

S P R I N G 2 0 1 7

UB LAW FORUM

The Magazine of the University at Buffalo School of Law • The State University of New York



Our new direction

**Newly appointed dean Aviva Abramovsky
to lead the path forward**

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Message From the Interim Dean

A new direction for a new reality

We often speak of “the calm before the storm.” Yet every sailor knows that there is another calm – the calm *after* the storm. It is the calm after the storm that brings those great domes of crisp, clean air, blue, cloudless skies, bright sunshine and gentle breezes. The calm before the storm is ominous and unnatural, full of dread. The calm after the storm is one of relief and optimism; it holds out the promise of a comforting return to normalcy.

The past several years have been stormy ones for the legal academy. In the course of a few short years, applications to law schools fell by 40 percent nationally. Law schools struggled to adjust to this new reality. Most shrank enrollment dramatically and began to compete bitterly for a dwindling pool of students. Steep tuition discounting became common, further reducing revenues, especially among schools that were marginal to begin with. Some schools did not make it. Four law schools are now in the process of shutting down operations, and no doubt more closures are to come.

Like every other law school, UB School of Law was hit hard by these developments. I took office as interim dean in December 2014, with a charge from the provost to manage our response to these events and to chart a course toward long-term stability and sustainability. Over the last 2½ years we have been preoccupied with stabilizing enrollment, rightsizing the institution through shrinkage of payroll and expenditures, exploring



“We now find ourselves
in clean waters with a
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the future of legal education and rethinking our place in it.

As I look forward to turning over the helm to a new dean this summer, I am pleased to report that I think we have passed through the worst of it and now find ourselves in clean waters with a prospect of considerably smoother sailing. Enrollment has held stable for the third consecutive year. We are smaller, to be sure, but now predictably and intentionally so. Numerous retirements and a few departures, wistful occasions though they are, have left our faculty and staff fewer in number, but correspondingly leaner and better organized for effective action. Expenditures are down to

sustainable levels.

Best of all, we are busy developing an exciting new degree-granting program of undergraduate education in law that will radically reposition the School of Law as the one-stop center of a greatly expanded program of legal education at UB. Several additional steps and important approvals are still necessary. But when it is up and running, this program, we are hopeful, will leave us much stronger, more secure and more firmly connected to the University of which we are an indispensable part.

It has been an extraordinary privilege to serve the law school and the University during these challenging times. I only hope that my turn at the helm has not left me, like Coleridge’s slightly deranged Ancient Mariner, grabbing random pedestrians with a bony hand to tell them an endless yarn of stormy seas and broiling calms. If you find yourself at a future bar event trying to avoid some guy with “a long gray beard and glittering eye,” I sure hope it’s someone else.

I look forward to returning to the faculty to resume doing what I love most: training young people to be great lawyers. Please accept my profound thanks for your constant support and for the pleasure of your company along the journey.

With all best wishes,

cover story:

OUR NEW DIRECTION



The **PATH FORWARD**

UB School of Law is entering the next phase of its mission streamlined, refocused and re-energized. As our new dean arrives to implement and build on a newly created strategic plan, our institutional goals are clear:

- To be a **national and statewide leader** in legal education
- To be an **international thought leader** in the study of law
- To be an engaged **partner in our community**
- To **train civic and business leaders** who will excel in the changing world of legal practice



“UB School of Law is perfectly poised to take the lead in providing innovative, multidisciplinary and modern legal education in a world where the practice of law is radically changing.” — Dean Aviva Abramovsky



Aviva Abramovsky, an expert in commercial law, insurance law, regulation of financial entities and legal ethics, has been named dean of the University at Buffalo School of Law. She becomes the 19th permanent dean in the school's 130-year history and the first woman to hold the position.

Abramovsky, whose appointment is effective in July, succeeds interim Dean James A. Gardner, who will continue as the school's Bridget and Thomas Black Professor. She comes to UB from Syracuse University College of Law, where she served as associate dean for international initiatives and Kaufman Professor of Entrepreneurship and Innovation.

She is the daughter of two UB alumni – Abraham Abramovsky (Law '70) and Deborah Abramovsky (BFA '70).

“Professor Abramovsky was chosen for the position because of her impressive leadership experience, academic accomplishments, and creative,

entrepreneurial vision for the UB School of Law and the future of legal education,” said UB Provost Charles F. Zukoski. “Under her leadership, I am confident that the School of Law will continue to build on its long tradition of delivering innovative and interdisciplinary research and learning in pursuit of justice.”

Abramovsky has long-standing and deep roots with UB. “I am deeply honored for the opportunity to collaborate with UB's world-class law faculty to chart a new path for the law school,” she said. “Legal education in the United States is at an inflection point, and UB School of Law is perfectly poised to take the lead in providing innovative, multidisciplinary and modern legal education in a world where the practice of law is radically changing.”

As associate dean at Syracuse, Abramovsky led the internationalization effort in the College of Law. She spearheaded Master of Laws and two-year J.D. programs for foreign lawyers, launched a visiting scholars and researchers program, developed international partnerships to enable a new international student exchange program and created an

English pre-matriculation program for law.

Her scholarship includes numerous articles and legal treatises, including authoring *McKinney's Uniform Commercial Code* forms for New York. She is also the editor of *LSN Insurance Law, Legislation & Policy*. She contributed to *Research Handbook on International Insurance and Regulation*, and her scholarship has been recognized as a “litigation essential” by LexisNexis.

Abramovsky served as an academic evaluator for the American Bar Association's federal judiciary committees for then-U.S. Supreme Court nominees Samuel Alito and Sonia Sotomayor. Among other professional leadership positions, she also served as chair and later executive board member of the insurance law section of the American Association of Law Schools.

She holds a J.D. from the University of Pennsylvania and a bachelor's degree in industrial and labor relations from Cornell University.

Article written by John DellaContrada, UB News Center

Advocacy Institute to build on success under new leadership

Advocacy training is at the heart of graduating profession-ready lawyers. With a new director in place and a *Blueprint for Excellence* in development, the School of Law's Advocacy Institute is looking to further its mission of offering students multiple opportunities to hone their advocacy skills through coursework, competitions and direct service.

Following the departure of Professor Charles Patrick Ewing, **Professor Kim Diana Connolly** has been appointed as director of the Advocacy Institute, the umbrella organization for the law school's trial and appellate advocacy offerings, moot courts, alternative dispute resolution training and competitions, and its Innocence and Justice Project. Connolly is the vice dean for advocacy and experiential education, and also serves as director of clinical legal education.

"Throughout her academic career, Kim has dedicated her work to helping law students become profession-ready, and has supported other law school faculty in doing the same," says interim Dean James A. Gardner. "Her focus on curricular integration and her

advocacy experience will help guide the Institute as it continues to evolve. Kim also brings strong fundraising, management and law firm experience, skills that are crucial to the success of the Institute going forward."

The Institute, launched in 2014, is "designed to serve as a fulcrum to the advocacy education efforts of UB School of Law," Connolly says. "It connects experts (both professional and academic) in various forms of advocacy to law students on a weekly, if not daily basis, and provides them with the support needed to make learning fun."

"In the past several years, UB law students supported by the Institute have placed or taken top prizes in various regional and national competitions, which is a testament to the hard work of our

coaches and students in fiercely preparing to compete. But as importantly, Institute programming has offered over half the law school class the opportunity to experience advocacy in a hands-on, supported setting, better readying every student who participates for the practice of law."

In consultation with its national advisory board, Connolly is developing a *Blueprint for Excellence* to guide the Institute's continued growth. The board, chaired by renowned Buffalo trial attorney **Terrence M. Connors '71**, includes more than a dozen accomplished practitioners from the bench and bar, including highly regarded experts in New York City, Chicago and Washington, D.C.

"The Advocacy Institute benefits from the commitment of a national

"Institute programming has offered over half the law school class the opportunity to experience advocacy in a hands-on, supported setting."

— Vice Dean and Professor Kim Diana Connolly



board of advisers who are leaders in their field," Connolly says. "They are working hand in hand with those doing the day-to-day work of the Institute to make advocacy happen. They support the hard-working directors of our trial advocacy, moot courts, and alternative dispute resolution programs, and our Innocence and Justice Project. Our program directors take the lead in direct student work and programmatic management.

"The successful initial years of Institute activity have taken us to a point from which next steps can be outlined based on experience," she says. "In the process of developing a plan for moving forward, we can take stock of our successes, examine what other top schools are doing, assess our resources, and plan a program for the coming five years that will leverage the investment and bring even more success to the program. One specific focus of the planning process is to better interweave the advocacy offerings through the curriculum into a cohesive program."

