

Business Law at UVic

Meet the Business Law Faculty
UVic Law Means Business
Business Law Tools

Military Law

Alumna Sherry Macleod ('00)

Man of Steel

Alumnus Jason Kitts ('98)

The 40th Celebrations

Curriculum Review

Have your say





University
of Victoria
Law

VISTAS

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Dean's Message: Preparation for Contemporary Business Law

JEREMY WEBBER
Professor and Dean



Jeremy Webber, Dean of Law.

People do not generally think of UVic Law as a business-law or private-law school. Our reputation is most pronounced in public law. Indeed, our contributions to public law have been impressive and sustained. We can plausibly claim that we have exercised leadership in constitutional law, criminal law, equality law, Indig-

enous law, feminist legal theory, environmental law, law of the sea, immigration law, and other areas.

However, this leading presence in public law can sometimes obscure our other contributions. These other contributions are very significant. Think, for example, of our prominence in the law of trusts, established by Donovan Waters, continued under the leadership of Mark Gillen, and recently bolstered by Kathy Chan's recruitment to UVic. Think of our faculty's role as authors or co-authors of leading textbooks on securities law, intellectual property, remedies, telecommunications law, and international investment arbitration.

Martha O'Brien is one of Canada's leading experts on international and comparative taxation law, especially in relation to the European Union. We have long led, alongside UBC, Canadian law's engagement with Asian economies. And if you want to understand pension policy or the issues involved in Canada's accession to an investment treaty, you cannot do better than to engage with Freya Kodar on the first or Andrew Newcombe on the second.

Moreover, from the first years of this Faculty and still today, a focus on the regulatory state has been central to the self-image of UVic Law. It is disseminated throughout our courses on economic regulation, environmental law, administrative law, labour law, consumer law, corporate law, intellectual property, taxation, and many other areas. Nor are we sitting on our established strengths. We have recently hired new colleagues in corporate law, labour law, and international commercial law. Indeed, we are moving

to sharpen our focus on the regulatory state by developing an upper-level course to canvass and compare regulatory strategies in order to draw together general lessons from our particular strengths in specific areas.

This focus on the regulatory state does double duty. It is not just about how to interact with the state in the interest of private parties (though it is about that too). It educates students in how to design effective structures to achieve public ends. It combines our traditional strength in public law with the needs of a contemporary business law practice, one that requires effective interaction with public agencies, the capacity to integrate policy concerns with legal argument, and the ability to marshal information from multiple disciplines.

Any first-rate law school, any law school that prepares its students for the practices of today, has to foster those skills and has to expose its students to a wide range of areas of the law, so that its students can find their own paths in the law and excel within them. UVic Law does that. As the stories in this issue of *Vistas* make clear, it has long provided exemplary preparation for a career in business law as it has done in public law, Indigenous law, and a host of other areas. This issue is about that often neglected aspect of UVic Law. ■

Alumni Relations Stay in Touch

ERIN HALLETT

Alumni Relations and Annual Giving Officer



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Erin Hallett, Alumni Relations and Annual Giving Officer.

✉ lawalum@uvic.ca

By the time you read this, I will have left UVic Law for an alumni relations job with Birkbeck College, University of London. Both the job, and the opportunity to live overseas, fulfil longtime goals of mine.

I joined UVic Law in 2011. My role was brand new to the Faculty and I was hired to foster ongoing, reciprocal relationships between you and the law school. In four years, we have seen relationships with our alumni thrive and grow. You have hosted Class reunions, volunteered your time with the Law Careers and Law Admissions offices, provided your feedback, written articles for *Vistas*, and supported the law school financially. I wish I could thank each of you individually. Your commitment helps UVic Law maintain its academic excellence, supports its collaborative and inclusive learning environment, and creates a strong foundation for the future.

We have a lot to celebrate in this issue! In March, over 200 alumni returned to Victoria and attended UVic Law's 40th anniversary weekend. A huge thank you to everyone who attended. There were many memorable moments but a particular highlight was listening to founding Dean Murray Fraser's wife, Anne Fraser, share stories from the earliest days of the law school during the Saturday afternoon panel discussion. Anne was joined by several other alumni and friends, including former Dean Andrew Petter ('81) and Justice Ron Skolrood ('86). This issue contains snapshots from the 40th anniversary celebrations for those of you who couldn't attend, including this link to a [video of the panel discussion](#).

This issue also features our alumni who practice in the dynamic field of business law. We profile their accomplishments and learn how their time at UVic Law has contributed to their professional success. I met with Jason Kitts ('98) in London and discussed his international business law career and the role attending UVic Law played in it.

UVic Law is an extraordinary place. I started this job with a list of over 3,500 strangers and I am proud to write that I now consider many of you friends. It was a privilege to be part of the UVic Law community and I will always be grateful for the time I spent here. I encourage you to stay connected and involved with the law school. UVic Law needs your engagement and I hope you will continue to embrace and develop your connections with each other and with the law school. ✎



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Business Law Clinic Provides Experiential Learning Thanks to Continued Support

UVic Law has been recognized since its inception for teaching innovation and its unmatched commitment to experiential education, in which students learn through mentorship and clinical programs. Today we continue to expand the practical learning opportunities we provide to students as well as the very real-world contributions they make in our larger communities. UVic's Business Law Clinic (BLC) is a cornerstone of our program, and several prominent firms with strong links to UVic have joined a consortium to support the Clinic in its next phase of growth. McMillan LLP, Miller Thomson Lawyers, McCarthy Tétrault, and Borden Ladner Gervais have each signed on with a pledge of engagement. To them we extend our sincere thanks, for their generosity and their commitment to ensuring that UVic Law continues to be a premier destination law school in Canada.

The first of its kind in the province, UVic's BLC performs a unique and valuable role: providing a practical education to the next generation of lawyers and legal information to aspiring entrepreneurs, small businesses and not-for-profit organizations across BC who would otherwise be unable to access legal services. Moreover it is the only law school clinic in Western Canada that focuses exclusively on business issues.

Under the guidance of BLC Director Michael Litchfield, upper-year law students provide clients with legal assistance in business planning and operations as well as offering expertise on matters such as incorporation, financing, charitable registration, and more. In this way, the BLC provides students the opportunity to develop practical business law skills and apply them creatively and thoughtfully, enhancing their knowledge of highly relevant areas of law.

The BLC is a key 'access to justice' initiative that offers practicing lawyers the opportunity for professional development and volunteerism, while it serves to directly strengthen local capacity and local economies. We invite firms with a Business Law practice to join the consortium, providing financial support and specialized expertise to the BLC through a sponsorship program. To find out more, please contact the Development Officer by email at lawdev@uvic.ca or by telephone (250-472-5627).

UVic Law deeply values its relationship with the British Columbia business law community, in Victoria, downtown Vancouver, the Okanagan and elsewhere. Thank you, for all you do. 



UVic Law's New Communications Officer



Julie Sloan, Communications Officer.

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🌐 [Linkedin.com/in/juliesloan](https://www.linkedin.com/in/juliesloan)

As the new Communications Officer in the faculty I can never replace the inimitable Margaret Suderman, but I'm taking on her former position and expanding it. The position is now full-time, which means we have the capacity to do more to increase the profile of the faculty in the community, across Canada and internationally. As the Communications Officer in Law I handle everything to do with media, web, social media, marketing and events. I love to tell the stories of our extraordinary students, faculty and alumni.

I joined the faculty at the end of April after working in Science and Engineering at UVic for a little less than 2 years. Prior to joining UVic, I was the Communications Officer in the Department of History at SFU for five years. I hold a Bachelor of Arts in Writing from UVic ('99), and have worked in the high-tech and non-profit sectors, and in Canadian embassies abroad; from the west coast to Ottawa, Nairobi and Seattle.

I'd love to hear from you - our alumni are our greatest asset. Tell me your ideas and your stories, and keep in touch. **N**



Reunions

For information about the 40th Anniversary celebrations or help planning your future reunion, please email lawalum@uvic.ca with your graduating year in the subject line and information relevant to your event.

2015

Reunion Years

1980—35 year
1985—30 year
1990—25 year
1995—20 year
2000—15 year
2005—10 year

2016

Reunion Years

1979—35 year
1986—30 year
1989—25 year
1996—20 year
1999—15 year
2006—10 year



40th Anniversary Celebrations



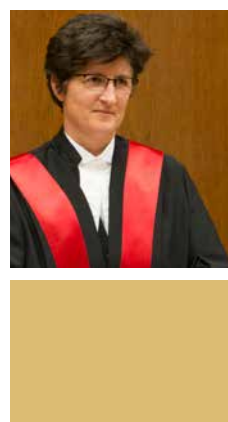
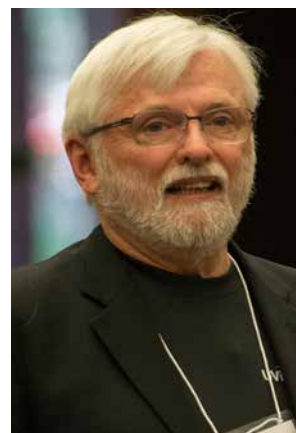
40th Anniversary Celebrations (cont'd)

PHOTOS: UMC PHOTO SERVICES



40th Anniversary Celebrations (cont'd)

PHOTOS: UVIC PHOTO SERVICES



MORE PHOTOS ON PAGE 29 ►►

UVic Law Means Business

—MARNI MACLEOD ('93)

Thank you to the alums that took time out of their busy practices to talk with me about their UVic Law experiences. It was a pleasure.



Riley Burr ('07) is a tax partner at Bull Houser LLP. In addition to highly technical work for corporate entities Riley works extensively in commercial ventures for charities and not-for-profits and social ventures.



Aidan Cameron ('05) is a partner in the litigation group at McCarthy Tétrault where she focuses on commercial litigation in a range of complex commercial cases, including construction, real estate, mining, environmental law and insurance coverage litigation. She is also the Editor-in-Chief of *Mining in the Courts* (see page 31)



Madelaine Campbell ('12) is a lawyer at Dominion GovLaw LLP in Victoria. The firm is a full-service law firm providing advice and representation to local, provincial and federal levels of government as well as public authorities and agencies.



David Gruber ('96) is a partner with Farris, Vaughan, Wills & Murphy LLP where he focuses on corporate/commercial litigation, restructuring and insolvency, professional liability and class actions. David is also an international commercial arbitrator and a Fellow of the Chartered Institute of Arbitrators.



Will Shaw ('10) is an associate in the Business Law Department with Fasken Martineau's Toronto office. He is a member of the Start Up & Entrepreneurial Services Team.



Jagdeep (Jag) Shergill ('01) is a partner in Lawson Lundell LLP's corporate and commercial law group. His clients include partnerships, private and public corporations and the work he does spans the full gamut of structuring and transactional work.

UVic Law is frequently lauded for its public law focus and innovative clinical programs including the ELC, the Law Centre and the Co-op program. While the law school has had a Business Law Clinic since 1998, business law is not typically the first thing that springs to mind in association with UVic. Nonetheless, our *alma mater* is home to a diverse group of talented and innovative business lawyers.

You may be aware from the website, the Alumni LinkedIn Group*, an email blast from the Curriculum Review Committee or the article on page 19, that a curriculum review is underway. I conducted interviews with alums currently practicing business law before I had given much thought to the review and it is interesting to reflect on why they chose the law school and how their experiences shaped their career paths.

One of the first questions I asked was “Why UVic and why business law?” Surprisingly, with one exception, most did not start out with the intention of becoming business lawyers. However, in conversation with them it quickly became clear that UVic Law’s focus on building critical thinking skills, a contextual approach to law, opportunities for experiential learning, and access to willing and caring mentors opened doors to possibilities in business law that might never have occurred to them.

What this says about UVic Law is telling in my view and speaks to the versatility that a UVic Law education provides. I think **David Gruber ('96)** hit the nail on the head when he said, “Statutes change frequently and every few years the Supreme Court of Canada decides to reinvent the law so it’s really much better to have a critical thinking approach than to be tied to current knowledge. I learned a lot of different things and a lot of different ways to think about the law at UVic and that’s served me well.”

Why UVic Law?

Everyone I spoke to talked about UVic Law’s reputation for academic excellence combined with experiential learning and a range of opportunities for exposure to practice skills.

As **Aidan Cameron ('05)** put it, “I wanted a well-rounded legal education from a university that had a high ranking, which UVic did. One of the things that really appealed to me was the fact that the class size was quite small, relative to other law schools. I felt that I would not get lost in the crowd. I also liked what I had read and understood from others about it being a collegial environment.

Of his selection process **Riley Burr ('07)** said, “I had the option to attend the more traditional business law schools. I chose UVic because it consistently ranked highest among past student satisfaction surveys and because of its reputation for academic excellence.”

Each alum also confirmed they felt they had received a solid grounding in the theory and critical thinking skills that inform their respective practices but it was the process of working through their respective courses and experiences that led them to their current careers.

Academic excellence

David Gruber identified his experience at the Gale Cup Moot as a memorable learning experience but credit’s Jamie Cassels’ contracts class and Bob Howell’s property law class with sparking his interest in business law.

Aidan Cameron values the foundation she received in concrete areas of substantive law that she uses in her practice, particularly contracts. She notes, “I don’t think there’s a file I touch that doesn’t have

some element of contracts or torts or property law.” She is also grateful to Don Galloway for her understanding of torts and credits Mark Gillen for providing her with insight into the law of trusts. Like David, Aidan also felt she gained some great skills training by participating in mootings.

