in close partnership with the League's leadership and its network of 90 local affiliates to establish lasting equity and justice through policy advocacy, civic engagement, and legislative reform.

"It's an exciting opportunity because I am building and formalizing a department from the ground up that will live within the fabric of the National Urban League long after I'm gone," says Richardson. "In order to get legislative and policy changes enshrined and codified, we have to engage with the government and with the law, and we have to engage with the media—we need to use all of the tools at our disposal."

Richardson's career path began to take shape when she moved from New Jersey to attend Spelman College, a historically Black college in the Atlanta area. She quickly registered to vote for the first time and became involved with local voter registration efforts, but come election day in November 2000, her name and the names of many others who had registered using Spelman College addresses had not been added to the voter rolls. This was particularly notable for Richardson, who recognized some successful first-time voters as local citizens—unaffiliated with Spelman College—whom she had helped to register while volunteering. Attempts to reach voting officials were unsuccessful, as were efforts to garner local media coverage in support of their cause. Richardson and many of her classmates were denied the right to vote.

"That day profoundly impacted my career trajectory, and it was no longer, 'Do I want to be a lawyer, do I want to go into government, do I want to be a journalist?'" says Richardson. "Instead of forcing myself to choose one lane, I recognized how interconnected those pieces are, and I have pursued a career at the intersection of all three."

After law school, Richardson covered politics and the law at ABC News in New York City before being hired out of the briefing room by then-U.S. Attorney Preet Bharara to serve as a spokesperson for the U.S. District Court for the Southern District of New York. She went on to become chief of staff for the New York City Office of the Counsel to the Mayor, and deputy executive director of the New York City Civilian Complaint Review Board, the nation's largest independent police oversight agency.



Richardson's background in the media and government, combined with her understanding of the law, have allowed her to support the League's local affiliates as they navigate issues related to police accountability and criminal justice reform. During Richardson's tenure with the civilian review board, for one example, the agency conducted an independent investigation into the death of Eric Garner that found cause for the officer's termination. To Richardson, the case demonstrates the importance of civilian oversight, and that impartial and transparent civilian review boards can be a critical tool in strengthening accountability while enabling citizens to participate in issues that affect their communities.

Following the unprecedented-in-scale racial justice protests that emerged last year in response to the police killings of Breonna Taylor, George Floyd, and other African Americans, Richardson is working to translate awareness into substantive policy change. In partnership with lawmakers and other stakeholders, they endeavor to pass legislation at the state and federal level around policies such as eliminating no-knock warrants, expanding requirements for body-worn cameras on police, and other priorities.

"I have an opportunity to help people and push our country forward, and my responsibility in this job is to stay focused on justice and equity, not just when it comes to policing but in education, housing, and health care," says Richardson. "It's about collaborating and working with communities on policy reforms that will have a profound effect for years to come."

Alumnus Commits to Appalachian Roots with New Scholarship Fund



George Jenkins, '66, vividly recalls a *Life* magazine article about the Ohio River Valley that was published when he was a young man. The article described central Appalachia, where he was born and raised, as an area dominated by steel mills and coal mines, where the only way for young people to leave the valley was through athletics. "It was meant to

be a positive article showing how athletes were able to obtain scholarships and find success outside of the Ohio Valley, but the people of the region were very offended by the article and the pictures of the men coming home from work covered with dust and dirt," says Jenkins. "In fact, they were so incensed that they gathered in Martins Ferry, one of the small towns in the area, and they built a bonfire out of the magazine."

Jenkins, himself a high school football and basketball star who left the area for his education, bore witness to the "anger, frustration, and hopelessness" felt by the region's residents. Many of the barriers to upward mobility that existed during his youth in Appalachia remain or have even been exacerbated in the intervening years, according to Jenkins. "It's a very different story today from what it was back when I was growing up. People had good jobs and it was a relatively prosperous community, by working-class standards. It was a wonderful place to be young because there were a lot of wide open spaces and no one stayed in the house," says Jenkins. "Now, all the steel mills and most of the mines are gone. The unemployment in my home county is around 20 percent, and the whole community has changed."