One of many students who have benefited from the work of the Institute is **Courtney D. Morphet '17** – so much so that she recently met with the advisory board to share her experiences.

Morphet told the board members about her trial advocacy

Reading, watching, learning

A good advocate needs the best resources.

Enter the Charles B. Sears Law Library, where Director **Elizabeth Adelman**, vice dean for legal information services, and **Theo Belniak**, associate director for collections, licensing and assessment, are building a collection of materials that will further enhance our students' skills in advocacy.

Working with Vice Dean Kim Diana Connolly, Adelman and Belniak are assessing the Law Library's existing holdings and identifying additional resources, both print and multimedia, that will support the work of the Advocacy Institute. The resources – "some more practical, some more theoretical," Adelman says – will include multimedia items such as videos and online streaming materials that "will be examples of what advocacy looks like in real life."

"We're updating this collection," she says, "to make sure that we have the most current materials in support of the Institute's mission."



team's victory this year in the Queens County District Attorney's Mock Trial Competition, and says her team all left with job offers from that DA's office and downstate defense firms.

More importantly, she says that being part of several trial advocacy teams sharpened her advocacy skills. When she was interning last summer at the U.S. District Court for the Western District of New York, she

says, "I watched young attorneys making some mistakes – and I knew they were mistakes because I had seen them happen in competition."

In the coming year, a new Advocacy Institute podcast series will be launched, offering online access to presentations by experts from the region and nation – a one-stop shop for advocacy lessons. "It will be useful not just to students hoping to graduate with profession-ready experience, but also to practitioners looking to polish their skills," Connolly says. Additional new programming is in the works with the goal of ensuring that the Institute builds on its continuing commitment to offering the kind of excellent advocacy training opportunities available at top-ranked programs nationally.

The UB School of Law team at the Queens County District Attorney's Annual Mock Trial Competition.

Left to right: Adela Smehlik '17, Courtney D. Morphet '17, Victoria R. Karnisky '17 and Kaylan C. Porter '18.



New cross-border LL.M. program invites the world to Buffalo

By a happy accident of geography, New York's public law school happens to have a presence on an international border. Now, the School of Law is leveraging its proximity to Canada to create a new degree – a master of laws program in cross-border legal studies.

The year-long program, like most LL.M. programs in the United States, is expected to attract primarily international students. The first class could enroll as early as this fall, says **Professor Meredith Kolsky Lewis** (inset), who will direct the program. She also serves as vice dean for international and graduate programs and director of the School of Law's Cross-Border Legal Studies Center.

The Cross-Border LL.M. is unique, Lewis says. "Because we are on an international border, which is quite unusual, we have access to alumni and others who are engaging in cross-border practice every day. So we're able to give our students practical experience as well as classroom experience. We're also not that far from Toronto, and there are other major commercial centers on both sides of the border within a couple of hours' drive."

Admission to the program requires a first degree in law, which



is an undergraduate program in most of the rest of the world. Students will take four courses from over 30 offerings relevant to cross-border legal studies, as well as a legal research and writing class and a course that introduces the U.S. legal system. The remainder of the students' coursework consists of electives from the rest of the law

school's course offerings. Each student will be assigned an academic adviser to provide one-on-one guidance throughout the program.

The LL.M. program will share many elements with the concentration in cross-border legal studies currently offered to School of Law students, including a major



Douglas W. Dimitroff '89, partner at Phillips Lytle LLP, shares real-life lessons with cross-border legal studies students in capstone course.

“Because we are on an international border, which is quite unusual, we have access to alumni and others who are engaging in cross-border practice every day.”

— Vice Dean and Professor
Meredith Kolsky Lewis

capstone project that is executed in conjunction with lawyers at major Buffalo and Ontario, Canada, firms that have a significant cross-border practice. Areas of practice include trade, tax, immigration, real estate, and corporate and transactional work. The capstone course teaches students to identify relevant legal issues in real-world cross-border contexts while learning lawyering skills such as professionalism, accurately recording billable time, business development techniques, and legal research and writing.

Among the participating firms is Phillips Lytle, where **Douglas W. Dimitroff '89** is a partner who has worked with students interested in



cross-border legal practice.

The capstone course, he says, is “a very hands-on class that develops assignments based upon real-life scenarios. It’s a very practical class. We put the students in a position of having to provide legal advice to a theoretical client. We treat the students as if they were new associates.

“The cross-border issues that we’re working with in the capstone class are similar to what we regularly see in practice,” Dimitroff says. “So much of what we see is often global trade and global issues that extend beyond Canada.”

He says his firm benefits as well by being exposed to promising students who may have otherwise

chosen to work at another global law firm.

Dimitroff, who chairs the School of Law’s Dean’s Advisory Council, says that despite the recent decline in interest among international students for studying in the United States, the growing global nature of economic activity means there will always be a market for expertise in cross-border legal issues. “Mid-size and smaller U.S. companies are increasingly doing business abroad,” Dimitroff says. “Most international businesses recognize that to compete effectively they need to expand to the U.S. market. That trend is not declining. Activity is definitely picking up.”

Collaborating to make later life the best it can be

Older people fall down – statistically, a lot. It’s one of the most significant health risks they face. So what could a big, complex university like UB do about that? **Assistant Clinical Professor Danielle Pelfrey Duryea** counts the ways:

Neuroscientists can study the brains of mice and figure out how to help people keep their balance.

Doctors can counsel their elderly patients about fall prevention.

Physical therapists can help their clients strengthen their abdominal core muscles.

And law faculty and students can look at housing codes and compliance with federal accessibility standards; can draft a model ordinance on residential design that municipalities could enact; can contribute informed comments on new Americans with Disabilities Act regulations; and can even lobby for changes in the law.

That approach to tackling a problem is the hallmark of a new initiative in which Pelfrey Duryea represents the School of Law: the University-wide Center for Successful Aging. The idea is to get practitioners in widely disparate disciplines together to tackle common problems, cross-pollinating their ideas and working toward real results in the community.

“We wanted this to be broadly interdisciplinary,” says Pelfrey Duryea, who is associate director of the Center and also serves as the School of Law’s assistant dean for interprofessional education and health law initiatives. “You could have a nursing researcher sit down with an engineer, and they would have things to talk about.

“We said, ‘Let’s find a way to make this a big



tent where people meet each other across widely disparate disciplines, and help them figure out what they have in common, and dream up the kind of research that would be truly trans-disciplinary.’”

The Center already comprises a dozen University schools and departments — not only the health and allied professions, but law, management, engineering, even sociology.

Dr. Ranjit Singh, who teaches in the Department of Family Medicine in UB’s medical school and studies the public policy aspects of health care delivery, serves on the steering committee for the Center for Successful Aging.

The initiative, he says, “is helping us to think about patients’ health and well-being in a broader way. In the health care professions, we tend to see through the lens of the health care we provide. But we know health and well-being are influenced by many factors. The social determinants of health — housing, income, education, social networks, social support, employment — indirectly but very significantly influence people’s health, and

all of these are things that legal services can improve.”

This interdisciplinary, whole-person approach is key to all of Pelfrey Duryea’s work, including her service to the University’s interprofessional education (IPE) initiatives. They have launched a twice-yearly Interprofessional Forum, a three-hour experiential education opportunity for students in the graduate schools of health sciences, social work, law, management, and public health. Using case studies, the forum aims to teach the students how to work as an interprofessional team. The first forum, last fall, drew 900 students.

In addition, IPE has created a series of self-guided learning modules that all departments can make available to their students.

Pelfrey Duryea says the Center is also awarding seed grants to small teams to fund pilot projects, with the hope that their efforts will attract further grant money.

“We think that UB researchers should look at the Western New York ecosystem for aging as a whole,” she says. “By having our priorities driven by what the city needs, we will better understand how to solve problems well.”



“We think that UB researchers should look at the Western New York ecosystem for aging as a whole.” — Assistant Clinical Professor Danielle Pelfrey Duryea

A more meaningful student experience

A richer experience for UB School of Law students, and a more diverse legal profession – that’s the ambitious portfolio that comes with **Lillie V. Wiley-Upshaw’s** new role.

Wiley (inset), longtime leader of the school’s admissions department, is now vice dean for student engagement and inclusion. It’s a dual assignment that reflects the School of Law’s commitment to increasing access for minority and disadvantaged students, and making the student experience meaningful and rewarding. She is supported by **Amy Hayes Atkinson**, the law school’s director of special events and a seasoned pro at providing guidance and event planning support to the student body.

This focus on engagement, Wiley says, is about being “student-centered and student-focused. We want to be a place where students feel that their concerns are listened to and heard. When somebody cares about you, you’re better able to succeed.”