Riley Burr told me that he spent most of his time at law school focused on traditional law courses. Interestingly enough, one of the courses he took, Hamar Foster’s “Historical Foundations of the Common Law,” did not quite fit that mould but as Riley says “It was probably the most useful class to my becoming a successful tax and business lawyer because it taught me a vastly more sophisticated understanding of real property and personal property law which is at the core of tax.” Further, he noted that his textbook from that class “remains the book from law school I look at most in my practice.” He adds, “The luxury of academic time allowed me to discover and develop my interest in tax (an area that is fascinating both in theory and in application and which remains the focus of my practice). There are a surprising number of UVic trained tax lawyers working in Vancouver, and I believe that the academic focus of UVic Law is a reason for that.”

Riley also credits UVic Law for giving him a solid foundation in tax law itself. As Riley says, “I owe a lot to Martha O’Brien and how rigorous she was in her approach to teaching tax and advanced tax. There must be something to that because most of the business lawyers I know who are from UVic practice in the area of tax.”

When I asked **Jag Shergill ('01)** about his favourite course he said, “It’s funny I’m not in that area but I really enjoyed administrative law with Cheryl Crane. She was an excellent professor who stuck with the syllabus, was very clear and concise, and gave

**The LinkedIn group is open to all UVic Law alums and is presently approaching 1000 members. It’s one easy way to reconnect with your classmates and fellow alums. If you want to join just search for UVic Law Alumni on LinkedIn and send a request.*

good examples, while it's not an area of law people often rave about, it comes up even in what I do in relation to the regulatory side of things, due process and whether something passes the "smell" test."

Why Business Law?

As noted above, only one of the business lawyers I spoke with started out with a clear-cut idea that they wanted to practice business law. Further most did not enter law school from traditional business backgrounds. For pretty much everyone it was a series of opportunities via the Co-op program, experience mooted, exposure to the Business Law Clinic, or encouragement from faculty members that ignited an interest that developed over time.

The Co-op experience

Jag Shergill, **Will Shaw ('10)**, and Aidan Cameron all pointed to their Co-op experiences as eye openers.

Aidan Cameron started law school thinking she might want to practice family law. She says, "I jumped at the idea of the Co-op program because I really didn't have a concept of what sort of law jobs were available to me. But after doing my term at Dwyer Tax Lawyers, where they practice primarily corporate tax, it was just so clear that that was the kind of career I wanted. I don't practice tax, but that environment and that type of work appealed to me. I didn't have a business background and my term there opened my eyes to the possibilities."

Will Shaw was also unsure about where he wanted to take his career. He notes that, "At the time I didn't know what I wanted to practice so I thought the Co-op program was probably going to be the best way to figure that out. That was the initial draw. Then going into some of the more experiential learning programs offered at UVic, Business Law Clinic (BLC), started to direct me toward business law generally."

Jag Shergill adds, "One thing I don't think gets enough play from the business law perspective, and I think it should, is the Co-op program. Through the Co-op program I was able to do a rotation at the BC Securities Commission which was great because in an area like securities, without that kind of experience, you don't really get any practical exposure to what it's like."

The Business Law Clinic

Alums who participated in the Business Law Clinic stressed the value of gaining practical experience advising clients on real, day-to-day legal issues and working in a team environment to solve client problems.

Madelaine Campbell ('12) remembers really enjoying the weekly meetings and planning approaches to new and existing clients and working within a team to divvy up work. She said that she also came away with an appreciation for the importance of marketing that she says has stuck with her as an associate in a smaller firm.

Jag Shergill was a part of the BLC in his 3rd year. "We had a small group of 10-12 people and the instructor was a fellow by the name of Mark Bridge who did a good job bringing in business law practitioners to speak about their practical experience. Law school is in many ways geared toward litigation practice so it was a good opportunity to hear about what practice as a solicitor or business lawyer was like."

To a person, every alum acknowledged that practical business law experience is hard to come by even during articling where it's easier to assign litigation-related tasks and research than business law work, which is so often dependent on experience. As, Riley Burr noted, "Getting some practical experience while at school with the BLC can thus be very valuable."

On that point, Jag Shergill recounted an opportunity he got through the BLC to work with an entre-

preneur who wanted to know if he could patent an idea he had. Jag noted that "at first blush I thought he might well be able to get some protection through patent law. The file required researching the requirements that had to be met and, while it turned out that a patent was not going to be available to provide the client with the protection he was after, the process of finding that out was a good first interface with a particular segment of business law. I came away having learned how to explain a complex area to an entrepreneur and knowing I had provided information that was useful." As Jag put it, "I think it was one of the only opportunities where we actually got to see what kind of issues can arise and to understand how business law principles are applied in practice. Business law in particular is an area of practice that law school really can't "train" you for. While you need the substantive information and fundamentals you learn in law school, you also need experience. And for the purpose of getting hands-on experience, the BLC was good for that."

Will Shaw also emphasized the value of hands-on experience along with the importance of mentorship. With respect to his experience Will noted, "as a summer or articling student one of the most important things you'll do is research and take a complicated subject and break it down into a simple summary. I don't think you necessarily realize that the memo that you write may well end up directly in the hands of a client. The BLC was my initial foray into the writing of practical memos. I learned to be diligent in my research, pay close attention to the facts and think practically about what the client was interested in and what they were really trying to achieve. Practical, real-life experience is something missing from purely black letter law... similarly communicating effectively with clients is something you acquire through experience – the BLC gave me a head start in that regard and the habits I formed during that law school experience are skills I took with me into my current position as an associate."

In terms of mentorship, it was through the BLC that Will Shaw, born and raised in BC, met George Glover. George was running the program at the time and was also the former managing partner at Fasken Martineau in Toronto. He talked to George about Toronto firms and potentially applying for a Co-op term at the Ontario Securities Commission. As Will remembers it George, “sat down with me and took the time to talk through a whole bunch of stuff including life in Toronto and what Faskens specifically was like at the time. His influence on me was huge and gave me my first insight into both Bay Street law firms and Faskens. I re-

“I chose UVic because it consistently ranked highest among past student satisfaction surveys and because of its reputation for academic excellence.”

member thinking how cool it was that this guy, who had been the managing partner at a huge law firm, was willing to sit down with me and mentor me. That kind of willingness to take time to mentor and teach was, I think, one of the things that differentiated UVic and Faskens for me. People wanted to go the extra step to help you figure things out.

In terms of the way my career has unfolded, George was probably one of the most influential factors.”

Another underlying theme that came up in conversation with alums that had been through the BLC is the mutually beneficial value of partnering with the BLC both as a source of practice support and as mentors to the next generation of lawyers.

As Madelaine Campbell put it, “the program would benefit from more partnering with alumni who would be prepared to offer advice to BLC students.” Will Shaw pointed out the potential value of building rela-

tionships with the BLC as a source of research for local alums who don’t have articulated students or juniors.

Riley Burr acknowledged that it’s hard to get practical business law experience as a student and made the point that “it’s incumbent on people who are working in business law to reach out and mentor the people who are interested.”

For information on how you can get involved with the BLC see page 06.

Exchanges

Another unique feature of the UVic Law program noted by business law alums was the opportunity to go on exchanges. David Gruber opted to spend his last term on exchange in Europe at the Vrije University in Amsterdam. Of his time in Amsterdam David said, “I had a great experience there and got a taste for comparative law which I wanted to continue, so after articles I went and did a Masters in comparative law at Cambridge. From there it was the opportunity to work with the late Joe Wood at Blakes, doing counsel work on international commercial arbitrations that allowed me to develop that part of my practice.” These experiences culminated in David becoming a Fellow of the Chartered Institute of Arbitrators in 2010.

Collegiality and community

I asked everyone “If you had a do over what would you change?” The answer: not much. Some would have taken advantage of opportunities like the Law Centre and building relationships with their peers.

Jag Shergill notes, “Lawyers who come from UVic tend to be very grounded and easy to like. Collegiality is a hallmark of the law school and especially important in business law where you are working in a team on almost everything you do.”

Aidan Cameron was also impressed by the sense of community, collaboration and collegiality at UVic.

As she put it, “There’s a real collaborative approach at UVic and that feels right to me and it is something that has stuck with me throughout my practice. In my practice it’s not uncommon for me to talk to my partners or colleagues about files I’m working on or how I’m dealing with a particular issue to get their feedback. It’s amazing how many different views you can get and I think it’s that process that often leads to the best answer.”

As Riley Burr noted, “I would spend more time getting to know the students in years above and below mine. I found it too easy to become focused on my immediate milieu in law school. I have been lucky enough to connect with many interesting alumni from different classes after graduation though, and I should have gotten to know them sooner.”

In weaving together this series of interviews it struck me that business law is really no different from the practice areas for which UVic Law is fêted. Further, as Riley Burr quips, “Pursuing business law doesn’t mean that you are not going to be involved with a full and rich range of diverse clients and projects. For example, because of my focus on vary technical and business corporate tax practice I’ve ended up doing vastly more work in the social ventures and First Nations areas than I could have imagined.” Moreover, success in business law requires academic rigour and the ability to frame a problem in context, the skills to get at what the client needs to achieve (something experiential programs provide in spades), and collegiality to allow the gathering of multiple perspectives and feedback to produce the best possible solution for a client. Consequently, it should come as no surprise that UVic Law does indeed mean business and produces some outstanding business lawyers. ■

UVic's Business Law Faculty

—BY MARNI MACLEOD ('93)

UVic Law is home to a number of outstanding teachers and scholars producing innovative research in business law and affiliated fields. Below are a few recent highlights:

Professor Mark Gillen

Securities regulation, business associations, trusts, taxation law, competition law



Professor Gillen is the author of *Securities Regulation in Canada*, 3rd ed. (Carswell, 2007); co-author (with Donovan Waters and Lionel Smith) of *Waters' Law of Trusts in Canada*, 4th ed. (Carswell, 2012); co-author (with Robert Yalden, Janis

Sarra, Paul Paton, Ron Davis and Mary Condon) of *Business Organizations: Principles, Policies and Practice* (Emond Montgomery, 2007); co-author and co-editor (with Faye Woodman) of *The Law of Trusts: A Contextual Approach*, 2nd ed. (Emond Montgomery, 2007); and co-author and editor of *Corporations and Partnerships: Canada* (Kluwer, 1992, revised 2008).

Professor Gillen has been a visiting professor at Nagoya University, Japan and Chulalongkorn University, Bangkok, Thailand. His other research interests include Malaysian constitutional law.

Professor Robert (Bob) Howell

Intellectual property, technology, telecommunications, private international law, Asia-Pacific issues



Professor Robert Howell has specialized in intellectual property and conflict of laws (private international law) for over 15 years. The inter-relationship of these two areas is now of "cutting edge" significance.

Today, intellectual property rights (IPRs) are core elements in almost every practice of business or commercial law. Within the Faculty of Law this is recognized by the listing of the basic IP course as a recommended pre or co-requisite for participation in the Business Law Clinic. A business or commercial practitioner must be able to identify IPR issues and either deal with them or refer them to specialists in the particular fields.

This "main-streaming" of IPRs flows in substantial measure from the revolution in technologies, media, and communications together with freer international trade and commerce. In the latter respect we are talking borders, the crossing of borders, and the consequences of this in a context of application of respective national laws to trade, commerce and communications - the realm of conflict of laws or private international law (PIL) that is now necessarily of immense importance to IPRs.

In 1997 Professor Howell published on this connection at the very fledgling stage that it had reached at that time. Just this year he submitted for publication a substantial analysis of developments that have occurred consistent with the portent of his 1997 piece now reaching fruition before the Supreme Court of The United Kingdom and in studies by international bodies. Professor Howell has considered these choice of law propositions within the context of Canada's expansion of jurisdiction and recognition and enforcement, expansions that are not yet applied in the UK.

Professor Howell's study also includes issues of the international trend of court specialization for IPRs and the jurisdiction of the Federal Court of Canada in an IPR / PIL context.

Professor Rebecca Johnson

Law and society, legal discourse, business associations, law, legislation and policy



Most recently, Professors Johnson and Liao co-wrote a comment letter in response to Industry Canada's public consultation on revisions to the *Canadian Business Corporations Act*, which has not been revised in 13 years. Their letter focused on pro-

visions related to voting and the implementation of socially responsible enterprises. [Find out more here.](#)

Associate Professor Freya Kodar

Pensions, debtor and creditor relations, disability law, feminist analysis of law



Professor Kodar's research and writing focuses on two core areas: pension law and policy, and the regulation of debt and credit. In the pension field, she has published on pension fund investment practices, and their role in

both corporate regulation and financial markets. More recently her research has addressed the question of how to provide retirement security for those engaged in precarious work and / or providing unpaid care work over their life cycles. In December she presented work on pension security for persons with disabilities at an invitational symposium on law and disability at the University of California, Berkeley.

Her work in the debtor and creditor field examines regulatory responses to rising levels of consumer debt, with a particular focus on vulnerable consumers and the alternative consumer credit market. In this context she has looked at financial literacy measures and payday loan regulation. She was recently awarded

a research grant from the Law Foundation of British Columbia for a project looking at regulatory responses to consumer vulnerability in the mainstream and alternative financial markets. This summer she will be presenting some of this work at two conferences: as part of a panel entitled "Banking in the Public Interest" at the Canadian Association of Law and Society Conference at the Faculty of Law, University of Ottawa; and at the International Association of Consumer Law's biannual conference hosted by the University of Amsterdam.



Assistant Professor Carol Liao

Corporate law and governance, business ethics, law and economics, responsible and impact investing

In her qualitative study, "A Canadian Model of Corporate Governance," Professor Liao conducted interviews with leading practitioners to provide a framework on the fundamental principles driving the development of corporate governance today. Her exploration into the tensions between corporate and securities law in Canada received the Robert Bertram Award funded by the Canadian Foundation for Governance Research. The Institute of Corporate Directors delivered her report to its 7,500 members and several

heads of provincial securities commissions during a critical juncture in the debate on the regulatory treatment of shareholder rights plans and defensive tactics. Her study was cited by Yvan Allaire in the [Financial Post](#), and has since been reprinted in Volume 37, No. 2 of the [Dalhousie Law Journal](#).

