



BUSINESS LAW WELCOMES PROFESSOR KEVIN V. TU



This fall Professor Kevin V. Tu joins our Business Law Program faculty after having taught for the past four years at the University of New Mexico School of Law (UNMSL). Our Maryland Carey Law students will have the chance to take Contracts this fall with Kevin—a professor who won UNMSL’s coveted “Baby You’re a Firework” award for being especially uplifting in the classroom—and next semester they may enroll in his Business Associations and Securities Regulation classes.

Before teaching full-time, Kevin worked in the Seattle office of Davis Wright Tremaine LLP, representing small, mid-size, and large business and financial institution clients in all aspects of business transactions, corporate governance, regulatory requirements, and finance and commercial law. He drafted and negotiated a variety of agreement, including terms for mergers and acquisitions, software distribution and licensing, vendor and professional services, joint ventures, supply and distribution, syndicated credit facilities and loans, private label and co-branded credit card programs, and government leases. Kevin’s firm work also included researching and advising clients on corporate and commercial law issues and regulatory issues affecting financial institutions and payment service providers.

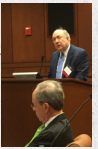
While still with the firm, Kevin started teaching as an adjunct at the University of Washington School of Law, which reminded him how much he enjoyed mentoring and working with students. Teaching had always held appeal, and during his 2L and 3L years in law school, he had been a teaching fellow and peer mentor. *(continued on pg. 3)*



UNIVERSITY of MARYLAND
FRANCIS KING CAREY
SCHOOL OF LAW

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BRINGING TRANSACTIONAL SKILLS INTO THE CLASSROOM

by Carole & Sibel Research Professor Martha M. Ertman

Practitioners who wish they got more transition-to-practice opportunities in law school should be happy to hear that Maryland Carey Law is making that happen. For a few years now I've integrated drafting exercises into my commercial law and contracts courses. Millennial students appreciate the increased interactivity in the classroom, and the changing market of law practice appreciates summer associates and young lawyers who are versed in the basics of reviewing and drafting contracts.

Law schools across the country are re-working their curricula to meet new American Bar Association requirements of six credits of transition-to-practice coursework. The California Bar upped the ante by implementing a steeper requirement of 15 credits that include topics like negotiation and drafting of contracts and other legal instruments.

I'm proud to report that Maryland Carey Law is at the forefront of the national push to increase hands-on offerings for law students, primed by our top-ranked clinical offerings. These include a Consumer Bankruptcy Clinic and a Low Income Taxpayer Clinic—taught by Beverly

Winstead and Dean Donald Tobin. On the side of the courses that we call “doctrinal” like BA and commercial law, Professors Michelle Harner and Dan Goldberg co-teach a Business Planning course. Several professors are also putting some of those lessons into book form to benefit students and professors at other schools. Professor Harner authored *Developing Professional Skills: Business Associations*, a volume in a series published by West Academic to bring practice-related exercises into doctrinal classes, and I'm turning the materials I created for the drafting course into a book on Secured Transactions for that same series. In addition, Professor Renée Hutchins is writing a volume in the Developing Professional Skills series on Criminal Procedure.

It's a big change. Like many professors, I spent much of my first decade teaching a lot like my professors taught me in the 1980s, and as their professors taught them in the 1950s and '60s, and so forth. Creating courses on contract drafting—one stand-alone course and another one- or two-credit add on to a commercial law course—showed me that middle-aged dogs can learn a few new tricks. As clinical professors know, it's

challenging to find the right balance between pedagogy and what really happens in practice, but it is possible and moreover the most exciting teaching innovation I've tried in at least a decade. (*see sidebar below*)

I couldn't have done this alone. The law school provided support in the form of helping me learn how to teach this material by co-teaching a class with drafting pro Olivia Farrar of the Howard Law School faculty. It also provided me with TAs, who in turn helped shape the course to provide what students most need. Transactional attorneys at the University of Maryland Medical System as well as bankers and attorneys in Baltimore and Washington D.C. have generously shared their expertise and forms.

But the process is not over. I believe that we can better prepare students for legal practice when we learn from practicing lawyers what they wish their summer associates and new lawyers knew how to do, so I am always eager to hear suggestions. Please shoot me an email at mertman@law.umaryland.edu with any thoughts about what you wish you or your students had in commercial law courses.