Toward that end, she’s taking the pulse of the institution including listening sessions with students, faculty and staff to explore what the school already does to facilitate a positive student experience and what it could do better.

“The school works best when we’re all working toward a shared goal and vision,” Wiley says, “but it takes effort on everyone’s part.”

The other part of her new title speaks to the core goal of making legal education accessible to traditionally underrepresented students. Wiley has been deeply involved in this mission already,



Donell L. Gibson Jr. '18 teaches high school students visiting O'Brian Hall.

especially through Discover Law, the school’s program for promising undergraduates of color. It brings students to campus for an intensive summer program that gives them a taste of law school life and opens new possibilities in their career thinking.

The fifth year of Discover Law will take place this summer, and it has proved its worth: Wiley says more than half of the students who have been through the program are either now in law school or are planning to go. Initial funding for the program from the Law School Admissions Council has ended, so organizers are seeking donations for this important initiative.

That’s a “pipeline” program, one of many Wiley sees as ways to

diversify the school (and eventually the bar). A recent Youth Law Day brought students from four Buffalo public high schools to O’Brian Hall. Wiley also recently took a group of minority law students to Family Court, with the goal of exposing them to that area of practice as a career possibility.

In addition, Wiley has been appointed to UB’s Equity and Inclusion Committee, where she intends to “make sure the law school’s voice is included as the University moves forward on these issues.”

There will also be opportunities to collaborate with the law school’s Office of Admissions, where **Lindsay J. Sutton Gladney** was recently promoted to vice dean for admissions and the law school’s newest hire, **Luke Ramey**, is manager of recruitment and international enrollment services.

Great work for the greater good

The idealism that drives many to go to law school is alive and well at UB. For many students, learning the law means finding an exciting new toolbox for making a real difference in the lives of real people.

Melinda R. Saran '86, vice dean for social justice initiatives, sees the need every day as she fields calls from organizations eager for the students' help. She helps match students with a wide range of placements, from judicial clerkships to traditional legal services like legal aid, to roles as legal navigators for pro se litigants. The range of needs is great, and School of Law students come through.

Saran notes that students now are required to perform 50 hours of pro bono legal service as a prerequisite to New York State bar admission, but says many students go far beyond the requirement. "They want to try law in a safe place, but they also want to have the opportunity to do things," she says. "They don't want to be stuck in a room writing memos, and in most of these legal services you get to be in the action."

She cites as an example the "chaos" in Buffalo City Court when housing court meets on Fridays. "They get to see the reality, and see that it's different from what they learned in property law class," Saran says. "For some, it helps them understand what the practice of law really is. It's not *Law & Order* – everything isn't resolved in 42 minutes."

The work that these students do, Saran says, also forms a fundamental understanding of lawyers' professional responsibility. The lesson: "You can do it as part of your practice and make it a part of your life. It's a duty of lawyers to provide legal services to people who would not otherwise have access to justice."

For their part, the students say it's both satisfying and humbling to try out their burgeoning legal skills.



As a third-year student **Christine McClellan '17** was a Pro Bono Scholar, spending her final law school semester at the Erie County Bar Association's Volunteer Lawyers Project. There she worked with the limited scope legal clinics, including the Family Court Help Desk and the Say Yes Legal Clinics in the Buffalo Public Schools. She volunteered there since her first year, working at a help desk to guide often perplexed citizens on how to manage the court system. "I just loved the experience from the beginning," she says. "I loved working directly with the clients and being able to work one on one with people."

Staffing that desk, she did intake interviews and conducted triage for the attorney on duty in the court's limited scope representation program. "It's really important to be able to communicate effectively with your clients and make sure that you learn how to address delicate or uncomfortable or difficult issues in a strategic and comfortable way for them. The nature of many of the cases is very challenging and personal, and you have to make

Gayle T. Murphy '86 of Volunteer Lawyers Project and Vice Dean Melinda R. Saran '86 show off a proclamation signed by Buffalo Mayor Byron Brown recognizing the dedication of organizations that provide volunteer legal services.

them feel safe while they're talking to you."

Her classmate **Adela Smehlik '17** served as an extern at Journey's End Refugee Services on Buffalo's Lower West Side, greeting clients on Friday who came to see an attorney through the agency's walk-in legal clinic.

One thing she learned: "It's very case-specific. What works for one client might not work for the other, and you have to approach each situation through a different critical lens. I don't think I would ever have learned something like that if not for this situation."

At Journey's End, she worked with refugees and immigrants from all over the world: Somalis, Iraqis, Afghanis, Burmese. "I never saw myself going into immigration when I started law school; now it's the direction I want to go in," she says. "It's definitely such a rewarding experience."

Students now are required to perform 50 hours of pro bono legal service as a prerequisite to New York State bar admission, but many go far beyond the requirement.

Top talent, high responsibility

Public service takes many forms, and New York State taxpayers will be glad that one of them is service in state government.

That's because New York, through its Excelsior Fellowships program, identifies and recruits top legal talent for fellowships intended to develop the next generation of government leaders. Three 2016 UB School of Law graduates were recruited into the program, and three current students are finalists awaiting their post-graduation assignment.

Among last year's graduates, **Andrea DiNatale '16** was assigned to the General Counsel's Office of the Department of Environmental Conservation; **Erica Pandolfo '16** was assigned to the Office for People with Developmental Disabilities; and **Anaïss Rijo '16** works with the State Liquor Authority's Division of Alcoholic Beverage Control.

Excelsior Fellowship placements are for two years.

"There aren't that many positions in state government for new attorneys," says **Marc R. Davies '03**, associate director for career services, who administers the program at the School of Law. "But placements for our graduates are legal placements if that's what the candidate wants to pursue."

More than 60 percent of the first class of Excelsior Fellows were offered permanent positions after their fellowships were completed.



Here, there and everywhere

A partial list of where UB School of Law students are applying their talents to serve the public's interest:

- Clerkships for federal court judges and in New York State Supreme Court
- The Department of Justice's Executive Office for Immigration Review
- Legal Aid Bureau of Buffalo
- Neighborhood Legal Services in Buffalo
- The Erie County Bar Association's Volunteer Lawyers Project and its Attorney of the Morning Program
- Public school-based Say Yes legal clinics
- Erie County Family Court
- Center for Elder Law & Justice in Buffalo
- Internships with New York State Assembly representatives
- District attorney offices in Erie, Niagara and Monroe counties
- Western New York Law Center
- Jericho Road Community Health Center in Buffalo
- Summer fellowships supported through the Buffalo Public Interest Law Program
- A national Immigrant Justice Corps fellowship

Highest honor goes to interim dean

At the New York City Alumni Luncheon: from left, UB Provost Charles F. Zukoski, honoree James A. Gardner and Alumni Association President Brian D. Gwitt '98.



The scholar and teacher who has guided UB School of Law for more than two years as interim dean received the school's highest honor, the Edwin F. Jaeckle Award.

James A. Gardner, who joined the School of Law faculty in 2001, accepted the award on Jan. 27 at the Union League Club in Manhattan, as part of the school's annual New York City Alumni Luncheon. The Jaeckle Award is given annually to "an individual who has distinguished himself or herself and has made significant contributions to the School of Law and the legal profession."

After greetings by master of ceremonies **Terrence M. Connors '71** – who himself received the award last year – and UB Law Alumni Association President **Brian D. Gwitt '98**, attendees heard an update on progress at the school from Dean's Advisory Council Chair **Douglas W. Dimitroff '89**.

There was, he said, plenty to celebrate: an improving employment rate; a high-quality entering class; core strengths in our advocacy and

clinic programs; and the success of the school's historic seven-year, \$30 million fundraising campaign. Dimitroff also noted that law students had contributed over 6,500 hours of community service work in 2016.

"The strategic plan that has been brought forward under Jim's leadership recognizes the value of knowledge and ways of thinking that a law education provides for a wide variety of applications and professions," said UB Provost Charles F. Zukoski. "As a result of Jim's leadership, the School of Law is much stronger and much more efficient than it was in past years."

SUNY Distinguished Professor Guyora Binder, who serves as vice dean for research and faculty development, reflected that Gardner's success as interim dean grew from the high standards he sets for himself and others, evidenced by his widely recognized scholarship on state constitutional law and election law and by his reputation among UB School of Law students. "Many students recount that a course with him did more to transform them into

functioning professionals than any other part of their legal education," Binder said.

After Connors gave voice to stories from Gardner's friends and former colleagues, it was the honoree's moment to shine.

He began by acknowledging the hard work of his incredible team, saying, "The School of Law's accomplishments during the period of my deanship are almost entirely the work of others."