Professor Liao's chapter, "Limits to Corporate Reform and Alternative Legal Structures," will appear in the forthcoming book *Company Law and Sustainability: Legal Barriers and Opportunities*, edited by Dr. Beate Sjöfjell and Dr. Benjamin Richardson (Cambridge University Press, 2015)



Andrew Newcombe

International investment law, international arbitration, international trade law, commercial law



On faculty since 2002, Professor Andrew Newcombe is one of Canada's leading authorities on international investment law, international trade law and commercial law. His background includes practice experience in the international arbitration and public international law groups of Freshfields Bruckhaus Deringer in Paris. He is also the motivating force behind italaw.com, the only comprehensive, free-of-charge resource for primary materials on investment treaty law and arbitration.

Founded 10 years ago, italaw.com provides access to primary materials without commentary and acts as a historical repository for full decisions not just extracts. Professor Newcombe has worked to establish a complementary relationship with the investment arbitration community, which helps to ensure that [italaw](http://italaw.com) provides up-to-date information for researchers and professionals. The community of users functions as a source for emerging materials that are then posted on the site. For more information on italaw.com see page 30.

In addition to his work on italaw.com, Professor Newcombe has been busy with other international investment law related projects. In April, he participated

in an investment treaty law experts workshop hosted by the Centre for International Law at the National University of Singapore, the purpose of which was to elaborate a research agenda on international investment law for the next two years. In May, he taught the investment law module in the Master's programme at the World Trade Institute in Bern, Switzerland. This summer he will continue work on set of materials on international investment law and arbitration to be published by Oxford University Press.

Professor Martha O'Brien


Taxation, European Union law, legal ethics and business associations



In a conference designed to bring international tax and investment law scholars together, Professors O'Brien and Newcombe were invited to write the report for Canada on "The Relationship between Taxation and Bilateral Investment Agreements."

The conference, to be held in July 2015, is organized by the Wirtschaftsuniversität Wien (Vienna University of Economics and Business) where Professor O'Brien has attended and presented at several international and European Union tax law conferences since 2006.

This is not the first time Professors O'Brien and Newcombe have combined their expertise in tax, trade and investment law; both were members of a Social Sciences and Humanities Research Council funded research group on international investment law from 2009 to 2012 and contributed chapters to *Improving International Investment Agreements: Negotiations, Substantive Obligations and Dispute Resolution*, edited by Armand de Mestral and Celine Levesque (Routledge, 2013). Both also participated in legal panels at conferences on the Comprehensive Economic and Trade Agreement between Canada and the EU at UVic and McGill in 2014.

Professor O'Brien is also the subject of a Faculty Profile in this issue, see page 36. 

Curriculum Review Underway

—BY PROFESSORS ANDREW NEWCOMBE ('95) AND GILLIAN CALDER


In its most recent strategic plan, the Faculty of Law identified the need for a comprehensive curriculum review of the JD program and, in parallel, an initiative on teaching innovation. Although the Faculty has always prided itself on an innovative approach to legal education, there is a widespread feeling that, with the Faculty celebrating its 40th year and the fundamental challenges to and opportunities for innovation in legal education in the 21st century, the time is ripe for a comprehensive assessment of the Faculty's approach to legal education.

Last fall, an Ad Hoc Committee on Curriculum and Pedagogy (the Committee) was established consisting of faculty members John Borrows, Deborah Curran ('95), Gillian Calder (co-chair) and Andrew Newcombe ('95) (co-chair), staff representative, Yvonne Lawson, and two student representatives, David Gill ('16) and Katie Peardon ('15). The Committee met throughout fall 2014 and spring 2015 taking stock of trends and best practices in legal education and the education of other professionals, aided by the research assistance of second year law student, James Parker ('16).

Over the summer, the Committee co-chairs developing various curriculum reform proposals, which will be discussed by the Faculty in fall 2015. The current plan is for any proposed changes to the curriculum to be approved by Faculty Council in Spring 2016.

The Committee is seeking the input of alumni on curriculum change. What should UVic's law school curriculum for the 21st century look like? What should stay the same? What should change? The

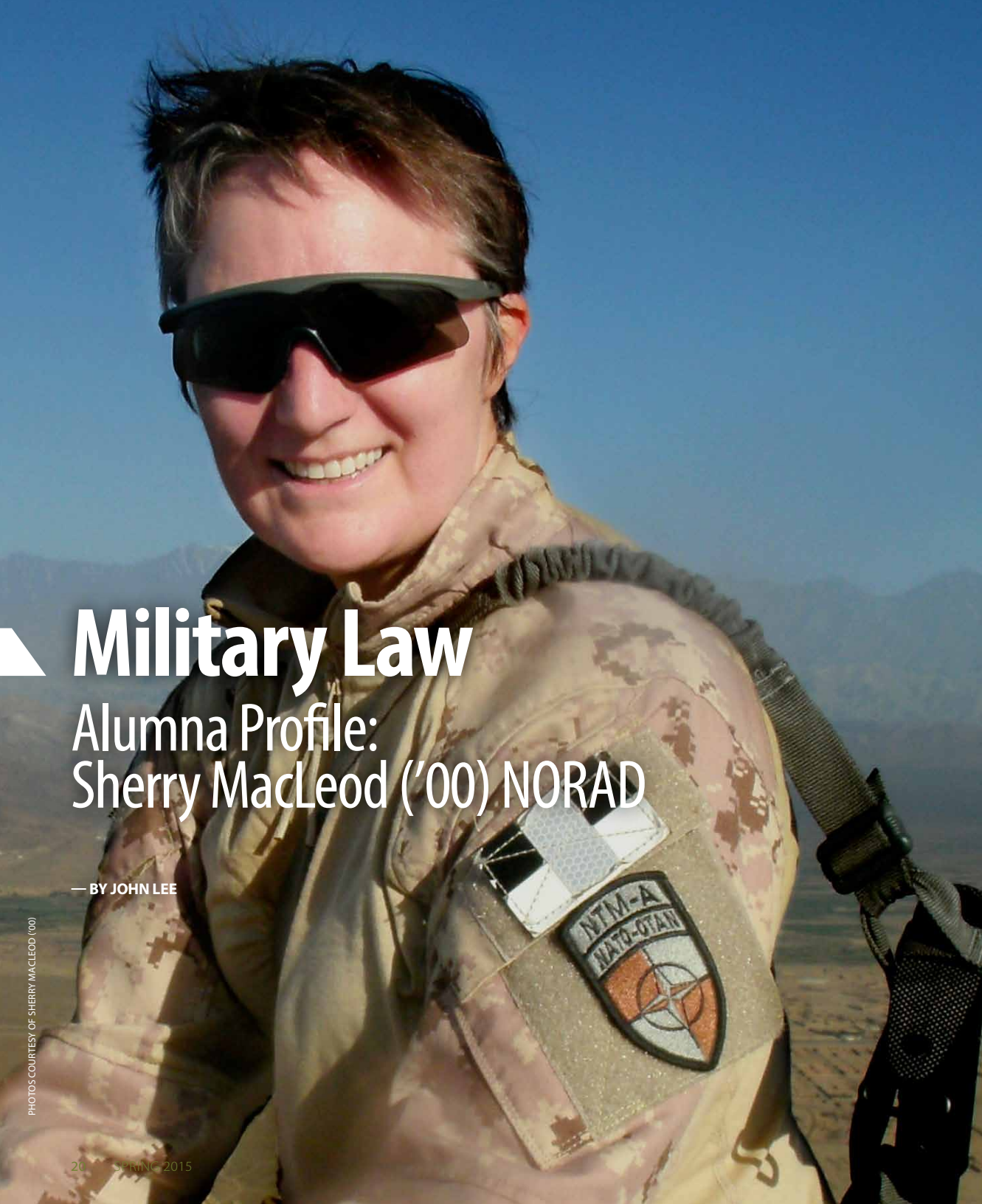
Committee has prepared a **short survey** and hopes that you will tell us what shape you think legal education should take at UVic in the years to come. The survey is available **here** and is open until 30 June 2015.

Please feel free to contact the Committee co-chairs Gillian Calder gcalder@uvic.ca and Andrew Newcombe ('95) newcombe@uvic.ca, if you would like to speak with us directly. 



SurveyMonkey





Military Law

Alumna Profile: Sherry MacLeod ('00) NORAD

— BY JOHN LEE

PHOTOS COURTESY OF SHERRY MACLEOD ('00)

When class of 2000 UVic Law graduate Major Sherry MacLeod joins training exercises at NORAD's Peterson Air Force Base headquarters in Colorado, she deals in life or death decisions. The Canadian Forces' military lawyer is deployed as a legal advisor to the North American Aerospace Defense Command—which means counselling generals on the law surrounding actions they might take during military engagements.

Serving via Canada's Office of the Judge Advocate General, MacLeod's current posting is a far cry from her student years, when she trained as a nurse before taking a leap of faith into law. An unconventional route, it proved the perfect launch pad for a remarkable military legal career that's included several complex roles in challenging hot spots around the world.

But while Bosnia and Afghanistan—plus service medals from Canada and the US—dominate her resume, Halifax-born MacLeod has worked hard to balance career with a life-long love of learning and the demands of raising a family despite far-flung postings. When she retires from the military in 2018, she'll have more than a few good stories to tell—plus the certain knowledge that it all started with a surprise about-turn into law back in 1997.

Q: Why did you move from nursing into law?

Towards the end of my UVic nursing degree, I started thinking about extending my education. I'd really enjoyed nurse training but I loved being a student even more—and I wanted to continue. One of my professors at the time suggested law school. I'd never even considered law but it seemed like an interesting challenge. I can still recall my nurse training and I practically have a walk-in clinic running out of my office on some days!

Q: What did your parents think about this change of direction?

I came from a family where no one had much more than a Grade 12 education so just going to university



was a big deal. But my parents were scared to death of the idea of student loans—at one point, I had more debt than the value of the trailer they were living in. Although they were really worried, they were also super-proud about me being in school.

Q: How hard was the transition into law?

I had never even met a lawyer at that stage in my life, so I went into it completely open. I've always had a left-wing perspective, so I thought I'd stand out but the UVic Law students had many different interests and backgrounds and I soon found "my people" in the program. I also had two kids to raise but my husband was very supportive and took over a lot of the day-to-day childcare. It was still a challenge, though—I used to hit the books at 5 a.m. and then again after 11 p.m.

Q: Did your nursing background come into play during law school?

I thought I would go into health law but it didn't really work out like that—although I did work on health issues while I was at UVic, including organizing a women's health conference. I also got fully involved in the Law Students' Society as well as working with VIPIRG [the Vancouver Island Public Interest Research Group]—I even performed in a couple of political stage plays with them!

Q: What do you remember about your UVic Law classes?

The profs I enjoyed most were John Kilcoyne, Heather Raven, Cheryl Crane and Glenn Gallins—I did the Law Centre program with him and it was the best course ever. That class was really useful later on during my four years as a military prosecutor. The basic principles of law I learned at UVic have always been useful to me—and I can still recall the rule against perpetuities from Bob Howell's property course!

Q: How did you move into military law?

After graduating, I began articling with a good firm on Vancouver Island but I didn't really enjoy all the black letter law I had to deal with. One day I saw a magazine job advert for Canadian Forces military lawyers.



2010 a few months before Sherry was deployed to Afghanistan

Sherry and family on leave in Iceland during her Afghanistan tour.



Sherry and her husband Grant MacLeod, on their way to a formal Mess dinner.

My dad had been in the military so I had an inkling of what the lifestyle was like. My husband supported the idea and although my mom was heartbroken about us leaving the area, she knew the regular grind of office work wasn't working for me.

Q: Did you have to attend military boot camp?

Yes! After I enrolled, I was given two weeks to wrap-up my practice and then I reported to Quebec for a 13-week boot camp. It was winter, I was 38-years-old and I was about to be physically challenged more than I'd ever been in my life. But I enjoy being part of a team and that proved really useful—there were times when I was being carried over the race obstacles by my colleagues!



Sherry following the Rule of Law Conference attended by legal officers, politicians and judges from around Afghanistan.

Q: When did you start practicing military law?

After eight months of French language training, I was posted to Ottawa in an administrative law role. By now, I was a commissioned officer and member of the Office of the Judge Advocate General. But I still had a lot to learn. Military law—operational law—is not something you see anywhere else, so it was unique from the start. *The National Defence Act* encompasses most of Canada's military law but you also deal with international law and the laws of armed conflict.

Q: It sounds complicated.

It is but that's a big part of the appeal for me. There's always something to learn in military law—and new courses for me to take—so I feel I've been continuing my education ever since I started. Some might find the

continuous training overwhelming but it really keeps me motivated.

Q: Where was your first overseas posting?

I deployed to Bosnia in 2005 as legal advisor to the Canadian Task Force Commander and the NATO Commander. I later spent a year in Afghanistan with the Combined Security Transition Command, working for a US colonel and assisting with a project that was bringing modern legal ideas to the Afghan army. I've served many

roles—from prosecutor to legally mentoring senior officers—but Afghanistan was a great posting and it felt very rewarding to be involved.

Q: What was it like on the ground in Afghanistan?

Kabul traffic is intense with cars, motorcycles and people sharing the streets with no apparent order. Each day I walked to the Ministry of Defence, passing the children trying to sell small items to those of us leaving the camp. I knew I couldn't help everyone, but I decided to help one child. I picked a quiet polite boy named Shams and bought 250 scarves from him. I also bought him a laptop and gave him school supplies and encouraged him to go to school. Shams and I are still Facebook friends and I still support his education.