Jenkins received several athletic scholarship offers and assumed sports would remain his primary focus during his undergrad years. His constitutional law professor at Kent State University, however, encouraged him to pursue law school. "It was a totally foreign concept to me. I thought I was doing exceptionally well just to go to college and graduate," laughs Jenkins. "Even though I was a good student, I never concentrated on academics in high school, and really my total passion was dedicated to athletics. However, my score on the law aptitude test was so high that for the first time in my life I thought I might be bright, and I could have a future using my brain rather than my brawn."

Jenkins transformed from a casual student to a dedicated one during his time at Michigan Law and went on to have a successful career of nearly 40 years at Vorys, Sater, Seymour and Pease LLP in his native Ohio. Currently retired from practicing law, he continues to develop and manage real estate at the age of 80.

Drawing on a growing concern for the region and the country at large, Jenkins, along with his wife, Gina, decided to launch the Gina and George Jenkins Aspirational Scholarship Fund, with the goal of benefiting students from central Appalachia. "I believe very firmly that education is the foundation for success, but I know how difficult it was for me to pay for my education. With this scholarship, we wanted to inspire people from Appalachia to pursue a first-class education and to use it to benefit not only themselves but the country as a whole," he says. "I feel very strongly that the Constitution, the rule of law, and our democracy are all under attack, and that lawyers have a special obligation to stop the erosion of these fundamental American principles. In difficult times, people have to assume difficult burdens, and I think now is one of those times." —CLP



Legendary Professor Inspires Scholarship in His Honor

For almost five decades, Professor James J. White, '62, has been one of Michigan Law's most revered professors, challenging and inspiring thousands of students in and out of the classroom. Today, he remains a beloved figure in the Quad, and the Professor James J. White Scholarship Fund has been established in his honor by several dedicated alumni.

Professor White, the Robert A. Sullivan Professor of Law Emeritus, joined the law faculty in 1964 and taught until his official retirement in 2014 (teaching occasional classes afterward). He also served as associate dean from 1978 to 1981. He is considered a foremost expert in the field of commercial law, and his publications on the subject remain in widespread use. Indeed, Professor White's scholarship and outspoken leadership have left an indelible mark, and he was also instrumental in initiating clinical education at Michigan Law. In 1969, he taught a group of 10 students who took on cases from the Washtenaw County Legal Aid Clinic, and he helped propose a rule to the Michigan Supreme Court that allowed students to practice in state courts with appropriate supervision.

"Professor White is as notable a teacher as he is a scholar," says Laura Ricketts, '98. "One could tell how much Professor White loved teaching by the way he treated his students. He respected them. He was honest with them. He encouraged and mentored them. He challenged them. He clearly cared about his students and their success in class as well as in their careers. Because of this, his students uniformly respect and adore him." Professor White's shrewdly persistent teaching style was used to full effect during his Contracts, Commercial Transactions, Negotiations, and Bankruptcy classes and provided the educational basis that so many students used as a foundation for their professions.

Recognizing his influence and storied career, Eric Lefkofsky, '93, says, "J.J. White represents the best of Michigan Law. He is thoughtful as well as thought provoking, and he makes everyone around him more engaged in the world and the responsibility we all share in shaping its future." Several other former students have joined the effort, including Kevin Conroy, '91. "More than any other professor, J.J. inspired me to solve complex problems by looking at multiple solutions from different perspectives. I'm lucky to have been one of his students," says Conroy.