Gardner also noted that his time as interim dean has taught him some humbling lessons. He has learned that "the job of being dean is the job of filling a role. There are expectations, there are conventions, there are traditions. Filling a role well is a real achievement, and if I can claim any accomplishment, I really hope that it's that."

It's not an easy job. So why did he accept it? Gardner said he did so to repay two debts.

"The first is my debt to the legal profession," he said. "I really like being a lawyer. The privilege of becoming a lawyer was really a transformative moment for me."

"The second debt was my debt to UB School of Law. I really didn't feel like my career started until the moment I arrived in Buffalo. I joined an extraordinary intellectual community, but also a social community. It was welcoming, it was supportive, it was affirmative, it was kind. I felt immediately welcomed by the faculty, the administration, the students and alumni, and Lise and I immediately felt completely at home. And in that environment I really found it easy to flourish as a teacher and as a scholar. It has been a privilege and a great pleasure to give back to that community by serving."



Celebrating the colors of success

One of the longest-running traditions of the School of Law, the **Students of Color Dinner**, brought together nearly 200 students, faculty and supporters to celebrate achievements and hear words of challenge.

The 28th annual gathering, held April 20 at the Buffalo Niagara Marriott, is a joint venture of organizations representing UB's African-American, Latino, Asian-American and Native American law students. Reflecting that diversity, the organizers recognized several School of Law alumni who have had notable success.

Chief among them was the evening's keynote speaker, **The Arthur A. Duncan II '12**, who has chronicled his path from convicted felon to practicing lawyer in a memoir, *Felon-Attorney*.

Duncan's address told his story – one of a dangerous childhood, and substantial challenges that he had to overcome, including commuting from Buffalo to Cleveland for his first year of law school, failing the bar exam because he was a lousy typist, and proving himself before the Bar Association's Character and Fitness Committee.

He didn't just face adversity,

Duncan said – "I overcame adversity and I kicked adversity's ass."

Just recently, he said, he was admitted to federal practice by U.S. District Court Judge William Skretny – the same judge who sentenced him to prison on a drug conviction. (Judge Skretny was in the audience.) His sponsoring attorney for that event: the criminal lawyer who had represented him.

Acknowledging those who helped him along the way, Duncan challenged the audience to do the same. "If you find someone worthy of a second chance," he said, "after you have vetted them properly, you have to write that letter of recommendation, you have to make that phone call."

The organizers conferred Distinguished Alumni Awards on **Crystal Rodriguez '06, LL.M. '07**, chief diversity officer of the City of Buffalo, and **Jodyann Galvin '98**, a partner with the Buffalo firm Hodgson Russ LLP. And their Trailblazer Award went to **Jason Lee '07**, founder and CEO of Celant, a start-up company that is working on software to automate some routine legal tasks.

Lee, who practiced for eight

years at a Wall Street law firm, said the idea for his company came when he received a late-night assignment that had to be done by morning. "I asked myself, why can't this be automated?" he said. "Maybe I could be the guy who automates the process so that the people who come after me don't have to go through this type of work at 1 in the morning. We're trying to make the practice of law a little bit less stressful, a little bit more enjoyable."

Finally, **Professor Athena Mutua** accepted the Jacob D. Hyman Professor Award with an acknowledgment of the difficult political climate nationally.

"This has been a really tough year for students of color and for people of color in general," she said. "For some of us, this is the first time we're experiencing this."

"But I have seen students stand up for themselves, write letters advocating for fair treatment for themselves and for others. I have seen them protest and resist this ugliness, I have seen them stand, and their resistance has been inspiring."

The chair of the Students of Color Dinner was **Jordan Sieracki '18**.

At the *Law Review* Dinner, celebration and challenge

The crucial role of lawyers in a free society was a recurring theme as members and friends of the *Buffalo Law Review* gathered for their year-end dinner celebration.

Speakers brought their own perspectives to the theme, but their challenge was clear: Those trained in the law owe their best energies to resisting efforts to undermine the rule of law.

That commitment also undergirds the work of the *Law Review*, UB School of Law's premier student-edited publication. Under the leadership of Editor-in-Chief **Kerry Q. Battenfeld '17**, the scholarly journal this year published four issues with articles addressing topics as diverse as police misconduct, special economic zones, fair housing and family businesses.

Battenfeld also pointed to several improvements in the process of producing the journal. These included the introduction of new computers and a new publishing system. She also thanked the *Law Review*'s staff members – who number more than 50 – calling them “the hardest-working, kindest and funniest members of the law school community.”

The April 27 dinner, held at the Park Country Club in Amherst, also was the occasion for honoring two School of Law alumni: **George M. Hezel '73**, a clinical professor emeritus, and **Daniel Werner '96**, senior supervising attorney of the Southern Poverty Law Center's immigrant justice initiative.

Hezel's School of Law teaching

centered around the Affordable Housing Clinic, which under his direction helped build 2,000 units of affordable housing in Western New York and leveraged more than \$165 million to finance them. The clinic succeeded, he said, “because it was integrated fully into the law school curriculum, warmly endorsed by the faculty and supported by the best efforts of over 200 students.”

“Our clinic allowed students to test themselves in the role of transactional lawyer,” Hezel said, “and to exercise critical practical judgment in working with a whole host of professions associated with the clinic. These students can take pride in the real, tangible results of their work, and I hope those who follow me can continue to draw on the richness of academia to bring creative solutions to the community.”

In his remarks, Werner spoke to the realities of serving poor litigants in the current political climate.

“My commitment is to serve my clients well, to litigate my cases well

and to win in the interest of justice,” he said. “I came to UB law school because at its core it was about law in the public interest. What public-interest law means, in some respects, changed on Jan.

20. What public-interest law meant before Jan. 20 was to challenge the power in a community, giving hope and providing a voice for the oppressed. What it means now is protecting the rule of law at a very basic level.”

As the next generation of

associates prepares to take over leadership of the *Buffalo Law Review*, Associate Publication Awards – recognizing excellent writing by the journal's associate editors – were presented to **Brendan F. Conley '18**, **Emma M. Savino '18**, **Joseph W. Schafer '18** and **Nathan C. Woodard '18**.

The Justice Philip Halpern Award, given to a third-year student for excellence in writing on the *Law Review*, went to **Lauren M. Adornetto '17**. Finally, the Carlos C. Alden Award, recognizing the third-year student who has made the greatest contribution to the journal, was presented to its managing editor, **Michael G. Marrero '17**.

The faculty adviser to the *Buffalo Law Review* is Associate Professor Christine P. Bartholomew.



The night's honorees: George M. Hezel '73 and Daniel Werner '96.

COMMENCEMENT 2017



Interim Dean James A. Gardner thanks keynote speaker New York Lt. Gov. Kathy C. Hochul.

New lawyers are challenged to protect democracy

“**I**t’s tough to make predictions, especially about the future.” Yogi Berra’s words, as quoted by **interim Dean James A. Gardner**, formed the backdrop for the School of Law’s 128th Commencement. The May 21 ceremonies sent 157 new graduates forth into a rapidly changing world – one, as Gardner noted, where “the need for legal services is greater than ever.”

That demand, he said, is for higher-order thinking than any computer algorithm can produce. “We need real, well-trained, flesh-and-blood human beings who possess sound judgment and who live in their own communities; who can identify the abuse of power when it occurs; who can give voice and substance to the rule of law itself,” he said. “We need human judgment informed by actual lived experience.”

The afternoon’s keynote speaker, **New York Lt. Gov. Kathy C. Hochul**, said she had given many commencement addresses to undergraduates, but never before

to new J.D.s.

“I have a very different message for you,” she said. “You are sworn to uphold the Constitution of the United States of America. You are no longer a bystander in democracy, you are sworn to protect it.

“So I’m calling on you to protect the people who live under that democracy. You now have a credential that is beyond the reach of most Americans. You’re held in esteem for what you’ve achieved. You literally possess the power to change people’s lives. Use that power, your intellect, your UB training in the law as swords of justice, whether it’s in your daily practice or your pro bono work. You can give hope to the hopeless, for you may be the only hope they have.

“The more you can do for other

people, the better person you will become.”

Delivering the student address, graduating senior **Ashmita Roka ’17**, a native of Nepal, remembered how overwhelmed she felt as she and her classmates began their law school careers. “I didn’t know how to figure out the relevant facts,” she said. “They all seemed completely relevant to me.”

What she learned, she said, was that “it was OK to have bad days, but the important thing was to show up and get things done. ... We all had an idea of who we were before law school. We were left with the ultimate choice: to overcome our obstacles, our personal battles, and to face them with courage and to rise above it. And today is a testament that we all rose above it.”