Q: You're now deployed with NORAD in Colorado. What's your role?

I'm engaged on Operation Noble Eagle, which basically means I'm advising American and Canadian commanders on their responsibilities under international law. I also help train generals on the law relating to NORAD's mission to defend North America against air and maritime threats. Working with a group of other lawyers—teamwork is key in this posting—much of our time is spent on training exercises where I sit next to generals in combat scenarios. If it looks like they're missing something, I step in and advise.



Sherry participating in one of many Volunteer Community Relations missions to assist Afghan civilians. This photo was taken on a visit to a women's prison where she handed out clothing and hygiene items and toys for all the children.

Q: What scenarios do these exercises cover?

Here's an example: what happens if you have to engage a civilian aircraft to minimize collateral damage? A general making that decision needs to know his or her actions will be analyzed for the rest of their lives. My role is to help ensure they make the right decisions. I'm there to assist the command room team in creating the right scenarios in that moment. It has to be a no-fail situation because if we make the wrong call, thousands could die.

Q: It sounds highly pressured. Would you recommend this kind of law career?

I love my job and with this current posting I go to bed every night thinking I've helped make North America safer. But although it can be very exciting, military law isn't for everyone. You have to be flexible and able to adapt to very quick changes, including overseas deployment. But there are great educational opportunities—I'm also taking an MA via a London

university and there are conferences every year where I meet the most amazing people.

Q: What's next for you?

I'll be retiring in 2018 at 55 years of age and my final posting will be in Winnipeg. I'm going to enjoy my retirement but I won't be slowing down. I'll use my master's degree for something else and I'll certainly be looking for more challenges and learning experiences—I'm sure something will come up. But whatever happens, I'll always look back fondly on my UVic years—I still brag that it was the top law school in Canada when I was there! 🇨🇦



Sherry teaching the basics of Afghan law in a course for military members participating in the NATO development efforts for the Afghan National Army.

Man of Steel

Alumnus Profile: Jason Kitts ('98), Associate General Counsel at Chicago Bridge & Iron UK

— BY ERIN HALLETT, ALUMNI RELATIONS AND ANNUAL GIVING OFFICER

While in London, I had the chance to sit down with 1998 UVic Law alum Jason Kitts, whose career has taken him back and forth between Canada and the UK over the last 20 years.

Q: You recently returned to London to work as Associate General Counsel for Chicago Bridge & Iron. What prompted your move?

I had two primary motivations for a move back to London, personal and professional.

Professionally, working in Calgary I was focusing on international joint ventures for resource extraction and company restructuring; it was an exciting time. The company was pursuing the first LNG project on the west coast, which was why I was hired. Shortly after starting, the LNG project was sold. Thereafter, I was watching the LNG market in Canada to see if it would develop. When I determined it may not in the short-term, I began seeking overseas opportunities.

The intrinsic motivators for my legal career are two-fold: passion for cross-cultural negotiating and pioneering. I have been fortunate to practise law in emerging areas including Internet, sports representation, LNG, carbon finance, fracking and emerging markets projects in more than 35 countries. I find the intersection of law and commerce most interesting at these fulcrums.

In my current role based in London (again), I begin each day (early) focusing on projects in Australia and SE Asia. Midday prompts a move to the EMEA and I round out the day with North American issues. Despite being one of the largest engineering companies on earth, our legal department has daily access to executive decision-making. London affords these types of unique opportunities.

Personally, my wife is European so we were eager to be closer to her family. Being a transatlantic family, London proves to be a half-way point between our two families. We also wish to provide our multilingual children with the ability to experience many cultures as we regularly travel around Europe and beyond.

Q: When one thinks of Canadian “business law” schools, UVic Law is probably not first in the queue. Why did you choose UVic Law?

I was in my undergrad at UBC so UVic was familiar. I was ready for a change and , UVic Law was ranked as one of the top law schools in Canada, some said the number one law school in Canada. However, the real swing factor for me, coming out of undergrad without a ton of practical experience, was the UVic Law Co-op program. UBC was a very big school with a large faculty, so moving to a smaller faculty; more collegial and more connected to professors, also seemed like a good idea.

I was successfully accepted into the Co-op program which had a formative impact on my career. The program was designed so you could try a variety of experiences. My first was with the Court Services Branch of the Attorney General’s office. I knew I was never going to be a public prosecutor, that was never my calling, but it was good exposure to see remand court in action and to see that side of the law. One of the UVic law professors was the Deputy Attorney General at the time.

My second Co-op term was in Calgary where I think I was the first UVic Law Co-op student ever placed in Calgary. I applied for an off-cycle Co-op in the winter and I had to do a lot of explaining as to why there was a student available in the winter term. Being an ice hockey player originally from Saskatchewan likely did not hurt my sales pitch. Eventually one of the big firms saw the merits since they could not get enough students to do work in the off-cycle, and the hiring partner had attended Cambridge with Jamie Cassels. The rest is history. In Calgary I practised and played hard. The articling students and the lawyers loved it because they had another grunt to pass work to.

I completed my last Co-op term in Kuala Lumpur, Malaysia at an intellectual property law boutique. KL was a very motivational time because for all intents and purposes I was a student who had only just finished law school, however the firm considered me a

full-fledged lawyer. I had my own files, went to court, and had all sorts of responsibility that I never managed to get in Canada for years. That experience fuelled my fire for an international career and I maintain those relationships to this day.

Q: What lessons from your UVic Law experience have served you well in your practice?

One of the great lessons of my life came from UVic Law.

I came in with strong grades from corporate UBC Commerce, representing one stereotype of privilege—big, white, athletic male and all of the advantages that affords. Early on at UVic Law it became very apparent to me from the faculty and my first year grades that these advantages were not necessarily strengths. I can see the value in that experience now, at that time I was more than a little put off and felt quite sorry for myself.

Not being somebody who dwells on things, I moved on to embrace this new reality. In hindsight, that experience at UVic proved to be one of the more informative experiences of my life. It really allowed me to walk a mile in another person’s shoes, as to how it feels to be judged because of your appearance instead of your merits. It was a very poignant learning experience that I will always carry with me. It’s hard to imagine I could have learned that anywhere other than UVic Law.

Q: If you had a “Do Over” is there anything you’d change about your time at UVic Law?

I have spent most of my career in the energy industry and I think UVic Law, especially with some of the professors and programmes that they offer, including the Environmental Law Clinic, would have benefited me. While some might consider my practice on the other side of that spectrum, I do not. I have a firsthand understanding of balancing resource development with the needs of a country and its people in line with sustainability and environmental standards. I negoti-

ated at the UNFCCC Convention in 2010 in Copenhagen and consider that a highlight of my career. I did not take advantage of the opportunity to learn these things in an academic setting so if I had a “do over”, that would be it.

Q: You attended your 15 year class reunion in 2013. Why do you think it is important to reconnect with your classmates in this way?

I keep in touch with a lot of folks from UVic.

I have been given a lot of advantages from folks in my network and I always try to pass that along when I see someone from UVic, especially UVic Law; whether that’s simply some time or to make a connection. I moved out of province and out of country so it was important for me to reconnect with certain people. Roger Watts (‘98), a very dear friend, was organizing the event. Any time I get a chance to spend time with Mr. Watts, we always take full advantage!

Dean Jeremy Webber was also new at the helm in 2013. I had the opportunity to meet former Dean Donna Greschner in Calgary and I respected her. She had mentioned that Jeremy was going to bring a lot of strengths to the program so I was curious to learn more about him at the reunion. How right Donna was.

Q: What were your favourite subjects at law school?

Professor Bob Howell absolutely inspired me with intellectual property. Bob took a real interest in me at a critical time in my career when I was seriously questioning whether to continue pursuing law. Without doubt, if not for Professor Howell and Professor Jamie Cassels, I would not have chosen as I did. Let the record show, I owe both of those gentlemen a lot.

Intellectual property was a core summer term at UVic in 1997. UVic Law hosted a series of leading professors from all over the world, including from Singapore, Boston, and the UK. We were benefactors at a time when the Internet was taking off, a new area of law was dawning, and UVic had this really innovative course with worldly people providing input. Devel-



oping law relating to a pioneering subject with Professor Howell at the helm was a great opportunity.

The other class was Jack Woodward's ('79) Aboriginal law class. Jack began each class by presenting a vitriolic or controversial article from a newspaper on a topic for us to digest and respond to. The course caused me to reexamine some of my own stereotypes, which I certainly had growing up on the prairies. His class caused a lot of us to reassess our emotions and then advocate critically. For a very busy lawyer and an author, Jack still managed to come in and give engaging lectures and more importantly cause us to question some of our belief systems. In an academic setting, what else could you hope for?

Q: Who was your favourite/most influential professor at UVic Law?

Equally, Bob Howell and Jamie Cassels. Both were terrific supporters of mine at a time when I needed a bit of support. I keep in touch with Jamie, it has been rewarding to witness his career trajectory. Bob might be a surprise to a lot of people, though he was personally supportive, he did not pull any punches. He challenged me in a way that encouraged rather than discouraged me.

Q: You have enjoyed an international career, including positions in Qatar and Dubai. What are some of the challenges and opportunities you have experienced through your international work?

I have lived and worked in Doha, Dubai, Kuala Lumpur, and London. I have also lived in Germany.

My initial work experience internationally is to be credited to UVic Law. I secured a placement in Kuala Lumpur to work in a law firm. It was an exciting time because the Internet boom was in full swing which developed an area of law that had precious little precedent. While the law and commerce were being driven out of the US, a lot of other markets like Canada and Malaysia, were trying to move rapidly to capture the economic benefits and the legal systems were forced to adapt. They were trying to prove themselves to be internationally competitive legal regimes. I came into that environment at exactly the right time. None of it would have happened if not for UVic Law, the Co-op program and Professor Bob Howell.

I went to Malaysia and had a most interesting experience. I was there alone, away from familiarity of any sort. I was dumped into the deep end of cultural and legal nuance at a time when I was prepared, just barely. It was a terrific push personally and professionally and I came away from that having experienced the diverse

environment of Malaysia's three cultures. That experience whet my appetite for more international work.

In 2003, I was working in Calgary and the market was fairly slow, though things were booming overseas. I got a call from another Canadian lawyer asking if I would work for him in Qatar on the largest energy project in history, an LNG project. I couldn't even spell it!

Three days after the call I was on a plane to Doha for an interview and a decision would be made within a week if I would stay. They were targeting me because I had lived in a Muslim country and they felt I could assimilate better and faster than other candidates. I had absolutely zero LNG experience nor did anyone else. Later that week I landed in a very stark environment for 36 hours where I was shown where to work, the type of work, the colleagues and the apartment in an armed compound. Decision deadline was a week.

It happened so fast I remember asking myself - did that really just happen? It was one of the great risks of my career and I decided it was so exciting that I would throw myself in the path and see what happened. The key driver was a burning desire to see if I could play on the world level. The project slogan was, "How do you eat an elephant? One bite at a time." My uncle often advises: "When opportunity knocks, be sure to answer the [“£\$%^”] door.” I did.



Q: Do you have any advice for new graduates (or alumni) that want to pursue an international career?

I get asked that a lot. Back in Calgary, I became a resource for a lot of people, not just new graduates either, who wanted to work overseas. There is a real hunger among Canadian lawyers to work internationally.

My advice is this:

First of all, Canadian lawyers make excellent international negotiators. Growing up near the US, you are used to having to be creative and to being somewhat of an underdog. There is a humility, a level of deference, and an approach that comes with this perspective that is well appreciated outside of North America. It's a real asset to be raised Canadian; never underestimate the value of this.

Secondly, Canadian lawyers tend to be seen as hard-working, and frankly more affordable than American or British lawyers. Foreign employers often, if they have equivalent candidates, look at the Canadians for those reasons.

Thirdly, look for areas of growth. Canada, particularly western Canada, is a long way from the international markets so you need to create some relevance between your experiences other than simply being hard-working, because other countries offer that too. In an international competition, you need to understand and create a believable narrative around what

distinguishes you that is of value to an employer. In the late 1990's/early 2000's, during the Internet boom international markets were literally just hiring any lawyers they could to fill seats as a volume game and then in a year or two, they were sent back as the market cooled. That type of economic driver has not occurred for more than a decade and it may or may not come back any time soon. So, short of that kind of a run on lawyers, you need to look for a growth niche. Look for wherever the current trend is. For example, I think compliance law is a hot topic just now. Look for that growth, see if that fits you, and then paint yourself with that brush. Create your own narrative.

You need to be able to tell a story when you get in front of an international employer as to why they should even bother interviewing someone with a 12 hour time difference, let alone throw you on a plane to interview in person. The easier you can make it for them not to say no is critical. Research the target market, visit it. If you can get a visa, or have it arranged contingent on an offer, so the employer does not have to, this is time and money well spent.

Invest in yourself. Simply because you have practiced in a Canadian market does not create relevance. Take a professional course that is relevant to your narrative or go to a conference that is relevant. Highlight them on your CV and covering letter. Create relevance in your narrative.

Last tip: There exists a terrific network of Canadian lawyers around the world who understand how hard it is to get overseas and stay there. They understand why you want to do it. Connect with those people. In my experience, most are willing to assist if you are sincere. And don't use international head hunters, they are a waste of time!

Q: How do you think your legal education has contributed to your different careers and allowed you to succeed as a corporate lawyer?

The courses were really only relevant to the intellectual property and technology portions of my career. Doing an intensive summer intellectual property term with really interesting case work and expert lecturers was really quite relevant."