Here's a peek into my contract drafting workshop that students can add on to the Secured Transactions course on UCC Article 9.

The course uses a simulation based on a real-life successful business transaction: the financed purchase of a hardware store. This familiar context—just about everyone has bought a hammer or paint from a hardware store—provides a platform for students to master new material. Learning to read, negotiate, and draft the documents necessary to create the specialized contracts that define this transaction will help students better understand legal doctrine by applying it in a variety of documents and develop the foundational skills of transactional attorneys.

Learning to write in a new format requires repetition and feedback, so the ten exercises provide repeated opportunities to develop the skills of problem solving, negotiation, drafting, and complying with ethical obligations along the way.

By the end of the course, students should be able to read and understand a contract as well as negotiate and draft concise, coherent, legally binding contracts that reflect the business deal entered by the parties.

As a whole the exercises develop skills in three core competencies required in a transactional law practice: (1) understanding a client's business deal; (2) translating those terms to contract concepts like definitions, representations, warranties, and covenants; and (3) translating those concepts to words on the page that legally bind the parties. In addition to these transferrable skills, at the end of the course students will have created legally binding documents that memorialize the transaction, which may be useful as writing samples in a job search.

Exercises one through four have students memorialize the creation of a bare-bones perfected security interest by drafting a promissory note, financing statement, and short security agreement. The rest of the exercises add complexity to this basic information by having students with representations, warranties, covenants, boilerplate, and endgame provisions that security agreements typically include. To familiarize students with another type of agreement and specialized collateral, other exercises add a personal guaranty and perfection of a truck covered by a certificate of title. Though some of these exercises touch on professional ethics in negotiation and drafting, one exercise toward the end of the course enriches students' understanding of professional ethics in transactional work by introducing a few ethical dilemmas to the stimulation. Finally, students get a capstone experience by compiling the full portfolio of documents and write a memo to the client explaining how the security interest was perfected.

The course is structured to provide practice in collaboration as well. Moreover, students often produce better work and learn more if they team up. Consequently, the exercises in my course and book are designed for pairs of students, with one playing the role of the debtor's attorney and the other playing the role of the bank's attorney. After a brief, structured negotiation exercise, each team submits its assignment for a single grade.

BUSINESS LAW WELCOMES PROFESSOR KEVIN V. TU CONTINUED FROM PG 1

After a semester of adjunct teaching, Kevin transitioned to a full-time position as visiting assistant professor at the University of Oregon School of Law before taking his tenure-track appointment at the University of New Mexico School of Law.

Kevin recalls his own experience as a student at the University of Washington School of Law, where he was fortunate to have some excellent hands-on business law classes, including a course that gave him the chance to simulate an international merger and acquisition deal with other law students in China. He made a point to get involved outside of the classroom as well, and in addition to serving as a teaching fellow and mentor to other law students, Kevin was active in the *Pacific Rim Law and Policy Journal*, the Asian/Pacific American Law Students Association, the Vietnamese American Bar

Association of Washington, the Legal Education Committee, and the "Street Law Clinic."

As an instructor, Kevin strives to make sure that his classes are student focused, and he wants students not only to be challenged, but also to feel like they can approach professors and use them as resources. Kevin's advice to someone just starting out in business law is to take particular care in getting to know the client's goals and objectives. He also stresses the importance of understanding the broader business implications of a client's issue. Kevin recommends to beginning business lawyers that they make sure to be observant as they begin their practice. Watching and learning how experienced attorneys take on challenges and solve problems can help a beginning practitioner to develop and adapt his or her own approach.

Outside of work, Kevin relaxes with cooking and photography. He likes to experiment with new techniques and flavors in the kitchen, and he especially enjoys taking photos of endurance sporting events, like marathons, triathlons, and cycling competitions, where his wife is often a contestant. Some of Kevin's photos have been featured in *Triathlete* magazine.

If Kevin were to compare himself to one of the ingredients of a Whopper sandwich from Burger King, he says he would be the tomato. It may not be the first part of the sandwich that comes to mind, but it is an important member of the team. The tomato is not flashy; it does, however, add a dimension to the flavor of the Whopper and would definitely be missed.