A highlight of the ceremonies was the presentation of the UB President’s Medal to **Francis M.**

Letro ’79, chair of the University at Buffalo Foundation and a longtime, active supporter of the School of Law. Letro accepted the medal from UB President Satish K. Tripathi and, in brief remarks, encouraged the graduates to use their skills for the greater good. “A lawyer can always, always, always improve a situation,” he said, “no matter how dire that situation might seem at first.”

Christen E. Civiletto, an adjunct faculty member at the law school, was presented with the Ken Joyce Excellence in Teaching Award. Civiletto is an attorney and author of *Green City Savior*—an environmentally themed suspense novel set in Niagara Falls, N.Y.



High honor for a thought leader in the law

SUNY
Distinguished
Service
Professor
David M.
Engel has
taught at the
law school
since 1981.



Legend has it, says **Professor David Engel**, that the first national meeting of the Law & Society Association took place in the living room of Richard D. "Red" Schwartz, UB School of Law's dean in the early 1970s and a pioneer in the sociological study of law.

Nobody's living room is big enough now. The Law & Society Association, the world's premier organization for the interdisciplinary study of law, now counts its membership in the thousands. Some 2,400 are expected at the group's annual meeting in June in Mexico City. It's there that Engel will accept the association's highest honor, the Harry J. Kalven Jr. Prize, in recognition of his long and continuing work in interdisciplinary legal study.

"Throughout more than four decades," the official announcement says, "Professor Engel's fields of scholarly inquiry have expanded to include a wide array of issues in the United States, Asia and beyond, including the examination of disputing practices and behavior, legal consciousness and legal meaning-making, rights as social practice, and the gap between

official law and legal practice."

Engel looks at how the legal system actually works in various societies, including our own – thinking about how custom, social norms and belief structures interact with black-letter law. His most recent book, *The Myth of the Litigious Society: Why We Don't Sue* (University of Chicago Press), argues that U.S. culture isn't as litigious as it's often said to be, and examines why most U.S. injury victims never lodge a claim against their injurers.

Engel, who previously served as president of the Law & Society Association, also has been a thought leader globally, working especially to build an international research network among scholars in the Pacific Rim countries. (About a quarter of the association's members live outside the United States.) He is a founding co-editor of the *Asian Journal of Law and Society*.

"The Kalven Prize is especially meaningful to me because this is the organization that really helped shape my identity as a scholar," says

Engel. "Attending their meetings, and reading the literature that Law and Society scholars were publishing in the 1960s and 1970s, led me to a way of formulating my own scholarship and then finding colleagues with whom I could share my ideas."

He also traces his scholarly roots to his experience as a Peace Corps volunteer in Thailand before attending law school. He took notice of how the legal system worked in practice. "You could see that the law was operating in ways

that could not be explained just by reading legal rules and court opinions," Engel says. "So if you wanted to understand what was really happening, you had to look at the surrounding culture and developments outside the courtroom."

The Kalven Prize is not intended to be a lifetime achievement award. It recognizes current as well as past scholarship. Engel notes wryly that he hopes it won't be a capstone to his Law and Society career. He's already working on his next book – on relational injuries in American tort law – and he is increasingly involved in training young scholars, especially in Asia. In addition, he accepts many invitations to visit universities in the United States and abroad to talk with students and faculty about Law and Society research. With colleagues at the National University of Singapore, he is also organizing a regular series of workshops for junior Law and Society scholars, working to encourage interdisciplinary legal research and strengthen international bonds among American and Asian colleagues.



Impact in the classroom and beyond

Locally, nationally and internationally, our faculty members make their mark in the classroom, through their scholarship, and by taking action within our community. Below are a few highlights of recent activity illustrating their far-reaching effect.



Professor Anya Bernstein was invited by Academia Sinica, an academic research institute in China, to spend a month as a visiting scholar in Taiwan. Bernstein researched Taiwan's administrative law, and conducted interviews with central and city government administrators, and district and high court judges.



Professor Rebecca French's paper *What Is Buddhist Law?* was listed on the Social Science Research Network (SSRN)'s Top Ten download list for the topics "Buddhism" and "Case Studies of Religious Groups."



Assistant Clinical Professor Nicole Hallett was named the first Public Research Fellow by Open Buffalo, a collaboration of community organizations dedicated to making major long-term improvements in justice and equity in the City of Buffalo. Hallett will research the working conditions of Buffalo's low-income residents and will develop a local agenda for protecting workers' rights through policy and innovation.

Professor Irus Braverman embarked on an intense six-day trip to Israel/Palestine with seven of her students to investigate environmental justice issues related to many of the political challenges of that region. Students met with Israeli and Palestinian officials, members of nonprofit organizations and local students, and visited Bedouin and Jewish settlements.



Assistant Clinical Professor Jonathan Manes' essay *Online Service Providers & Surveillance Law Technology*, 125 Yale L.J. F. 343 (Mar. 3, 2016), was quoted in a U.S. district court decision regarding the First Amendment rights of tech companies that are ordered to turn over user cloud data without informing customers or the public. *Microsoft Corp. v. U.S. Dep't of Justice*, No. C16-0538JLR, 2017 WL 530353, __ F. Supp. 3d __ (W.D. Wash. Feb. 8, 2017).



Professor Isabel Marcus was an invited distinguished speaker at New York University's Center for European and Mediterranean Studies. She spoke on the topic "Sex and Gender Integrated Curriculum in Eastern European Law Schools."



Professor Tara Melish helped organize "A Day of Action on City Hall: International Women's Day," a day of pre-scheduled constituent meetings with all nine Buffalo Common Council members to discuss the the need for an annual gender analysis of hiring and promotions in City Hall.



SUNY Distinguished Professor Makau W. Mutua was chosen by his peers to lead the International Development Law Organization (IDLO), headquartered in Rome. He will chair the organization's governing Board of Advisors, a group of academics and professional experts on law and development.



Professor Jessica Owley's article *Enhancing Conservation Options: An Argument for Statutory Recognition of Options to Purchase Conservation Easements* was named one of the top 25 best environmental law articles of the year as voted on by her peers.



Professor David Westbrook's paper *Unicorns, Guardians, and the Concentration of the U.S. Equity Markets* was listed on the Social Science Research Network (SSRN)'s Top Ten download list for the topics "Securities Law: U.S.," "Markets & Investment," and "Regulation of Financial Institutions."

Three milestone retirements

Building skills for the future

For **Nan Haynes '92**, it was all about the face time. "The time I spend in the classroom and one-on-one with students is a total joy," says Haynes, who is retiring after 15 years as a legal writing instructor. "I particularly enjoy working with students who pay attention and want to do well."

For 10 years Haynes taught legal analysis and writing to first year-students; for the last five she has taught exclusively the advanced sections for 2Ls.

Along the way she co-taught the Healthy Homes Practicum for two years, and developed a Volunteer Writing Project to provide students with advanced practice in legal writing.

With the first-years, she says, the challenge was to maintain the right level. "Most have never worked in a law office, so it's hard to remember that they know nothing," says Haynes, who practiced at a Buffalo law firm for eight years before returning to the School of Law. "Experienced lawyers assume certain things are self-evident when they're not. Teaching 1Ls, I was constantly reminding myself where they are. My second-year students know more, and the problems we give them can be more complex and interesting."

In retirement she's planning to volunteer more with the National Lawyers Guild, with which she has been active.

"I love teaching, and I felt like I was doing a good thing for the students," Haynes says. "It's been a great 15 years."

LESSONS FOR A LIFETIME

She's a tenured law professor now, but Deirdre Bowen '90 was just another student uncertain about her future when **Professor George Kannar** pulled her aside one day and asked her to lead the next week's session of their seminar on government ethics.

"You don't know it yet, but someday you are going to want to be a law professor," he said to her, "and you're going to need a teaching reference. If you lead this class, I'll be able to write it." I told him that was not my career plan, but I taught the class. I was blown away that he would give me that opportunity, and that really stuck with me."

After four years of practicing big-firm law in Washington D.C., she decided the professor had been right. She called him, and he said "You need to get a Ph.D." She earned a doctorate in sociology and now is an award-winning teacher at Seattle University School of Law. "He absolutely changed the course of my career," Bowen says. "I have had an amazing career teaching, and I never would have seen that opportunity for myself. He saw something in me that I did not. You're very lucky if you have a professor in your life who can touch you in that way."

Kannar, who is retiring from teaching after 30 years at UB School of Law, has made that difference for generations of students who have taken his courses in Constitutional Law, Freedom of Speech, Federal Courts and National Security Law. It's a career built upon his previous work

as a national staff attorney for the ACLU, his Harvard graduate work in American history and literature, and a later stint as a federal prosecutor.