I think the critical part of any education, whether legal or not, and particularly from my experience at UVic Law, has been the networking and the people I have met—and kept in touch with. Of note, there is a group of four of us: Jason Roth ('99), who is a partner at Bennett Jones in Calgary; Keenan Moroz ('00), who is a senior intellectual property lawyer at Shell and who is now seconded in London; Shane Willoughby (99), who I work with at Chicago Bridge & Iron Company; and myself. We have all worked together in a number of different environments in Canada and internationally over the years and we



“There exists a terrific network of Canadian lawyers around the world who understand how hard it is to get overseas and stay there. They understand why you want to do it. Connect with those people. In my experience, most are willing to assist if you are sincere.”



have assisted each other with our careers. Having high-quality people who are motivated, with similar interests has been great, not only professionally but on a personal level.

Q: Can you talk a bit about being a Master Class participant in the Harvard Program on Negotiation? What do you hope to achieve by participating in this Program? Would you recommend the Program?

This is in line with creating relevance and a narrative. I was working at a bank in London as a diplomat and we had to do a mandatory personal development program where I was invited to do a negotiation session. I had no idea what it was and I assumed it was going to be another boring course. It turns out that the gentleman teaching the course was one of the founders of a consulting program that wrote the book *Getting to Yes*. Within ten minutes into the course he had captured my interest and very much sent me on a journey to understand negotiating.

I had done many negotiations all over the world at that point, and have done even more since. The course challenged me to be very introspective about myself and negotiating. He challenged me to understand my strengths and weaknesses, what worked and did not, and then to push myself to the next level. Much of my previous negotiation experience was interest-based, competitive and aggressive in techniques and tactics. I was rewarded quite handsomely and encouraged to negotiate that way in certain environments.

That style did not resonate well with me. I was in Copenhagen negotiating on behalf of some of the countries for the 2010 UNFCCC, which is a consensus-based organization, and the process and the skills I had were not that applicable. Ever since then I have been intrigued by mutual gains negotiations and extending the application beyond commercial negotiations to dispute and conflict resolution.

I began the process of training myself. I have done a lot of research, reading, and writing. I then started to

take further coursework with Harvard and at one point I was invited by Harvard to an invite only Master Class Negotiation Seminar—quite an honour. Two of the negotiator attendees were a US Senator and the Head of GM's Labour Group. These are wonderful people to learn from. I have since developed and offer Negotiation Coaching, including basic, advanced levels and a targeted session for women in negotiations. I learn as much from the students as they learn from me—maybe more. I find it really helps me in my own personal negotiation style. I am much more willing to consider other perspectives, I am more effective, and I understand how diverse interests contribute to negotiations.

Q: What is your proudest accomplishment?

My immediate family.

I married someone from outside Canada and so that exposed me to a wonderful source of differences and distinctions, and the opportunity to learn to speak a new language, as well as about her culture and her family. Then, to be able to pass the benefits of both heritages, experiences and families onto our two children has been rewarding beyond measure. As we have moved our children around the world to different environments to see them adapt and thrive each time without any fear or limitations is easily my proudest accomplishment. They teach me every day.

Q: What has been the most difficult thing to achieve/overcome?

Myself.

I grew up with a tendency, and I accept full responsibility for it, to be drawn to fix the bird with the broken wing. I attracted a lot of relationships where I tried to have my ego needs met by “fixing” other people and their situations. I had to come to an understanding as to why I was attracted to those types of situations. Those situations affected how I negotiated and the type of work I was attracted to as well as all my relationships. Once I understood that, my “fixing” tendency vanished creating vastly more energy in my

day-to-day interactions, and for the people around me. I would like to say to all the folks who helped me learn that lesson along the way that I am grateful.

Q: Why do you think it is important for UVic Law Alumni to stay connected to the law school?

I haven't been at the law school since 2006 so I may not be in the best position to answer that!

My year and the years around me were filled with a wonderful group of people. They are not only tremendously successful lawyers achieving great things in all manners of practice, more importantly, they are a tremendous group of people. To see them along with their families, the things they are achieving in their work and personal lives, the benefits they are adding to their communities, is a great source of pride.

That small little school on an island on the west coast has risen to quite some prominence. There are lot of reasons for UVic Law not to thrive and yet it has.

This success is surely due to the people and unique experience it provides. It's a special place that has to be experienced rather than talked about.

Thomas Gray wrote—“Full many a flower is born to blush unseen, and waste its sweetness in the desert air.” This reminds me of my experience of UVic Law whose sweetness is surely not wasted. 🐾

40th Anniversary Celebrations (cont'd)



— BY MARNI MACLEOD ('93)

Q+A about *italaw.com* with Prof. Andrew Newcombe

Italaw.com is a free, comprehensive, public, database of primary materials (awards, decisions, procedural orders, pleadings etc) relating to investment treaty law.

Q: What gap was *italaw.com* intended to fill?

International arbitration has traditionally been both private and confidential. This means that the proceedings and decisions are not available to the public. Beginning with the NAFTA, Chapter Eleven, investor-State arbitration cases, investment treaty arbitration became a matter of intense public concern because investment treaties allow foreign investors to challenge a whole host of government law, regulations and decisions. The conduct of municipal and provincial governments is attributable to the federal government under international law as are the decisions of courts. Investment treaty arbitration essentially allows a tribunal to review any type of government conduct against broad international standards such as “fair and equitable treatment”. At the time *italaw.com* was created there was no one source for all of the decisions and materials coming out of these tribunals. The website was developed to fill that gap and aggregate all of these materials.

Q: What resources does *italaw.com* currently provide to the legal community?


Up-to-date, free, public, comprehensive public access to investment treaty arbitration materials.

Q: What kind of feedback are you getting on *italaw*?

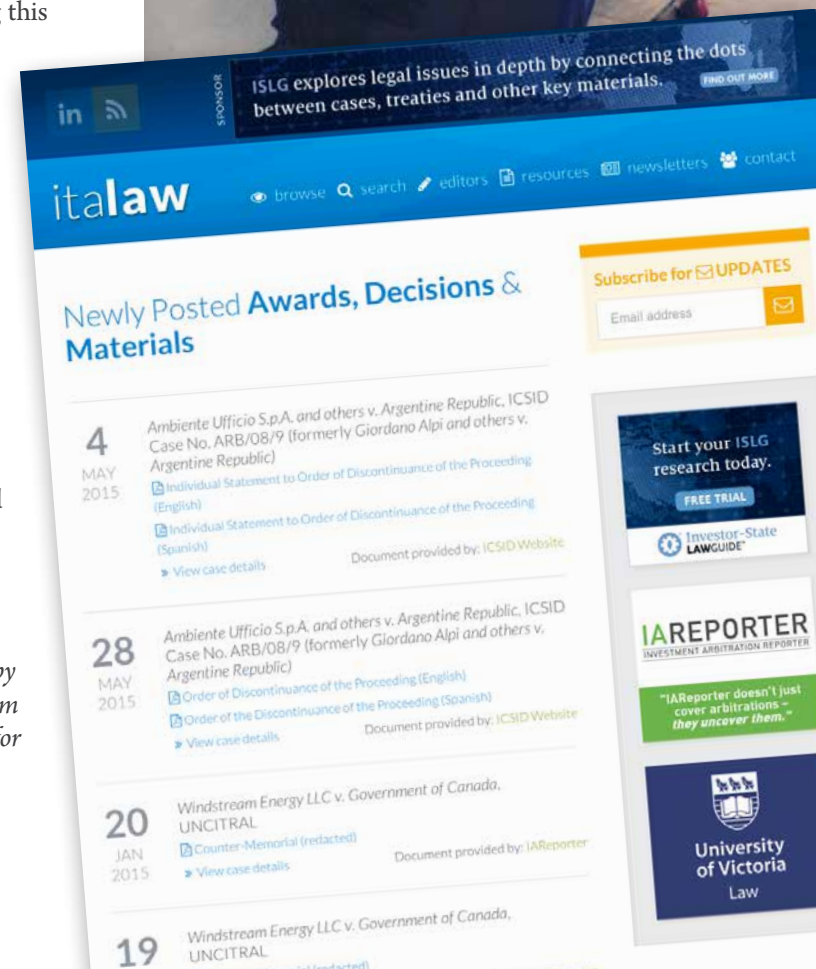
I regularly hear from lawyers who practice in the areas of public international law, international economic law and international arbitration that *italaw* is their first stop for research. I’ve also heard from government officials, researchers and students that *italaw.com* is the primary source they use for accessing this material.

Q: What’s on the horizon for the project?

Italaw.com recently underwent a website refresh thanks to financial support from long time sponsor *Investor-State LawGuide*.

Next on the horizon I’m hoping to develop a sister site to serve as a repository for secondary materials – a “bibliography library of international investment law materials” as well as functioning as an online research forum. The game plan is to have the forum include a monthly webinar featuring interviews with influential practitioners and academics on investment law and international arbitration topics. 

**In addition to generous financial support provided by the Investor-State LawGuide, italaw.ca benefits from the help of students who either volunteer or apply for work-study terms to keep the site up-to-date.*



Mining in the Courts



For the last five years or so McCarthy Tétrault has been working to develop the profile of mining litigations across Canada. One of the ways they have done so is by producing the *Mining in the Courts* publication (alumna Aidan Cameron ('05), a partner in McCarthy Tétrault's litigation group, is Editor-in-Chief).

The publication highlights significant and important Canadian cases involving and impacting the mining industry. In addition to providing key case summaries the publication offers commentary and insight on current issues of interest to mining companies and identifies emerging issues for consideration. The publication is released in conjunction with a seminar that McCarthy Tétrault puts on as part of the Prospectors and Development Association of Canada (PDAC) convention that is held in Toronto in March every year.

You can download *Mining in the Courts. A Year in Review, Vol. V - March 2015* [here](#). 



Doing Business in Asia: Introducing the Asia Desk Forum



BY VICTOR V. RAMRAJ
CAPI Law Chair

Over four spectacular spring days in April, the Fairmont Empress Hotel was abuzz with conversations and debates about the latest legal trends and developments in Asia and their implications for Canada and the Americas. Speakers and delegates from four continents—Chile, Colombia, the United States, Japan, South Korea, China, Vietnam, Malaysia, Singapore, India, and Australia—came to Victoria by the dozens to attend the inaugural Asia Desk Forum.

Hosted by the Centre for Asia-Pacific Initiatives (CAPI) with the support of the Faculty of Law, the Asia Desk Forum was conceived as a biennial event where lawyers, academics, government officials, civil society groups, and First Nations communities could gather to discuss the most pressing legal issues and the most important legal developments in Asia. The Asia Desk Forum was actualized in two parts. The first, the Asian Law Academy, consisted of six CPD-accredited workshops on cross-cultural legal skills, Japanese corporate law, doing business in India, international arbitration in Asia, and a lunch time talk on biculturalism and career development by CAPI's Jarislowsky East Asia (Japan) Chair, Mary Yoko Brannen. The second, the Asia Desk Forum Conference, included a full range of Davos-style plenary and parallel sessions on country- and region-specific topics and cross-cutting thematic issues.

Our international delegates received a warm traditional welcome from the late Joyce Underwood, and Victor Underwood of the Tsawout First Nation, and from Clark Roberts, Assistant Deputy Minister in BC's Ministry of International Trade and Asia-

Pacific Strategy. The tone for the Forum was set by a high-caliber keynote panel consisting of Eduardo Ramos-Gomez, the former Mexican ambassador to Singapore—now the Singapore-based Asian regional managing partner of the US law firm, Duane Morris; Bobby Majumder, the Dallas-based co-chair of Perkins Coie's India practice; Annabel Short, the program director of the Business Human Rights Resource Centre based in New York and London (who was interviewed by Gregor Craigie on CBC Victoria's

from to trans-Pacific trade law to state-guided economic development.

The balance of the Asia Desk Forum canvassed a wide range of legal issues including the human rights and sustainability challenges facing businesses investing in Asia to the law and geopolitics of the South China Sea (a lunch time lecture by UVic's Ted McDorman); and the legal and political framework for Asian investment in the energy sector in Canada, with a special focus on recent developments in Indigenous



“On the Island” during the conference: [Click to listen](#)); and Yuen Pau Woo, the past president of the Asia Pacific Foundation of Canada and current president of HQ Vancouver. The panel was expertly moderated by Professor Carrie Menkel-Meadow, a world-renown expert on international dispute resolution based at the Georgetown University Law Centre and the University of California Irvine School of Law. The panelists set the agenda for three solid days of discussion with a tour-de-force of key themes ranging from the legal diversity and complexity of Asia to foreign investment and human rights activism, and

The Forum keynote panel (L-R):
Carrie Menkel-Meadow, Bobby Majumder,
Eduardo Ramos-Gomez, Annabel Short,
and Yuen Pau Woo.

ADF | ASIA
DESK
FORUM



**SESSION TOPICS AT
THE ASIA DESK FORUM
INCLUDED:**

Legal Trends and Developments in China, Korea, Japan, ASEAN, India
Asia as a Hub for International Arbitration /// Special Session on Myanmar
Business, Human Rights, and Corporate Social Responsibility in Asia
The Law and Geopolitics of the South China Sea /// Asian Investment, Energy & Indigenous Title in Canada
Latin America-Asia Legal Relations and the Pacific Alliance
Burgeoning Consumer Protection Law in Asia /// Understanding State-Owned Enterprises in China
Trans-Pacific Trade Law and Policy /// Challenges for Banks in Asia

**A COMPLETE LIST OF CONFERENCE PRESENTATIONS IS AVAILABLE
IN THE CONFERENCE GUIDE ([CLICK TO DOWNLOAD](#))**

PHOTOS: COURTESY OF ASIA DESK FORUM



title and the Supreme Court of Canada's *Tsilhqot'in* decision (with Miles Richardson, Interim Director, National Consortium for Indigenous Economic Development, as moderator). Some sessions focused on topics as specific as micro-lending in Myanmar, Islamic finance in Malaysia, and the "political logic" of state-owned enterprises in China. The closing panel took stock of Asian legal capabilities in the Americas—from Canada to Chile—prompting a discussion of how to train more young lawyers with a deep understanding of legal problems, trends, and developments across a broad swath of jurisdictions in Asia.