The entire Law School community has been enriched by Professor White's many contributions during his half century of service in the Quad, and thanks to several generous alumni, future generations will continue to benefit from his legacy. When asked about his thoughts on the scholarship, Professor White said, "The best part of teaching law was the interaction with students. The fact that a number of my students were willing to commit to this scholarship is something that makes me very pleased and proud." —CLP

More than \$900,000 has been given to the Professor James J. White Scholarship Fund to date. Commitments of \$50,000 or more have been received from the following generous alumni:

Brian Byrne, '95

**Kevin T. Conroy, '91,
and Sheila M. Conroy, '91**

Brad Keywell, '93

John F. Klein, '90

Eric P. Lefkofsky, '93

**Liat R. Meisler, '97,
and Ron E. Meisler, '99**

Terrence G. Perris, '72

Laura M. Ricketts, '98

If you would like to make a contribution to the Fund, please contact Erica A. Munzel, '83, at emunzel@umich.edu or 734.763.0414.

For Denver-based Donor, Upholding Democratic Institutions Starts during Law School

Throughout his career in law and local government, Ford Wheatley, '79, has firmly believed in the strength of American institutions and the nation's democratic legacy. With a desire



to ensure that this legacy endures for future generations, Wheatley recently established an endowed fund at the Law School to support research, teaching, and activities that reinforce the pillars of democracy.

Wheatley's faith in the greatness of American institutions was shaped during his formative years. Both of his paternal grandparents served in the U.S. Navy during World War I and impressed upon him the importance of fulfilling his patriotic duty. His maternal grandparents immigrated to Detroit from Lebanon and shared with him their "deep love" for the United States and the opportunities it afforded them.

After receiving his undergraduate degree from Michigan State University, Wheatley's family encouraged him to continue his education, and national events helped steer him toward Michigan Law. "We were coming out of the Watergate period, and as I watched the Senate hearings, I gained a heightened appreciation for the role that lawyers serve in preserving institutions that are the guardrails for democracy," he says. That conviction has served as Wheatley's guiding principle throughout his career.

Following graduation, Wheatley was drawn to Colorado, trading his home state of Michigan for the Denver enclave of Glendale. He clerked while he was taking the bar and went on to launch an estate planning practice with connections he met through a group of Michigan Law alumni in Denver. In tandem with his law practice, Wheatley spent 36 years in local government, serving part-time as a city councilman, the town's mayor, and in various judgeships.

Impressed by the legacy of philanthropy at the Law School and concerned by what he calls "attacks on institutions in this country," Wheatley decided to endow a fund at the Law School. The Ford Wheatley Fund Supporting Democratic Ideals will be used to support research, courses, events, and activities that study several pillars of a democratic society, including freedom of speech, natural resource preservation, and civil debate.

"There is great importance in the separation of powers and an attorney's role within our institutions," says Wheatley. "I think a lot of us, myself included, have taken our democracy for granted and thought it was enough that we had been bestowed with great institutions and a great Constitution. If anything, we need to constantly work to protect those institutions, such as a free and accountable press and an independent judiciary. These are crucial and not a given by any means."

Wheatley believes that the nation's democratic structures will face challenges over the next few decades, and he hopes the Fund will educate well-rounded students from an array of backgrounds who will not only learn the technical skills needed to do their jobs, but be instilled with values that help society at large. As Wheatley puts it, "the success of our nation's institutions is not automatically assured on its own. All of us in our small way have a role to play in ensuring that the work they do continues, and there is no better institution to assure that that happens than Michigan Law."—CLP



For One Alumna, It’s All About Her Peers in Life, Work, and Giving Back

Trisha Rich has remained involved with Michigan Law as a dedicated volunteer since she graduated in 2005, even serving as co-chair of her alumni reunion committee for her five-, 10-, and 15-year milestones.

“I love the education I received and the doors that Michigan Law has opened for me,” says Rich. “But the most important things I take from Ann Arbor are the dozens of important, tangible, real relationships with people I very much care about, 15 years after we’ve left campus. I made some of the most important friends in my life at Michigan Law.”

Rich also has a history of giving at the Law School, recently committing to a monthly, recurring gift and previously documenting a significant bequest for her alma mater. “I am a first generation college student who grew up in the Thumb of Michigan,” she says. “One of the things that really matters to me is knowing my gifts help people like me, kids who grew up on a farm in the middle of nowhere and are trying to get a strong education and do something different with their lives.”