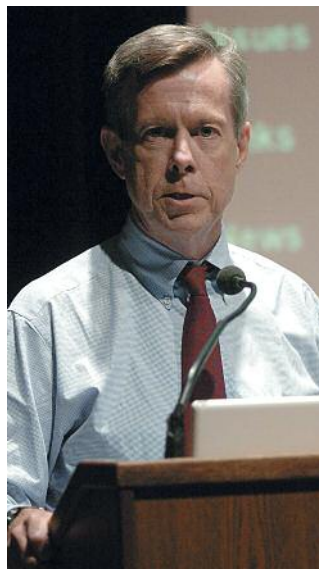
His scholarly interests have paralleled his teaching and civil liberties work, including the First Amendment, the Supreme Court

appointment process, and the federal death penalty. His *Yale Law Journal* article suggesting that the origins of Supreme Court Justice Antonin Scalia's textualist jurisprudence may lie in his Roman Catholic upbringing is one of the most frequently cited articles written by the law school faculty.

Kannar also has compiled a long record of service to the School of Law, including overseeing the redesign and reconfiguration of

O'Brian Hall as vice dean from 1999 to 2002. An experienced U.S. Supreme Court litigator from his days at the ACLU, he directed the school's appellate moot court program from 2009 to 2015, while also working to bolster the curriculum's offerings in appellate advocacy. The intramural Desmond competition now confers an appellate advocacy award in his name each year.

"I've always had the greatest respect and admiration for our students," Kannar says, "They work hard to be where they are, and they're serious about what they are doing. I have always thought that the students were the best part of the job."



A guiding light moves on

Chris O'Brien remembers running with his trial team through the Atlanta airport, trying to catch a late flight back to Buffalo. They were pressed because they had made it all the way to the final round of the competition – and won. It was a sprint to make the flight, and it didn't help that they were lugging a huge trophy along with them.

These things happen in the School of Law's Trial Advocacy Program, where O'Brien has had a guiding hand since

1998. Now he's retiring from his role as co-director and will shift his full attention to his private trial practice;

Hon. Thomas P. Franczyk

continues as

director.

As he looks back, O'Brien is proud that, win or lose, the law school's teams did the school proud. "All of the coaches have said that we would rather teach students to act ethically even if they lose a trial competition," he says, "than teach them ethically challenged techniques and have them win the competition."

And he relishes the small rewards – the thank-you notes from trial team veterans, or even the time he lost a motion in his own trial career to a skilled former student. "That's when I knew I was a teacher," he says.

O'Brien credits Franczyk for growing the trial team program, holding the trial technique faculty to a high standard and creating the hugely successful Buffalo-Niagara Mock Trial Competition. And, he says, "the support of the administration has allowed this program to grow."



One professor gets back to the front lines

Before he came to UB School of Law in 2011, **Professor Anthony O'Rourke** worked at the International Monetary Fund, as a litigation attorney in private practice, and as a law clerk for two federal court judges.

Nobody has to remind him to stay connected to the front lines of legal practice.

Now O'Rourke is taking a leave of absence from the law school to broaden his experience even further. Starting in September, he'll spend a year – and maybe longer, depending on how his cases play out – as a staff attorney with the Federal Defenders of New York. There he will work on high-level appellate and trial cases, including a particular interest of his, federal death penalty cases.

"The Federal Defenders of New York represent a range of indigent clients, including in appellate cases which raise interesting constitutional issues," says O'Rourke, who teaches and writes about criminal law and procedure as well as constitutional law. "I'll sometimes be involved in district court matters, like sentencing hearings, and trial representation. But much of the job will be research and writing."

O'Rourke looks forward to working for and advocating on behalf of clients who have been accused of federal crimes who could not otherwise afford representation. In addition, the cases he will encounter, O'Rourke says, raise "a range of questions, both constitutional and non-constitutional, in an appellate context. The degree to which the Constitution regulates the application of the death penalty makes those arguments particularly salient in those cases."

The high-stakes world of capital cases is not new to him; O'Rourke



worked on the penalty phase of a Texas death penalty case when he was an associate attorney at the New York City firm Paul, Weiss, Riffkind, Wharton & Garrison.

O'Rourke says he's excited to be doing this work not only because of his interest in the cases at hand, but also because Federal Defenders of New York, which has offices in downtown Brooklyn, has some terrific attorneys who will be his colleagues.

And, he says, the experience should make him an even better teacher, helping him to combine real-world practicalities with legal theory in a way that benefits students.

"Being connected to practice is really important," he says, "because it keeps both my scholarship and my teaching grounded in the realities of how the law is administered. I expect that this will give me greater exposure to how justice systems operate in reality."

As a staff attorney with the Federal Defenders of New York, O'Rourke will work on high-level appellate and trial cases.

Teaching the craft of law

On the students' side

Kate Rowan has stood in front of UB School of Law classes as an adjunct professor and worked one-on-one with law students needing academic coaching.

In her new role as an instructor in the school's Legal Analysis, Writing and Research program, she'll do both – working with students from their first semester to learn the rudiments of the lawyer's craft.

Rowan, a *summa cum laude* graduate of Temple University's Beasley School of Law, began teaching for UB School of Law in 2013. A big part of her portfolio has included providing academic

support, especially to first-year students, working with them on their writing, and improving their studying and test-taking skills.

As part of that role, she also has been working with the international students who populate the school's master of laws programs, to introduce them to the U.S. legal system.

"That has been a tremendous learning experience for me," she says, "to learn from them about different legal systems and modes of legal analysis and ways of writing."

She has also taught several courses, including a skills class called Interviewing, Counseling and



Negotiating, as well as the third-semester LAWR course. For UB's English department, she taught a Literature and the Law class that "paired novels, short stories, plays and poems dealing with legal questions with statutes and Supreme Court cases."

Now, as a LAWR instructor, she'll be able to work with first-year law students to lay the groundwork for their success in law school.

She can tell stories from her own career. After her law school graduation, Rowan clerked for a federal appellate judge and a U.S. District Court judge in eastern Pennsylvania. She then practiced litigation with a Philadelphia firm for three years before her move to Buffalo.

A return engagement

An old dictum says, "Good writing is good thinking." And so for first- and second-year law students especially, learning to think like a lawyer means learning the craft of legal writing.

"We're not just teaching writing in a vacuum," says **Cynthia Swann**, who joins the School of Law faculty this fall as an instructor in the Legal Analysis, Writing and Research program. "We're the folks who first introduce students to legal thinking, logical thinking, how to structure and make arguments, how to marshal evidence."

Swann comes to UB from the Indiana Tech Law School, where in addition to subject-matter courses

she taught legal writing. Coming to UB, she says, in a sense brings her full circle – she did her undergraduate work at Buffalo, where she was Phi Beta Kappa and graduated *summa cum laude* with a bachelor's degree in English.

She went on to earn master's degrees in English and in curriculum and instruction, before earning her law degree from Georgetown University Law Center. She practiced civil litigation for more than 20 years at two Washington, D.C., firms, and then embarked on a university teaching career.

"I knew that teaching was what I would end up doing," Swann says. "I feel like now I'm getting the best of both worlds."



At Indiana Tech, her legal writing course was based on an experiential model. Students were assigned hypothetical cases that touched on basic areas of legal content, and worked on aspects of those cases throughout the curriculum. The goal was to teach them how to think through a legal problem, research and write about it effectively, and work well with clients.

It's an approach that fits well with UB School of Law's goal of seamlessly combining theory with elements of legal practice.

And it's another reason Swann says she's glad to be returning to UB. "I'm really, really thrilled to be coming back," she says. "I can't think of anything else I'd rather be doing."

When marketers run the world



From *Adcreep*:

The algorithms that advertisers use to analyze our Facebook likes do a better job of identifying our personalities than our friends, lovers, or families do. Automated systems decode our facial expressions, revealing emotions we would otherwise be able to hide. Brain scans and biometric measurements tell marketers what we are feeling even when we cannot verbalize those feelings ourselves. Meanwhile, in a world of omnipresent advertising, corporate America can hide in plain sight. When no space is off-limits to commercial appeals, we become numb to the ideology of advertising, lowering our defenses, accepting Madison Avenue's suggestions for self-definition, and no longer considering alternative, non-market-based perspectives.

I don't think all advertising is bad," says **Professor Mark Bartholomew**. "At its best, advertising gives us information that we might want to know."

At its worst – well, that's a different story. It's the story that Bartholomew tells in his new book, *Adcreep: The Case Against Modern Marketing* (Stanford University Press).

The story comes in two parts. The first is low-tech, an accounting of how advertising messages have crept inexorably into nearly every corner of the human environment including parks and schools. The second is about the astounding ways in which marketers are probing the human brain in order to make their messages more persuasive than ever before.