BUSINESS AND TECHNOLOGY CASE MANAGEMENT PROGRAM SYMPOSIUM

In 2003, Maryland implemented its Business and Technology Case Management Program (“BTCMP”) to address the unique issues that arise in, and the needs attendant to, complex commercial litigation in state court. Since that time, an increasing number of states have adopted, and reportedly found significant value in, specialized business or commercial courts. The Business Law Section of the Maryland State Bar Association, in cooperation with the University of Baltimore School of Law and Maryland Carey Law, held a symposium on May 26, 2016, to examine the evolution of business courts over the past thirteen years to consider the BTCMP in light of innovations and refinements in complex commercial litigation and in business courts more generally. The all-day symposium, *Taking Stock of Maryland’s Business and Technology Case Management Program and Business Courts Around the Country*, was held at Maryland Carey Law and comprised of four panel sessions featuring more than 20 participants from around the country.

Professor Michelle Harner opened the program and introduced the first panel, “A Review of the History and Role of Business Courts,” and Robert L. Haig (Kelley Drye & Warren LLP;

New York) provided an overview of the history and development of business courts. Other panelists included Judge Stuart R. Berger (Court of Special Appeals; Maryland), Judge Albert Matricciani ’73 (Retired from Bench; Whiteford, Taylor & Preston, LLP; Maryland), and Judge Steven I. Platt (Retired from Bench; The Platt Group, Inc.; Maryland). Panelists recounted the history of Maryland’s business court program, assessed the Maryland business courts system to date, explored the role and potential value of business courts, and discussed recent adoptions of business courts in other states.

Following the first panel, Mr. Haig presented the lunchtime keynote speech, “The Evolution and Refinement of Business Courts: Reflections on New York State’s Recent Experiences.” The second panel then addressed the topic of “Select Issues Relating to Business Courts: Program Structure/ Centralization, Assignment and Responsibilities of Judges, and Case Selection.” Professor Harner introduced the panel and then turned it over to Lee Applebaum ’87

(Fineman Krekstein & Harris, P.C.; Pennsylvania), who launched the discussion about setting up business court jurisdiction and gatekeeping. Other panelists included Judge Audrey Carrion (Baltimore City Circuit Court; Maryland), Judge James L. Gale (Chief Special Superior Court Judge for Complex Business Cases; North Carolina), Vice Chancellor Donald F. Parsons, Jr. (Retired from Bench; Morris, Nichols, Arsht & Tunnell; Delaware), and Charles Piven (Brower Piven; Maryland).

Mr. Eric G. Orlinsky ’92 (Saul Ewing LLP; Maryland) introduced the third panel, which examined “Select Issues Relating to Business Courts: Case Management, Publication of Decisions, and Appeals,” and Mr. Scott Wilson (Miles & Stockbridge; Maryland) served as moderator. The session opened with an overview of how a case is managed from scheduling to trial date from Justice Timothy S. Driscoll (Supreme Court of New York, Commercial Division, Nassau County). Judge Mary Miller Johnston (Superior Court of Delaware) joined in to discuss issuing orders and expediting a case, and Ms. Kristin Herber ’01 (Under Armour; Maryland) offered an in-house counsel perspective on





case management. The panel, which also included Judge Sean D. Wallace '85 (Prince George's County Circuit Court; Maryland), touched on the topics of pre-trial conferences, the use of special masters, appeals in business cases, and the availability of business court decision opinions.

The fourth panel, "Select Issues Relating to Business Courts: Education, Resources, and Potential Barriers to Implementation and/or Effectiveness" was introduced by Professor Harner and moderated by Ms. Rachel McGuckian (Miles &



Stockbridge; Maryland). Panel four considered a number of different issues, including jurisdiction and case volume, consistency of case management, resource allocation, and training and continuing education for judges. Judge Christopher C. Wilkes (Twenty-Third Judicial Circuit, Chair of Business Courts Division; West Virginia), Judge Kathleen Gallogly Cox (Baltimore County Circuit Court; Maryland), Judge Ronald Rubin



(Montgomery County Circuit Court; Maryland), Judge Christopher C. Wilkes (Twenty-Third Judicial Circuit, Chair of Business Courts Division; West Virginia), Mr. Mitchell Bach (Eckert Seamans Cherin & Mellott, LLC; Pennsylvania), and Mr. Geoff Gamble '08 (Saul Ewing, LLP; Maryland) made up the rest of the panel.