The Asia Desk Forum was the first event of its kind to bring together in the Americas a range of different constituencies—from managing partners of global law firms to government lawyers to civil society activists—to discuss Asian legal developments. It also connected Latin Americans with their counterparts in North

America and Asia in novel ways: the Forum's two law firm sponsors, Duane Morris and Perkins Coie respectively hosted themed practice group dinners—Latin America-Asia: A South-South Powerful Relationship and A Closer Look at South Asia respectively.

The response to the Asia Desk Forum has been uniformly positive. So with committed group of advisors and supporters on four continents, the conference chair Victor V. Ramraj (CAPI's Law Chair and Law Professor at the Faculty of Law since July 2014) is now planning the second Asia Desk Forum to be held in the first half of 2017. He welcomes your interest, comments, suggestions, and support by email at ramraj@uvic.ca. Meanwhile, CAPI's next project with the Faculty of Law is the Trans-Pacific Aviation Law and Policy Conference, to be held at the Hyatt Regency Vancouver, 8-9 October 2015. We hope to see you there! 🇺🇸

Trans-Pacific Aviation Law & Policy Conference

Opportunities and Challenges

8-9 October 2015
Hyatt Vancouver // Vancouver BC Canada

Join your colleagues at the Hyatt Regency Hotel Vancouver, one of the world's leading Trans-Pacific...

The Trans-Pacific Aviation Law & Policy Conference includes speakers from the four continents of the Pacific Rim, including Brian Alan K.J. Tan (Singapore), Liu Hao (China), Alejandro Piera Joseph Wheeler (Australia), John Macilree (New Zealand), Poston (Canada).

For more information visit www.uvic.ca/transpacificaviationlaw

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 YVR VANCOUVER INTERNATIONAL AIRPORT
Beyond, Every Day.

Save the Date

Trans-Pacific Aviation Law & Policy Conference

Opportunities and Challenges

8-9 October 2015
Hyatt Vancouver // Vancouver BC Canada

With an intensive focus on the Pacific, the Trans-Pacific Aviation Law & Policy Conference will bring together airport, airline, government officials, and academics from Asia and the Americas to examine key legal-policy issues. Sessions will include: the liberalization of air services agreements; transnational business models; private air law; airports and trans-Pacific connectivity; safety, security, liability, and insurance; and a holistic look at the future of trans-Pacific aviation. Join the conversation in Vancouver, Canada in October!

For more information visit www.uvic.ca/transpacificaviationlaw

TPA Trans-Pacific Aviation Law & Policy Conference
8-9 October 2015
Hyatt Regency // Vancouver BC Canada


VISIT THE CONFERENCE WEBSITE HERE

Corporate and Commercial Experiential Learning: UVic Law “Thais” to South East Asia

Chandler & Thong-ek, a Bangkok law firm that handles corporate and commercial law, with local and international clients, has hired 62 Co-op students from UVic Law over the past 20 years.

The relationship began in 1991 when now-retired Dean of Law Bill Nielson reached out to Al Chandler, the firm’s founder and senior partner. This unique experiential learning opportunity has clearly had an impact on the career paths of many of our alumni. Case in point, Barry Penner—former BC Attorney General, Minister of Aboriginal Relations & Reconciliation and Minister of Environment—was the first UVic Law Co-op student hired by Chandler & Thong-ek. Penner’s experience there made such an impression on him that he returned, 20 years later, to expand Chandler & Thong-ek’s satellite office in Myanmar.

As Dean Jeremy Webber learned on his recent visit to the firm, Anna Beatch is experiencing a similarly profound impact. “Living in Thailand and working at Chandler and Thong-ek was amazing—I grew personally and professionally. I was exposed to a new country and a new culture, and got to teach my colleagues about my country and my culture. I was working at a top-tier law firm and being mentored by brilliant lawyers. I was exposed to conducting due diligence for domestic and international investment projects and project financing in the renewable energy and natural resources sectors. I spent every bit of my time exploring and networking with other young professionals from all over the world. I have memories that will last a lifetime.”

For now, Beatch is articling with Saskatoon law firm MacPherson, Leslie and Tyerman but may well consider finding her way back to work in Thailand. Al Chandler, who was very fond of Beatch, recommended that she work in corporate law in Canada for four or five years to position herself well for work in the firm back in Bangkok. 

L-R Dean of Law Jeremy Webber, Co-op student Anna Beatch ('15) and Al Chandler in the Bangkok offices of Chandler & Thong-ek



PHOTO: CHANDLER & THONG-EK



Faculty Profile

Prof. Martha O'Brien

— MARGARET SUDERMAN, COMMUNICATIONS AND FINANCIAL AID

Professor Martha O'Brien ('84)

Martha O'Brien graduated from UVic Law in 1984 and, after 16 years in the private sector, returned to UVic to teach European Union (EU) law, as well as tax law, business law and ethics and professionalism. She also recently mentored the UVic Bowman National Tax Moot team, who won the 2015 prize for Best Factum!

Q: You are an alumna of UVic Law. Did you have a strong interest in business and tax law while you were in school?

Actually I didn't have an particular interest in business law while I was in law school, or even af-

ter. My interest was in constitutional law, but I did know that I probably wanted to be a solicitor rather than a barrister. I enjoyed my tax course a lot and did well in it. What is so interesting about tax law and policy for me is that it is all about events in life that happen whether you plan for them or not. It is also about how we, as a society, decide to either share our wealth or keep it for ourselves; what we believe we should pay for collectively, and what we should pay for individually; and what is fair as between members of our society. I'm interested in how tax law creates rules that apply to ordinary lives, and

to businesses and other economic actors, and internationally. The concepts of tax law can apply to all kinds of things, not necessarily just business—they apply to birth, death, divorce, buying a home, going to university, getting a new job, starting a business; everything is caught by tax law and then the question is how do we use words to enact laws that make the tax system fair in the big picture?

Q: You articulated and practiced at McCarthy Tétrault and then went on to practice law with the Law Society of BC, Lawson Lundell LLP, PwC, and Blake, Cassels & Graydon LLP over the course

of your career. What was your favourite part about working in private practice?

I really had a great experience in litigation but, in the end, I didn't want to be a commercial litigator forever. I was really lucky to article at what was then Shrum, Liddle and Heberton in Vancouver. They chose me to be the junior counsel for Tom Berger in our constitutional case arguing that national law firms should be permitted—that we should be permitted—to merge with McCarthy and McCarthy, and that was a great experience.

I learned a lot as a litigator, but I was always more of a solicitor, really always interested in international issues, and I enjoyed research and writing much more than going to court. I was very interested in international and trade law and that is why I did my LL.M. in EU Law in Belgium. But I couldn't find a job in trade law when I came back to Canada and so I figured the best way to get into international practice was to pursue tax law, which I already found the most interesting.

I learned during my graduate work that the last big trade barrier is tax and that has been confirmed to me over and over again. I found that tax law required research, analysis, creativity, interpretation and attention to language, and so it suited me. I had a great opportunity with PwC to do lots of international taxation, and I really enjoyed my years at Blakes. Blakes Vancouver has been the very generous supporter of the Uvic Bowman National Tax Moot Team for all four years we have participated. Coaching the tax moot team has been the highlight of my teaching career, combining both my tax and litigation experience, so when this year's team won Best Factum-Appellant, I was overjoyed.

Q: Why did you decide to make the move to academia?

I knew that a job teaching tax at Uvic Law comes open about once every 15 to 20 years and that if I wanted to pursue an academic career, I had to do it when the opportunity arose in 2000. Victoria was my hometown and my dad had been a professor of chemistry here at Uvic. Although I was really enjoying my practice in tax law and would have stayed, I



felt that there wasn't going to be another chance to be a teacher of tax law in BC while I was still young enough to try a new career.

Q: Your teaching career also has an international element. You were a visiting professor at both the University of Nagoya and the Sorbonne. Can you shed a little light on how teaching in other countries differs from teaching in a Canadian law school?

You are almost always teaching students whose first language isn't English, but they are usually extremely sophisticated. I was quite surprised when I went to Nagoya—I thought I was going to be teaching Japanese students but they were primarily from Cambodia, Myanmar, Vietnam and China, so that was really interesting. I got to co-teach with Dan Puchniak ('01), a former student at Uvic Law who is now a professor of corporate law at the National University of Singapore. We taught a comparative law course on the different corporate law systems. He taught about corporate law in Singapore and Japan and I taught Canadian corporate law. He had taken my corporate law class, Business Associations, the very first time I taught it. So when I introduced myself to the class, I said, "Dan took corporate law from me, so if he makes any mistakes, it is my fault." And there was that pause, because it was in English, and then they laughed. It was quite funny. And of course, Dan is such a great teacher and scholar, he made no mistakes.

At the Sorbonne-HEC, the students were almost all Europeans, and were in a very elite business law Master's program, so it was very challenging. I taught

a very compressed course in comparative federal tax systems, and since I am interested in the federalization of EU taxation, it was really interesting to prepare and teach that course.

Q: Your current research interests involve the interplay between tax and trade law. What is it about this topic that you find most interesting?

My interest came mainly from my LL.M. in EU Law. Member states of the EU now form much more than a trade bloc, with free movement of persons, capital, investment, integrated social, environmental and monetary policy, and many other aspects of a federal state. The member states are a group of sovereign countries but are getting to the point of integration where they are having to harmonize their tax laws. The proposals for harmonizing EU member states tax law is very similar to the way our constitutional tax system works in Canada. The international system, the internal Canadian system, and the EU system are all variations on a theme of tax integration.

When I first started studying the topic in the early 1990s, EU tax law was in its infancy. There were only three cases on income tax or corporate profits tax, but I saw it as a really interesting new area of EU law, and it has proved to be a quickly evolving one. Now I am doing work on bilateral investment treaties and taxation.

Canada recently signed the Comprehensive Economic and Trade Agreement (CETA) with the EU. That agreement has an investment chapter that includes tax provisions so that is what I am working on now. I gave a presentation in Montreal in October at a conference organized by the Canada-EU Transatlantic Dialogue and I am hoping to go to a conference in Brussels on this topic in November. I am also writing a

paper for a conference taking place near Vienna this July on the relationship of bilateral investment treaties and tax treaties from comparative perspectives of many countries. ■



Faculty Profile

Prof. Andrew Pirie: Pioneering ADR in Legal Education

— MARGARET SUDERMAN, COMMUNICATIONS AND FINANCIAL AID OFFICER



PHOTO: ANDREW PIRIE / PERSONAL ARCHIVE

As Andrew Pirie officially retires June 30th, I talked to him about some highlights of his 34 years as a law professor at UVic, and what comes next.

Q: Your area of expertise is Alternative Dispute Resolution (ADR). How did you become interested in the topic? Was it a developed area of law while you were in school?

I graduated from law school at Dalhousie in 1975 and arrived at UVic to teach in 1981. At the time, alternative dispute resolution wasn't a course in any law school program. It was probably only just starting to emerge in Canada during the late 1970s and early 1980s. I was originally invited to come to UVic because I had done graduate work in administrative law. Quite by chance, I ended up teaching a course called legal skills with Keith Jobson. This course was all about how lawyers first meet their clients—the client interview—and how lawyers help clients identify solutions to their problems. Mediation came up and I went to a conference in San Francisco at around the same time entitled, "Beyond the Adversarial System—Teaching Mediation in Law Schools." It peaked my interest. In a way, administrative law was already very much about the process of how problems were solved with administrative tribunals employing the concepts of fairness and procedural justice. When I arrived at UVic in 1981, legal education paid very little attention to how to solve problems and was still focused mostly on substantive law.

Q: After you earned your LLB at Dalhousie, you pursued an LLM at the University of Wellington in New Zealand. Why did you choose Wellington?

It was the administrative law attraction. At the time, New Zealand was a highly regulated state and it was doing a lot of innovative work with administrative tribunals. There were a couple of people at the University who were highly acclaimed around the

world, including Geoffrey Palmer who became the Prime Minister of New Zealand shortly after he left teaching. He was one of my faculty advisors so that was a major attraction.

Q: Given your international experience, what drew you to teaching at UVic Law?