"We're allowing advertisers to rush into these new territories without investigating or thinking about it much," he says. "But there are costs to this that we should think about."

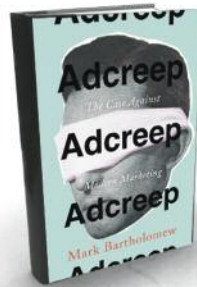
And so, for example, if Pizza Hut makes a deal with a public school system, your child's report card might come home with the company's logo stamped on it. As another example, Bartholomew cites an agreement that Indianapolis made with KFC, to

perch plastic "wing buckets" atop that city's fire hydrants. And when was the last time you saw a city bus that wasn't plastered nose to tailpipe with advertisements?

"The more adcreep there is, the more it slips into these territories and the more powerful it becomes," Bartholomew says. The author notes that in the 1990s when movie theaters began showing commercials before the film starts, there were riotous protests and even lawsuits. Now the ads are just part of the background noise that goes with your popcorn.

"The problem," Bartholomew says of this phenomenon, "is that when advertising is everywhere, we start to lose alternative visions of what the good life is and what citizenship means."

Even more troubling are the biometric scans, automated online spies and facial recognition technologies that marketers use to study and stimulate consumer desire. "If even a fraction of the neuromarketers' promises come to pass," he writes, "there will be a



seismic change in the ability of advertisers to influence consumer behavior."

These are social welfare issues, says Bartholomew, who teaches and writes in the area of intellectual property and privacy law, but they're also legal issues. "In looking at this, what I realized is that a lot of these cases are about advertisers, and they're winning," he says. Even much of privacy law, he says, has been superseded by contract law – more power to the corporation, less to the consumer.

And even commercial speech is shielded by the Constitution. "For a long time, we've said commercial speech is different and should be treated as a different legal category," he says. "That view has been under assault in the last few years. The Supreme Court is increasingly sympathetic to the view that commercial speech should be treated more like regular speech."

In the book, Bartholomew pushes back against that trend. "I'm arguing for limits," he says. "It's really a quality-of-life question."

When does press freedom cross the line?

Silver medal winner in the U.S. History category of the Independent Publisher Book Awards.

The case was about two good things: the First Amendment's guarantee of press freedom and a citizen's right to privacy. It's a tension that resonates strongly even now, in a charged political atmosphere full of debate about truth, lies and the role of the media.

But this decision came half a century ago. *Time Inc. v. Hill*, decided in 1967, was the first U.S. Supreme Court case to try to define a balance between privacy and free-press rights. In a case in which the plaintiff was represented before the court by Richard Nixon, the publishing giant won a 6-3 decision.

In a new book, *Newsworthy: The Supreme Court's Battle Over Privacy and Freedom of the Press* (Stanford University Press),

Professor Samantha Barbas looks at the case, its sensational beginnings and the broader cultural movements behind it.

"It was a very interesting clash of worldviews over the credibility of the media and how much of a pass we should give the press to publish freely," says Barbas, a legal historian who has written extensively on libel and privacy laws.

"And it came at this historical moment when privacy had emerged as a major concern. The first computers were being used, and there were concerns about data collection and aggregation, marketing, mailing lists. You had a public that was really sympathetic to the idea of privacy. But it was also a time when Americans saw press freedom as something to be proud of, a distinction we had during the Cold War. So these two very powerful forces were in conflict."



From *Newsworthy*:

Nixon prepared obsessively for his performance. He memorized the trial record, relevant precedents, and dozens of law review articles. As the oral argument neared, he set up "skull sessions" – question-and-answer sessions with his colleagues simulating court argument. As Nixon recalled, "I locked myself up in my office for two weeks. No phone calls. No interruptions. It [took] a tremendous amount of concentration." His colleague Goldthwaite Dorr commented, "He did his homework. A lot of them don't, you know. But he made it his own, digested everything. Didn't care if he exposed his own ignorance to learn a thing. He had to know it." According to a profile in *Harper's* magazine, Nixon "lived, breathed, talked, and thought sixteen hours a day about the case ... he was to argue before the Supreme Court." Nixon was driven to give the best possible performance in his return to the public stage; whether or not he admitted it, he was also enacting his vendetta against the press.

The case was brought by a Pennsylvania family that had been thrust into the spotlight when three escaped convicts took them hostage in their home, holding them for 19

hours before fleeing. Intense media coverage was later followed by a best-selling novel, a play, a movie starring Humphrey Bogart and a spread in *Life* magazine.

The Hills never wanted the attention – even more so after the various accounts introduced fictionalized details into their story. They sued the publisher Time Inc. under a right-to-privacy law in New York State.

Among the interesting aspects of the research, Barbas adds, was examining Nixon's voluminous notes, hand-written on yellow legal pads. (He took the case during the so-called "wilderness years" between his defeat in the California

governor's race in 1962 and his successful run for president.)

Barbas also found, in the Library of Congress, memos between the justices showing that the decision almost went the other way. At the last minute, she explains that Justice Hugo Black was able to persuade his colleagues that a ruling for the Hills would cripple press freedom, and in the end the ruling went in favor of Time Inc. "That was the most fascinating part," she says, "to see how the personal politics on the court affected the decision."

She notes that the decision didn't establish a definitive guideline. "The court has never really drawn the line firmly as to when freedom of press has to cede to privacy," Barbas says. "We're in a very pro-privacy moment in the culture now. On the other hand, we can see how imperiled freedom of the press is as well."



ALUMNI & PHILANTHROPY

A guide on the road to freedom

Every prisoner has his own story. But those individual stories are much the same at a crucial point – when they need to return to life on the outside.

It's not an easy transition. Many have no family support and nowhere to live. Landing employment is tricky. There may be unresolved mental health issues.

Enter the U.S. District Court's Re-Entry Program, an intensive post-release program of supervision and targeted help for ex-inmates under federal probation. In the program, about a dozen probationers at a time come every two weeks to Buffalo's federal courthouse, stand before **Magistrate Judge Hugh B. Scott** and give an account of themselves.

Did they look for a job? Get a driver's license? Find stable housing? Are they coming current with child support payments? And most importantly: What support do they need?

Scott, a 1974 graduate of UB School of Law, started the program five years ago after traveling to observe a similar effort in Philadelphia. "I went kicking and screaming," he admits, "but I could no longer reject the idea that this was an effective way to deal with people."

Re-entry Court is a labor-intensive effort with many partners, including representatives from the federal Probation Service, the public defender's office, Legal Aid Bureau of Buffalo, the U.S. Attorney's Office and Erie Community College. "I've



Hon. Hugh B. Scott '74

Photo courtesy of The Buffalo News

tried to amass every resource I can to bring to bear on these problems," Scott says.

The goal is to help ex-inmates get their feet under them as they re-enter free society – and to keep them from returning to prison. For Scott it's a moral imperative – "the right thing to do" – but he's ready with an economic justification as well. "It costs \$50,000 a year to have them in prison, when you could be spending pennies to help them change their life," he says.

For the participants, there is an additional incentive: If they complete the program, the term of their supervised release is reduced by one year. But it's no picnic. "This may be more intense than ordinary supervision for some people," Scott says. "They sign a contract. We talk to them about our expectations and setting goals, and we make them account for the goals they set. It might be to get reunited with their family, to get a job, to get a driver's license, or to find stable housing."

U.S. Probation Officer Specialist Tammi Rogers, to whom each inmate in the program reports, says national statistics indicate that similar

programs reduce recidivism by about 30 percent. Much of the program is directed toward helping participants find employment, which she says is key.

And, she says, the experience of being in court is itself a powerful motivator. "When they come to court, not only are a lot of people modeling positive behavior, the defendants network with each other," she says. "A few have gotten other defendants jobs by letting them know, 'Hey, these people are hiring.'"

Tameshia is one proud graduate of Re-entry Court after spending 11 years in federal prison on a drug trafficking conviction. Now she's working as a sous chef at an assisted-living facility. (She studied culinary arts in prison.)

The Re-entry Court, she says, gave her a fresh start. "They're good people," she says. "I love them. Even the lawyers help everybody out."

And they were all glad for her presence at the program's formal graduation ceremonies, a gala affair at which Judge Scott speaks proudly about each graduate. They had calzones and eclairs at the celebration. Tameshia made them all.