Her ongoing connections to Michigan Law classmates have helped drive Rich’s continued volunteerism and philanthropy. “I felt I should set a good example for my classmates, and I think that the administration is in the best position to know where they need to deploy resources, so I make my gifts to the discretionary Law School Fund,” she says.

Now a partner at Holland & Knight who alternates between the firm’s Chicago and New York offices, Rich has worked to carve out her own niche, representing lawyers, law firms, and legal departments “on all sorts of things where a lawyer would need to hire a lawyer.” This practice has allowed Rich to tap into her background in philosophy and follow her passion for ethics.

Although she didn’t know this career path was possible when she was in law school, Rich clearly enjoys what she does. “It’s easy for me to put myself in the shoes of my clients and see exactly how they made an error,” she says. “Being a lawyer is so much a part of our identity that when your professional judgment or your license is called into question, it can be devastating. I really enjoy working with other attorneys and helping them when they get into trouble—I am a defender of lawyers at heart.”—CLP

I M P A C T

Recent Gifts

Steve Chameides, '70, has made a gift of \$50,000 to the Law School Fund in recognition of the 50th Reunion year for the Class of 1970. Chameides is a partner and business lawyer at Foley & Lardner LLP, based in Washington, D.C.



Steven Fetter, '79, and his wife, **Bonnie K. Kellogg**, have made a \$1,000,000 gift to the Steven Fetter Fund, honoring his friend and mentor Professor Ted St. Antoine, to be used

toward special capital projects at the Law School. Fetter is the president of Regulation UnFettered, an energy advisory firm based in Seattle.

Erik Stapper, '60, and his wife, **Antoinette**, have made an additional gift of approximately \$434,000 to their charitable remainder trust, which will benefit the Law School Fund at the dean’s discretion. Erik remains active in his international estate planning practice as senior counsel at Davidson, Dawson & Clark LLP, which maintains offices in New York and Connecticut. He closed Stapper & Van Doren at the end of 2018.



Adrian Steel, '75, and his wife, **Karen**, have made a \$50,000 gift to the Law School Fund. Adrian is a senior counsel in the Washington, D.C., office of Mayer Brown.

Charles “Charlie” Thornton, '67, and his wife, **Suzanne**, have made a \$100,000 gift to endow a scholarship for law students. Charlie recently retired from Associate Capital, a San Francisco-based real estate development partnership. Charlie previously was a partner at Paul Hastings LLP in San Francisco and Los Angeles, where he represented owners and developers of commercial real estate.

Barbara Garavaglia, '80 Turning the Page

By James Weir

Barbara Garavaglia, '80, was sitting for the bar exam when the course of her career was unexpectedly turned on its head. During a break in the exam, she struck up a conversation with the person seated across from her, and afterward they went for lunch to discuss his experience working as a librarian at a law firm.

"It was like a flash of light, a truly serendipitous moment when I realized I wanted to be a law librarian," says Garavaglia, who recently retired from the University of Michigan Law Library following 32 years of service.

After further research and soul searching, she gave up a judicial clerkship and her planned career as a public interest lawyer to earn her master's degree at the U-M School of Library Science (now known as the School of Information). Garavaglia completed the program while working as a research attorney in Ann Arbor, where she supported small firms by researching and writing appellate briefs and providing training seminars on emerging legal databases like Westlaw. She went on to run electronic research services at the State Law Library of Michigan as assistant director, supporting private and government attorneys, among others.

In 1988, Garavaglia returned to Michigan Law as a reference librarian and was shortly promoted to the head of the reference department, a position she held until she assumed the role of assistant director in 2007. From 2011 until her retirement last fall, she served as director of the Law Library.

Garavaglia's tenure at the Law School was marked by dramatic change as the world of print research was transformed by digital research tools. She led the library's efforts to modernize the collection, and as director she restructured the library's budget to manage cost increases in legal publishing without harming research capability. But her efforts to reshape the Law Library's support of faculty research and scholarship is perhaps her most significant legacy. She built the infrastructure for the research service while also dedicating long hours to conducting in-depth research.