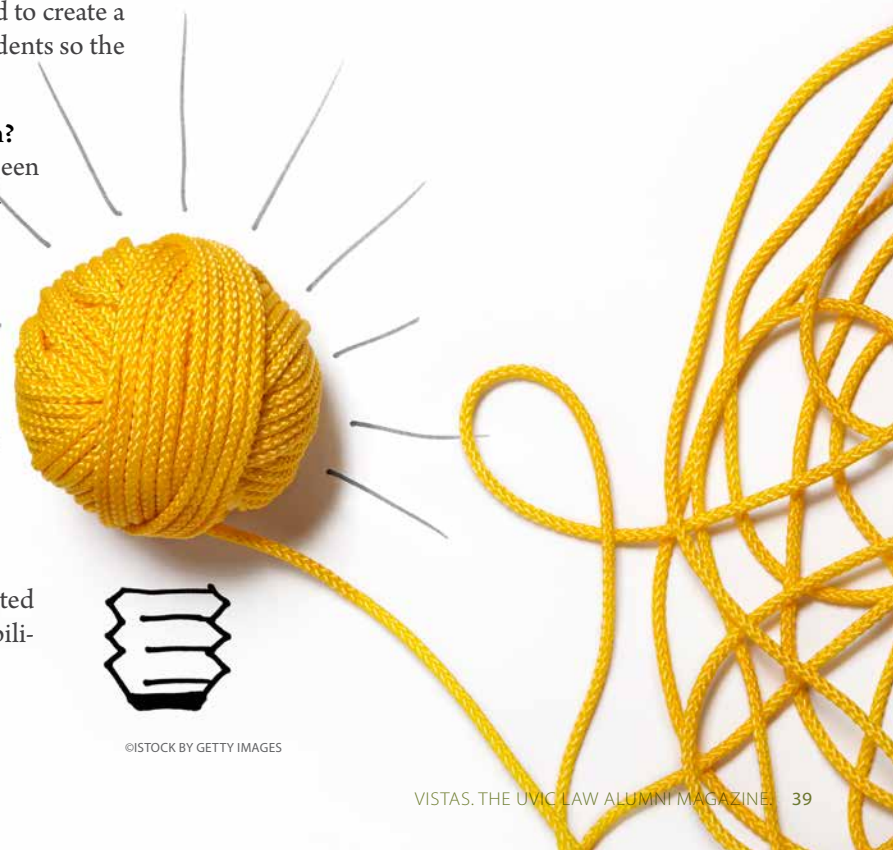
This is actually an interesting story. Murray Fraser was one of my law professors at Dalhousie. After I did my graduate work, I decided to get a bit of private practice experience to see what it was like, but I was always interested in becoming a law professor. I was initially thinking about going back to New Zealand because I enjoyed it so much. I wrote to Murray to ask him to be a reference for me and he said, "Why don't you apply at UVic?" There were a lot of things happening at UVic Law that were very much like Dalhousie—the open door policy and the creation of the legal process-type course, for example. Dalhousie was also a relatively small school that tried to create a nice relationship between faculty and students so the schools had that in common.

Q: What's your favourite subject to teach?

Alternative dispute resolution has been really enjoyable—giving students an opportunity to think more broadly about how to solve problems when they are usually surrounded by information about black letter law. Teaching legal skills, which is all about relationship building with clients and negotiating, in a small seminar group has also been extremely rewarding. Law 360—the Ethics course—hadn't been offered for many years, so when I asked to take that on that was also very exciting because students were so interested in learning more about ethical responsibili-

ties in the profession. It eventually became a mandatory course.

My favourite part of teaching is encouraging students to get deeply involved with the subject matter and to recognize the human side of the problems that come up as opposed to just learning the law. I've most enjoyed the courses where I've been able to encourage them to get involved in real life problems, imagine that they're lawyers, and begin to see clearly how the law they are studying, including the underlying theories and principles, actually play out in practice. For example, I have told all my ADR students that you can't be an effective negotiator without understanding the differences between integrative and distributive bargaining. Sometimes students have difficulties seeing the importance of the theories that underpin law.



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“My favourite part of teaching is encouraging students to get deeply involved with the subject matter and to recognize the human side of the problems that come up as opposed to just learning the law.”

Q: Why is ADR such an effective tool in business law?

A major chapter in my book, *Alternative Dispute Resolution: Skills, Science and the Law*, deals with business disputes. Businesses aren't immune from conflict. But when businesses run into conflict, they are particularly concerned with the financial cost of solving these problems. They also recognize that, almost always, there will be continuing business relationships to consider. The need to preserve viable working relationships increases the value of using mechanisms outside of the courts to resolve commercial disputes. As a result, there is a lot of attention paid to negotiation, involving lawyers or non-lawyers, as well as help from mediation. If businesses are not able to solve those problems themselves, they will often resort to private arbitration—where you get an arbitrator who is often quite experienced in the industry, as opposed to a judge who might be more of a generalist and maybe not as familiar with the nuances of the business. So understanding and using ADR concepts is a natural fit for the business world.

Q: Is the use of ADR in business a fairly recent development?

It is not all that recent, but as attention focused on the successes and advantages of ADR, businesses have become more sophisticated in how they use these mechanisms. In the late 1980s for example, one of the innovations was to get businesses to sign onto an ADR Pledge. It would mean that these major corporations would agree that if they had problems in their industry, they would resort to a range of ADR mechanisms to solve these problems quickly, inexpensively, and in a way that was supportive of the continuing business relationships involved.

In certain industries, you would enter into these commercial arrangements and the industries would recognize that there would likely be conflicts arising.

The construction industry is the obvious one—when you're building a massive project, problems of one type or another are inevitable. Rather than wait for them to arise, you plan for what is going to happen and agree that if something comes up, you will go through certain processes to help solve the problem.

Q: After working at UVic Law for three decades, what will you miss most?

When I think about what has been so exciting, it is the engagement with students and faculty and staff on important questions about the endeavor here. It has been the discussion about our general direction as a law school—in a way defining the UVic difference. I will definitely miss the engagement with all these bright and inquisitive minds. I was reminded of that during the 40th anniversary celebrations in early March, because I ran into all of these students who I met 30 years ago and who were such a nice part of my life and who have contributed so much to who we are as an institution.

Q: Can you tell me a bit about your involvement with Lawyers on Stage Theatre (LOST)?

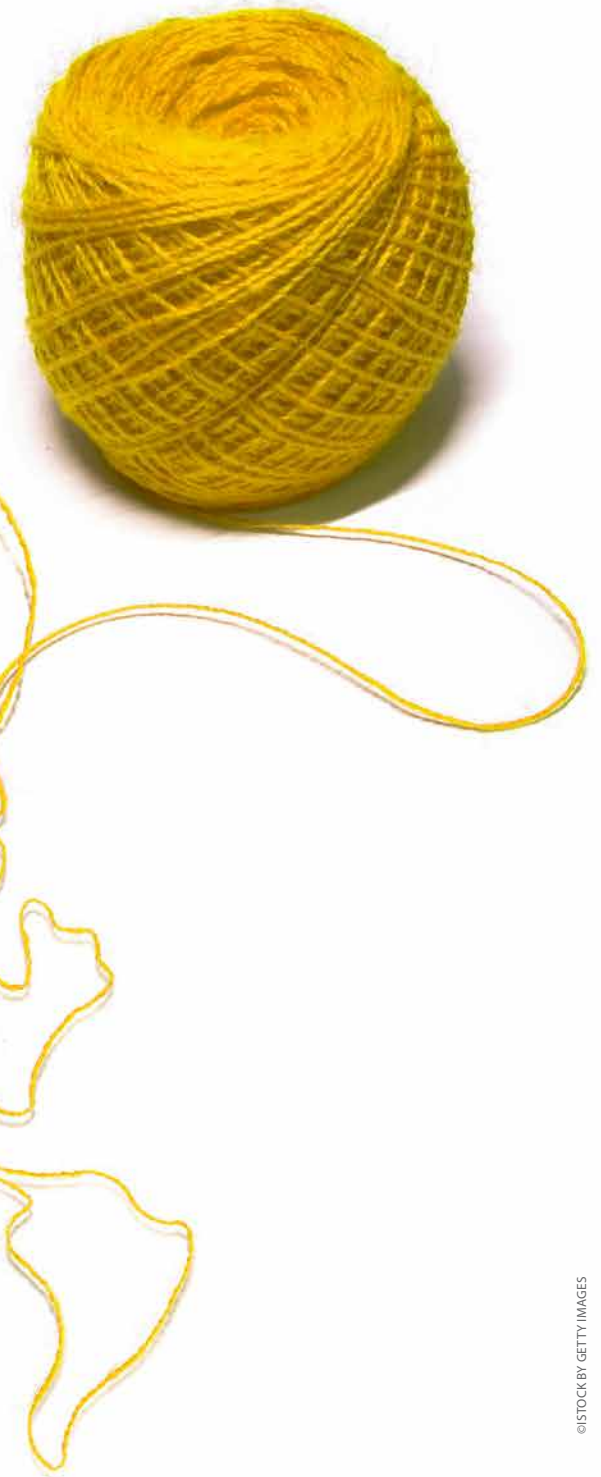
Quite a few years ago there was a theatre group here in Victoria called Kaleidoscope Theatre, which did a lot of good work with children. They came under financial stress and approached the legal profession for help. We formed a group called Lawyers on Stage Theatre (LOST) and for many years, we put on a show to raise money. Unfortunately, the show sort of fell by the way side for quite a few years, so I'm just in the process of resurrecting LOST. We are in the process of planning a LOST show for the spring of 2016.



Q: What's next for Andrew Pirie?

I have this grand vision that my mother gave me. She was a classics and latin scholar and taught me Latin in high school, which came in handy when I went to law school. She retired from teaching at about the same age I'm retiring. It felt like she had a whole, full, and rich lifetime after that. She did a lot of volunteer work in the community, she traveled quite a bit, and she definitely took some time to "smell the roses." My major plan is to look ahead at another whole, rich life. In addition to LOST, I've got some other ideas about volunteer work that I would like to do and I probably

wouldn't say no if someone approached me about helping others solve problems. I also have two final articles I'm writing that I would like to see published in the next while—one on the crisis in the courts and the other on legal education. And there are always places in the world that I would like to see. I am just about to go to a mediation conference in Romania with side trips to Turkey and Vienna. I am really looking forward to that. Professor Bob Howell has been a great inspiration for travel—he has been to so many amazing places on the planet and travel is his hobby. So I will try and see a few places that Bob has been. **N**



Alumni Vistas: News and Updates

The 1980s



Laura Bakan, QC ('83), was appointed a Provincial Court judge in March 2015. Prior to her appointment, Laura spent her legal career practising with Guild Yule in Vancouver, with a focus on civil litigation. She

is a senior member of the Insurance Defence Bar, active in numerous professional associations, and past president of the Medical Legal Society of BC.



Dennis Hori, QC ('83), was appointed Queen's counsel in December 2014. Dennis is a civil litigation partner with Fulton & Company LLP in Kamloops where he has a general litigation practice. He

has extensive trial, appellate, and administrative law experience. Dennis is a member of numerous professional groups, including the Trial Lawyers Association of BC and the Civil Resolution Tribunal Personal Injury Working Group. He has also been involved with the BC Law Institute Advisory Committee for the Project on Technology, Remoteness, Disability and Evidence, and the Multicultural Advisory Committee.



Tim Meagher ('88), joined Calgary firm Peacock Linder Halt & Mack LLP in November 2014 as partner. He was previously a partner in one of Calgary's original boutique litigation firms, Machida Mack

Shewchuk Meagher LLP, and has appeared before the Supreme Court of Canada and all levels of court in Alberta. Tim has extensive experience in

The 1980s

commercial, oil and gas, professional negligence, and personal injury litigation.



Margaret Sasges, QC ('89), was appointed Queen's counsel in December 2014. Margaret is a partner at Clay & Company in Victoria and her practice focuses on wills, estates, trusts and incapacity

planning and environmental covenants. She was Chair of the Law Foundation of British Columbia's Board of Governors from 2011 to 2012 and served as Governor from 2006-2012. Margaret is also active with numerous other legal societies and associations and has provided longstanding support to the law school as a Business Law Clinic Mentor and as a Member of the University's Alumni Board of Directors.

The 1990s



Dean Crawford, QC ('94), was appointed Queen's counsel in December 2014. Dean is a partner at Coutts Pulver Crawford LLP and practices in the area of labour and employment law, including employ-

ment litigation, human rights proceedings, labour relations, workers compensation and employment standards. He has represented clients before the BC Supreme Court, the BC Human Rights Tribunal, WorkSafe BC and labour arbitrators. Dean is past President of the CBA's BC Branch and has taught employment law at the law school.

The 1990s



Roy Millen ('99), was recognized with a 2014 Lexpert Rising Star Award as one of Canada's Leading Lawyers under 40. Roy is a partner in the Vancouver office of Blakes and has a diverse practice with

particular experience in Aboriginal law, commercial litigation and international trade. Roy advises LNG Canada on its negotiations with First Nations, and recently acted for the Federation of Law Societies of Canada in a precedent-setting case involving counsel's duty of commitment to clients' causes (2015 SCC 7). He has received recognition for his work as a leading lawyer in several publications, including The Best Lawyers in Canada 2015, The Legal 500 Canada 2015 and The Canadian Legal Lexpert Directory. Roy was also named "Lawyer of the Year" by Pro Bono Law of British Columbia in 2008. Prior to joining Blakes, Roy clerked with Chief Justice McLachlin at the Supreme Court of Canada. Roy can be reached at roy.millen@blakes.com or 604.631.4220.

The 2000s



Jennifer Woznesensky ('01), was recognized with a 2014 Lexpert Rising Star Award as one of Canada's Leading Lawyers under 40. Jennifer is the youngest partner at Harper Grey LLP and practices in the Insurance and Health Law

groups. She has appeared at all levels of court in British Columbia. Jennifer is active in the community and she has been a director of the BC Chapter of Women in Insurance Cancer Crusade since 2008. Jennifer is also a member of several

The 2000s

professional associations including Canadian Defence Lawyers, Medical Legal Society of BC, and Defence Research Institute.



Elliott Behar ('03), published his book, *Tell It To The World: International Justice and the Secret Campaign to Hide Mass Murder in Kosovo*, in January 2015. An insider account of the struggle to prosecute

the perpetrators of ethnic cleansing in Kosovo, the book examines the causes and consequences of mass violence, identifying a powerful and disturbing connection between the justice we seek and the injustices we commit. Elliott is a former Crown Prosecutor who in 2008 became a war crimes prosecutor for the International Criminal Tribunal for the former Yugoslavia in The Hague. Elliott lives in San Francisco and his book is available through Dundurn Press ([link](#)).