GOLD Group President Jeffrey P. Gleason '08



Michael J. Hecker '09, Hon. Erin M. Peradotto '84 and Dayna L. Hecker '10



Vincent M. Miranda '10, Nicholas A. Romano '13 and Timothy P. Moriarty '14



Marc W. Brown '99, Dr. Nancy-Shira Brown and Christina G. Holdsworth '09



Kevin J. Espinosa '09 and Erin E. Decker '16

GOLD TURNS SILVER

Marking 25 years of professional development and collegiality, the UB Law GOLD Group hosted a spectacular celebration honoring its past presidents and founding members. The **Law Alumni Association's Executive Director Ilene R. Fleischmann** provided remarks at the event commending the group for its development and training of leaders for the Western New York bench and bar:

“Happy 25th anniversary, GOLD Group — You’re way too young, and way too cool, to be so old! Two and a half decades. It sounds like a long time ago. But for many of us here tonight, it is more like sunrise, sunset. Quickly go the years. Today, the GOLD Group is even more connected, more respected, and more important than ever before in helping the law school achieve its

priorities. No one ever imagined back in 1991 that it would have the enormous impact it has had.

Its extraordinary success is the result of attracting a steady stream of proactive, creative, committed young leaders — like our current president, Jeff Gleason — who have conceived and implemented exceptional programs.

Jeff is amazing but so are all the



Mark E. Brand '88 and LAA Executive Director Ilene R. Fleischmann

others you will be recognizing tonight.

The GOLD Group is a truly precious resource for the Law School and the Law Alumni Association — and a treasure that continues to shine with an untarnished reputation.

As the longtime executive director of the Law Alumni Association and the Mother Superior of the GOLD Group, no one could be more proud tonight than me. I am truly grateful that I am here to party with the glitterati — and celebrate with you at this milestone anniversary.

For more photos and videos from our events visit: www.law.buffalo.edu/forum/extra



Pietra Lettieri Zaffram '01 and GOLD Group President Jeffrey P. Gleason '08



Sarah M. Washington '16, Caitlin E. O'Neil '15 and Andrea K. DiLuglio '15



Anthony L. Eugeni '91, Amber E. Storr '06 and Frank P. Penque Jr.



Assistant Director for Alumni Patricia Warrington and Administrative Assistant for Alumni Relations Amy Hynarowski



Stephen L. Yonaty '94 and GOLD Group President Jeffrey P. Gleason '08



Wendy M. Irving '91, Mary Moorman Penn '99 and William C. Altreuter '82

Way back in 1991, Alan Carrel saw an article about the GOLD Group in his Hamilton College alumni magazine. We then shamelessly stole Hamilton's idea and made it our own. Soon after the UB Law GOLD Group was organized, the presiding justice of the appellate division and the Bar Association recognized its important role, and thanked the Law Alumni Association for taking on the critical task of leadership training and development for the Buffalo bench and bar.

We did not disappoint.

Since then, you have continued to organize a gold rush of activities — fresh and innovative educational programs and social events that are hugely popular with both new and seasoned members of the legal community, and have served as a model for other organizations.

Led by **Cathy T. Wettlaufer '85**, 23 selected graduates convened at Phillips Lytle to discuss how UB Law

could assist its new alumni during their formative years of practice. Cathy got the ball rolling and was truly the driving force behind the group's development.

Another key member of the steering committee was **Mark E. Brand '88**, who was chair of the subcommittee charged with developing the group's structure. After several months of meticulous planning, bylaws for the new group were written by Mark and his subcommittee and approved by the steering committee. In the spring of 1991, the GOLD (Graduates of the Last Decade) Group was born.

I see Mark here tonight. Thank you!!! And thank you to all the others who served on that first committee. They are the ones who decided that membership in the GOLD Group would be automatic upon graduation, and would remain in effect during the graduate's first 10 years out of law school. That core concept remains to

this day.

Of special note is the important function the GOLD Group and its members played starting in 1995 when it helped the Erie County Bar Association design a program to ease the transition from law school to practice for newly admitted attorneys in New York. Called "Survival Strategies for Life After Law School", the program started in Erie County, with us, and quickly became the model for programs across the state.

I want to acknowledge the exceptional talents and effort of Lisa Mueller and Pat Warrington, both of whom have contributed so much to the GOLD Group over the years, including the party tonight. For all of us who have worked with the GOLD Group, it has been a labor of love. ”

WIDE ANGLE

Central New York

Annual Fall Social



1. Hon. Joseph E. Fahey '03 (LLM), Mayor Stephanie A. Miner '99, Hon. James P. McClusky '88 and Hon. Louis P. Gigliotti '82

2. Nancy L. Caple Johnston '81, Shawn C. Graham '06 and Peggy Fabic '81

3. Meg N. Johnson '03, Joanna Gozzi Trombetta '79 and Dr. John J. Trombetta

New York City Chapter

Annual Fund/Alumni Reception



1. Julia H. Purdy '16 and Elahe Hosseini '15

2. Patrick J. Reinikainen '12 and Annual Fund Co-Chair Robert J. Gutowski '99

3. Weiwei Zhu '10, David W. Chandler '13 and NYC Chapter Chair Daisy A. Tomaselli '13

Rochester, N.Y., Chapter

Fall Social and Criminal Law CLE



1. Fall Social
Leigh Ann Chute '12, Joseph P. Sroka '12 and Anthony R. Scalia '12

2. Fall Social
Rochester Chapter Co-Chair Helen K. Root Scalia '11, Kevin M. Momot '02 and Frances M. Kabat '10

3. Criminal Law CLE
Front row: Catherine H. Josh '11, Geoffrey A. Kaeuper '06 and Jill L. Paperno '84
Back row: Lawrence K. Bice '12 and Jennifer M. Schauerma '10

Washington, D.C., Chapter
Annual Fund/Alumni Reception



1. Rody Damis '13 and D.C. Chapter Chair Nate T. Yohannes '12

2. Hon. Paul L. Friedman '68 and Celeste M. Murphy '97

3. Annual Fund Co-Chair Mason P. Ashe '89



Campaign Co-Chairs: Kenneth B. Forrest '76, Margaret W. Wong '76, Francis M. Letro '79 and Thomas E. Black Jr. '79

YOU MADE IT HAPPEN

The School of Law embarked on an ambitious campaign to raise **\$30 million to support our key priorities:** student scholarships, innovative academic programming, endowed chairs and professorships, and upgraded facilities and technology.

Thanks to the vision and the commitment of our dedicated alumni and friends we have exceeded that goal with over \$31 million raised! Your support allows us to provide greater opportunities for our students, and greater promise for the future of a UB School of Law education.

THANK YOU!

Watch your mail for the Campaign Honor Roll.

ALUMNI & PHILANTHROPY

HONOREES

For the
Judiciary



Hon. Gerald J. Whalen '83
Presiding Justice,
New York State
Supreme Court
Appellate Division,
Fourth
Department
Rochester, N.Y.

For Private
Practice



Paul R. Comeau '73
Partner,
Hodgson Russ LLP
Buffalo

For Community
Service



Tasha E. Moore '98
Senior
Management
Analyst,
New York State
Unified Court
System
Office of Court
Administration
Buffalo

For Public
Service



Marianne Mariano '94
Federal Public
Defender,
Federal Public
Defender's Office of
Western New York
Buffalo

For Business
Achievements



David E. Franasiak '78
CFO &
Senior Partner,
Williams & Jensen
PLLC
Washington, D.C.

For Outstanding
Service to the
University and
Community by a
Non-Alumnus



Hon. Richard C. Wesley
Senior Judge,
U.S. Court of
Appeals, Second
Circuit
New York City

Congratulations
to our 2017
Distinguished
Alumni
Award winners

May 4 at the Hyatt Regency
Buffalo

Tasha E.
Moore '98
with her
family



LAA
President
**Brian D.
Gwitt '98**



LAA
President-
Elect
**Pietra
Lettieri
Zaffram '01**



Annual
Dinner
Co-Chair
**Marc W.
Brown '99**



Annual
Dinner
Co-Chair
**Jeffrey C.
Stravino '97**

For more photos and videos from our events visit: www.law.buffalo.edu/forum/extra



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Paul R.
Comeau '73
and his
fans



Hon.
Gerald J.
Whalen '83
with his
supporters



David E.
Franasiak
'78 with
his loved
ones



Hon. Richard
C. Wesley
with his
family
including
daughter
Sarah E.
Wesley '06
(left)



Marianne
Mariano '94
with her
mother and
husband

SAVE THE DATE

Join our reunion classes for a *new*
School of Law *all-alumni* celebration.

MEET OUR NEW DEAN!

We welcome all law school alumni to help us celebrate the classes ending in 2's and 7's (guests included), and to meet our new dean, Aviva Abramovsky.

Want to serve on your class committee?

Contact Ilene Fleischmann at (716) 645-7347

or email fleisch@buffalo.edu

Saturday,
Oct. 14, 2017

The Buffalo Club, 6 to 8 p.m.

For more information visit:

law.buffalo.edu/alumni