"Her tireless work designing and building the University of Michigan Law Library's faculty research and document delivery services resulted in expert in-depth programs that became integral to faculty scholarship under her leadership," Dean Mark West noted in his announcement about her retirement.



The changes she oversaw involved everything from the seemingly mundane overhaul of document delivery workflows to the more nuanced cultural shifts that empowered reference librarians to add real value to scholarship. The processes and services she designed have since become a model for academic law libraries throughout the United States.

"When I started, the faculty research service consisted of two law students working on routine research, but students generally don't have the experience to handle the in-depth discussions that accompany the intake of a research project, nor do they have the expertise to handle complex projects," she says. "So, we hired attorneys who were expert researchers who could be more involved with our professors. We were the very first in the country among academic law libraries to do this sort of thing."

Garavaglia also brought a service-oriented mindset to the library and encouraged librarians to create a welcoming environment, an approach she credits to her experience as a first-generation law student. "Law school can be a really alienating experience, and I always wanted the library to be a place where there is no stupid question—where students have access to librarians with legal expertise to help them develop the skills essential to good lawyering."

"Working in a profession that integrated my legal education and interest in complex and varied research and problem solving was amazing, and to have been able to participate in the intellectual life of the Law School by working closely with Michigan Law faculty on cutting-edge scholarship is something that I'm very proud of," she says. "I have never regretted my choice of career. People always say, 'Librarians tend to be such happy people.' Well, that was certainly the case for me."



READ MORE CLASS NOTES ONLINE

Class Notes year by year are available online, as well as a profile of Laurence Kahn, '77, whose nonprofit, Help Now!, recently launched a nationwide advocacy hotline to provide free crisis resolution. Read more at quadrangle.law.umich.edu



Modernizing Room 100

For nearly a century, Hutchins Hall Room 100—also known as Honigman Auditorium—has been the convening forum of the Law Quad, playing host to seminal events for generations of Michigan Law students. In recent years, however, the iconic auditorium had begun to reveal its age. Last winter, the Law School began a year-long renovation project to bring the auditorium in line with contemporary standards. Despite some work interruptions due to COVID-19, the project was completed in February. The ventilation and heating systems have been improved, and the room is now equipped with air conditioning—no more straining to be heard over the roar of fans during the warmer months. New lighting and window shades were added to improve energy efficiency, outdated audiovisual technology was upgraded across the board, and modifications to the stage and seating areas were made to better accommodate people with disabilities.



ALUMNI ROLL CALL

New job or new city? Visit lawumi.ch/alumnirollcall to update your Michigan Law alumni profile to stay in touch for Reunion updates and other alumni events and information.

READ CLASS NOTES AND MORE ONLINE

Additional stories, Class Notes, and In Memoriam are available online. Read more at quadangle.law.umich.edu

INSIGHTS FROM THE

Quad

Recordings of the Insights from the Quad events—Michigan Law's series of virtual faculty discussions held during the 2020–2021 academic year—are available online to watch at your convenience.

- **Moving Toward Equality** with Professor Catharine MacKinnon
- **Legal Responses to COVID-19** with Professors Nick Bagley, Kyle Logue, and Nicholson Price, moderated by Monica Hakimi
- **Voting Rights and American Democracy** with Professors Sam Bagenstos and Ellen Katz
- **Criminal Justice Reform** with Professors J.J. Prescott, Eve Brensike Primus, '01, and Margo Schlanger
- **The Supreme Court in a Polarized America** with Professors Leah Litman, '10, Julian Mortenson, and Richard Primus
- **Debating the Corporate Purpose** with Professors Laura Beny, Vikramaditya Khanna, and Gabriel Rauterberg
- **America and the World** with Professors Kristina Daugirdas, Susan Page, and Steve Ratner

Visit lawumi.ch/insights to catch up on any events you missed.