Wael Jabsheh ('03), was made partner in January 2015 at Akin Gump's Abu Dhabi's offices. Wael is a member of the firm's cross-border transactions practice

and concentrates on domestic and cross-border mergers and acquisitions, joint ventures, private equity and investment fund formations. He has been based in the United Arab Emirates since 2005 and invites you to contact him at wjabsheh@akingump.com.

The 2000s



Jessica Lott Thompson ('03), was recently named the Director of Human Rights by the Yukon Human Rights Commission. Jessica is a former Federal Prosecutor with the Nunavut Regional Office of the Public Prosecution Service of Canada and she served as an adjudicator on the Nunavut Human Rights Tribunal. Jessica held a judicial clerkship with the UN International Criminal Tribunal for Rwanda and in 2014 she served as an international election observer in the Ukraine for the Organization for Security and Cooperation in Europe.



Julie D'Avignon ('05), became a partner in the Calgary office of Stikeman Elliott in January 2015. Julie is a partner in the tax group and her practice focuses on providing advice to Canadian and international clients on tax matters relating to a variety of issues. Julie is actively involved with the Canadian Bar Association as a member and frequent speaker. She is the legal director of the B.J. Hughes Foundation for the Development of Entrepreneurial Women and co-leads Stikeman Elliott's involvement in a program with Mount Royal University that provides *pro bono* advice to students looking to launch their own business ventures.

Michael Larocque ('05), joined Douglas Elliman Real Estate in January 2015 as an Associate Broker. Douglas Elliman Real Estate is located in New York and it is the largest regional and the nations' fourth largest real



The 2000s

estate company, with a substantial international network. He previously practised law at a national Canadian law firm before becoming a senior associate in the Structured Capital Markets group in the New York office of Clifford Chance LLP. Michael earned his LLM from Columbia Law School in 2013. Michael invites you to contact him at michael.larocque@elliman.com.



James Coleman ('07), was recognized in the third annual "Vancouver Island Top 20 under 40 Business and Community Awards". He was selected for this honour from a group of over 140 nominations. James is a civil litigation lawyer with Coleman Fraser Whittome Lehan in Duncan where his practice focuses on personal injury. He is the current Chair of the Cowichan Wheels Association.



Andrew Aguilar ('08), recently joined the City of Vancouver where his practice covers a broad range of civil litigation matters, with a focus on privacy, construction and personal injury litigation. Andrew is a Member-at-Large with the Vancouver Bar Association and an active UVic Law alumni volunteer.

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James Williams ('08), is a visiting lecturer at Stanford Law School and fellow at the Stanford design school.

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Kelly Duggleby ('11), recently moved to London to work as a tax lawyer in the financial services sector at Ernst & Young. Kelly previously had a tax litigation practice at a boutique law firm in Calgary.

Julia Herzog ('14), LLM, completed her LLM in November 2014. Julia worked with Professors Gerry Ferguson and Sibylle Artz. Her dissertation is titled *An Investigation of Retraumatization of Child Witnesses during the Process of Prosecution of the Accused for Sexual Abuse Offences against the Child*. Jennifer is currently enrolled at UVic and pursuing her MA in Child and Youth Care to become a registered a clinical counsellor.



Gene Fraser ('15), PhD, completed his PhD in February 2015. Gene worked with Dr. James Tully, Dr. Pamela Moss and Professor Maneesha Deckha. His dissertation is titled *Governing Madness: Coercion, Resistance and Agency in British Columbia's Mental Health Law Regime*.

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Maegan Hough ('15), LLM, completed her LLM in January 2015. Maegan worked with Professor and Dean Jeremy Webber and Dr. Matt James (POLI). Her dissertation is titled *Personal Recollections and Civic Responsibilities: Dispute Resolution and the Indian Residential Schools Legacy*. Maegan is legal counsel with the Military Police Complaints Commission in Ottawa.




Danika Littlechild ('15), LLM, completed her LLM in January 2015. Danika worked with Professors John Borrows and James Lawson (POLI). Her thesis is titled *Transformation and Re-Formation: First Nations and Water in Canada*. Danika is a sole practitioner in Ermineskin Cree Nation and enjoying her inaugural term as Vice-President of the Canadian Commission for UNESCO.



Sarah Morales ('15), PhD, completed her PhD in May 2015. Sarah worked with Dr. John Borrows, Dr. James Tully (POLI), and Professor Hamar Foster. Her dissertation is entitled *Snuw'uvulh: Fostering and Understanding of Hul'qumi'num Legal Tradition*. Sarah will return to her academic post at the University of Ottawa, Faculty of Law and hopes to turn her dissertation into a manuscript while continuing her research in the area of Hul'qumi'num legal tradition.

The 2010s



Nicole O'Byrne ('15), PhD, completed her PhD in February 2015. Nicole worked with Professor and Dean Jeremy Webber and Professor Hamar Foster. Her dissertation is titled *Challenging the Liberal Order Framework: Natural Resources and Métis Policy in Alberta and Saskatchewan*. Nicole is an assistant professor at the Faculty of Law, University of New Brunswick where she teaches Aboriginal Law, evidence and criminal law. 

Do you know an alum who should be featured in Vistas?

**Contact Julie Sloan,
Communications Officer:**
lawcomm@uvic.ca



Access Pro Bono An Invitation to Mentor

—BY KALEIGH NEVIN ('16 Expected)

Dear UVic Law Alumni,

UVic Law students have partnered with the Access Pro Bono Society of BC (APB) to establish a new legal clinic—the Access Pro Bono Student Clinic, located downtown at Our Place Society, at 919 Pandora Ave. Supervised by *pro bono* lawyers, UVic law students conduct interviews with scheduled clients, and review legal issues with the lawyer who then provides the clients with summary legal advice.


UVic Law has a strong tradition of highly successful clinical programs that provide students with practical, hands-on experience in legal environments. In line with the CBA's Equal Justice Report proposing targets to achieve access to justice, we are working to provide our community with greater legal assistance. Our APB Student Clinic has replaced the student-run Legal Information Clinic to develop a more comprehensive approach to address the specific needs of Victoria's vulnerable citizens.

The APB Student Clinic currently operates at Our Place Society, every Wednesday from 4pm to 6pm, with 30 minutes scheduled for each client. The APB Summary Legal Advice Program also operates every week, with law students assisting *pro bono* lawyers at the following APB Clinics:

1. Salvation Army Family Services at 2695 Quadra St.
2. Inter-Cultural Association at 930 Balmoral Rd.
3. Justice Access Centre at 225-850 Burdett Ave.

Pro bono lawyers offer an integral contribution to APB, by supervising law students to perform hands-on legal work to serve clients in our community. The *pro bono* work of Ron Dumonceaux, Partner at Dining Hunter Jackson Law, has been instrumental to the clinic's successful start, through his dedication to training and supervising law students. UVic Law Faculty professor Deborah Curran ('95) has also offered significant guidance and supervision throughout this process.

We are hoping to raise greater awareness about the Access Pro Bono clinics in Victoria. The support and supervision from UVic Law alumni will be essential to the successful operation and continuation of the APB Student Clinic. If you would like more information or if you would like to volunteer as a supervising lawyer this summer, please contact Frank Yates (APB Clinic Coordinator) by emailing fyates@accessprobono.ca or Kaleigh Nevin (JD / MBA Candidate, Executive Director of the APB Student Clinic), by emailing studentclinic@accessprobono.ca.

Community members can direct all inquiries to the Access Pro Bono hotline: 1-877-762-6664 or 604-878-7400 to begin the booking process. More information is available [here](#). 

Please circulate this information to anyone you think might be interested. Thank you!

Faculty News

Comings & Goings

As we move into the quieter semester, we say a farewell to four retiring and much-loved faculty members: Cheryl Crane, Hamar Foster, Hester Lessard* and Andrew Pirie. We would prefer that they stay forever, but are mollified (partially) by the fact that we will welcome three new members on July 1st.



Pooja Parmar

Pooja completed her PhD at UBC, and is currently an Assistant Professor in the Department of Law & Legal Studies at Carleton University. Her book, *Indigeneity and Legal Pluralism in India: Claims, Histories, Meanings*

(Cambridge University Press, 2015), is based on her dissertation. Pooja's interests include legal history, international law, international business law, legal skills, regulation of the global economy, and the intersec-

tions of law and indigeneity in a global context. She holds an LLM from UBC and an LLB from Panjab University. Prior to beginning graduate studies, Pooja practiced law in New Delhi for several years. She will be teaching property law, international human rights and dispute resolution.



Supriya Routh

Supriya completed his PhD at UVic and is currently a Postdoctoral Researcher at the Interuniversity Research Centre on Globalization and Work, Université Laval. His book, *Enhancing Capabilities through Labour Law: Informal Workers in India*, (Routledge, 2014) is based on his dissertation. Supriya's research interests include changing conceptions of work and labour law, atypical and informal workers, and human rights and human development. He holds an LLM from Vanderbilt University and another from West Bengal National

University of Juridical Sciences. He received his LLB from the University of North Bengal, and was an assistant professor at the West Bengal National University of Juridical Sciences for a number of years. He will be teaching in the areas of labour and employment law and contracts.

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And as previously mentioned, we also welcome Carol Liao.

Carol is completing a combined doctorate at the University of Toronto and UBC on *The Role of Corporate Law in Advancing the Social Economy: An Analysis of the Effectiveness of Hybrid Corporate Legal Structures*. She has a BA (Honours) in Political Studies and Economics from Queen's University, an LLB from UBC, and an LLM also from UBC. Prior to her graduate studies, she was a senior associate in the Mergers & Acqui-

* Stay tuned for "next chapter" news from Hamar, Cheryl and Hester coming in Vistas, Winter 2015.



sitions Group of Shearman & Sterling LLP in New York, served as a legal researcher on behalf of the firm at the UN International Criminal Tribunal of Rwanda in Arusha, Tanzania, and clerked with the BC Court of Appeal. She has been involved in many policy-related activities, including serving as a member of the Advisory Committee to the BC government on the establishment of a new hybrid corporate form, and as a member of the Sustainable Companies Project, which aims to improve the integration of environmental concerns into corporate decision-making. She will be teaching in the areas of corporate law, commercial and consumer law, and contracts.

Publications

The Constitution of Canada.

A Contextual Analysis

By Jeremy Webber

In his latest book Dean Webber seeks to put the Canadian constitution in its historical context, noting especially the complex interaction of national and regional societies that continues to shape the constitution of Canada.

Perhaps best described by Professor James Tully as: “an outstanding and original study of the Canadian constitutional experience by one of Canada’s leading legal scholars. Webber explains the history, characteristics and resourcefulness of the living constitution in non-technical and illuminating language. He also shows how the constitution is shaped by the engagement and interaction of the diverse people of Canada, who are simultaneously subjects and active citizens of it — a dynamic he calls “agonistic constitutionalism”.


You can purchase the book [here](#).

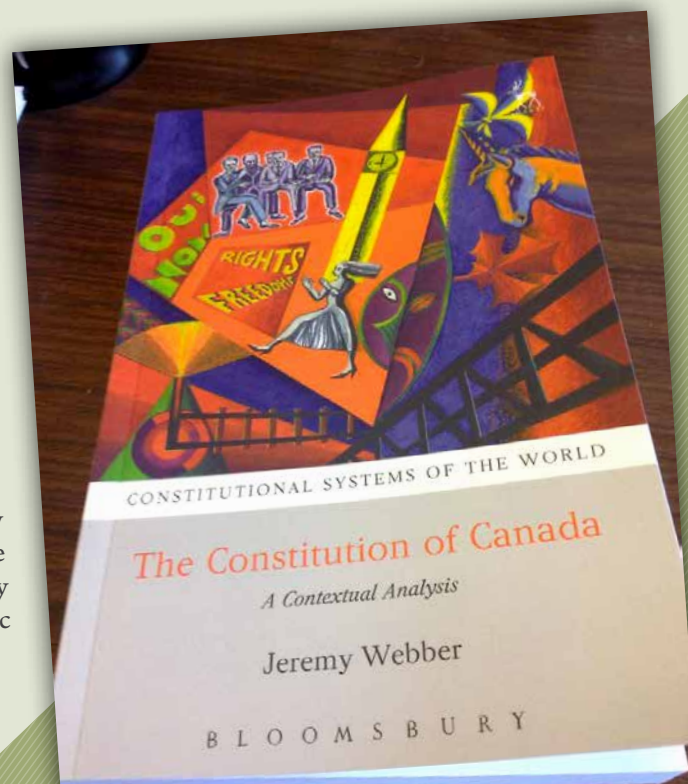
Awards



Congratulations to alumna Madeleine Redfern ('05) for being named a 2015 Indspire Laureate. Ms. Redfern was also the first Inuit person to clerk at the Supreme Court of Canada. ([link](#))

Not to be Overlooked

In *Vistas*, Winter 2015 our list of Indigenous leaders should have included John Joe ('79), Indigenous graduate and retired BC provincial court judge. Our apologies John! 



Share your Vistas

Vistas is always interested in receiving story ideas from UVic Law alumni. Although we are unable to guarantee the inclusion of materials that are sent to us, we are deeply interested in shining a spotlight on the stories that you, the alumni, care about.

If you know of a UVic Law graduate who could be profiled or have other interesting story ideas or materials worth highlighting, please feel free to contact us at lawcomm@uvic.ca.

Errors? Omissions?

If you spot something incorrect in Vistas please accept our apologies. If you send the corrected information to lawcomm@uvic.ca we will happily publish the correction in the next issue of Vistas due out in Winter 2015.



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