Following the fourth panel, Judge Matricciani (*see Alumni Profile on pg. 8*), delivered closing remarks.

Business Law Track Graduates Nine Students in Fifth Year

The Business Law Program launched its Business Law Track concentration—a guided path of study designed to provide a rigorous and comprehensive preparation for business law practice—five years ago this fall. In 2012, our first two Track students graduated.

This past May, our alumni class grew to include nine additional Track graduates: (pictured left to right) Stan Tinter, Emmit Kellar, Grant Barnhard, Kimberleigh Dyess, Chaitra Gowda, Peiqi Huang as well as (not pictured) Xingyu Liu, Athina Manoli, and Joseph Sweeny.

For their outstanding accomplishment in completing a challenging course of study that emphasizes professional development and experiential learning as a complement to academic course work, students who complete the Business Law Track receive letters of recognition from Program Director Michelle M. Harner and Associate Director Hilary G. Hansen. In its fifth year, the Track concentration now has an alumni class of 47 graduates, and 33 more students are currently pursuing the Track.



More information about the Business Law Track is available online at <http://www.law.umaryland.edu/programs/business/academics/track.html>.

SYMPOSIUM EXPLORES BULK DATA COLLECTION'S PRIVACY IMPLICATIONS

by Jim O'Brien '16

Ever since Edward Snowden shined a spotlight on the National Security Agency's global surveillance programs in 2013, bulk data collection has remained a highly controversial topic. In response to these growing concerns, the *Journal of Business & Technology Law's* 2016 symposium, Bulk Data Collection and Personal Privacy, facilitated an in-depth discussion to explore both the benefits and privacy risks of bulk collection. The symposium, which took place on Friday, April 1, 2016, featured 17 prominent scholars and practitioners and three different panels. The first panel discussed bulk data's constitutional underpinnings and proposed frameworks to reform Fourth and Fifth Amendment jurisprudence. The second panel analyzed how bulk data is utilized in corporations. The third panel highlighted bulk data's privacy implications.

After a warm welcome from Donald Tobin, the dean and professor of law at Maryland Carey Law, keynote speaker Chris Soghoian opened the symposium with an enlightening discussion about the development of information collection over the past century. Soghoian, principal technologist and senior policy analyst with the ACLU Speech, Privacy, and Technology Project, noted that until the 21st century, all technology—from the telegraph to telephone, landline, text, and email—was wired for surveillance. The question was not whether the government could collect such information, but what prior authorization the government was required to obtain before accessing the information.

Then, there was encryption. The

early 2000s saw the emergence of technologies like Pretty Good Privacy (PGP) encryption, which utilizes public and private cryptographic keys to encrypt users' data. Although PGP encryption was ineffective because users had to manually encrypt their data, technology continued to evolve. Nowadays, encryption is frequently available with the push of a button and, as is the case with Apple's iPhone, a growing number of devices are encrypted by default. This is problematic because, for the first time, the government's access to information is restricted. Thus, in 2007, the FBI impersonated an *Associated Press* reporter to install malware on an encrypted computer to track down a suspect that made bomb threats in a Seattle high school. Soghoian concluded by citing the recent San Bernardino and Apple case, emphasizing the need for clearer boundaries as to what the government can and cannot do when accessing encrypted information.

Professor Bryan Choi, faculty fellow at the University of Pennsylvania Law School, analogized the San Bernardino and Apple case to Napster. If the government compelled Apple to unlock their encrypted iPhone, in the same way Napster was compelled to cease trading copyrighted music on its network, numerous other encryption services will rise up to take Apple's place. In order to address the underlying encryption issue, Professor Choi argued that courts should utilize the Fifth Amendment's privilege against self-incrimination in evaluating whether individuals have the right to encrypt their data.

Steven Friedland, professor of law and founding faculty member at Elon

Law School, began by identifying the multiple sources of bulk data collection. In addition to data generated by the government, Professor Friedland referenced what he called "public-private" partnerships, such as agreements between Google and the government. He also noted that, in addition to cell phones, smart devices like wearable fitness trackers, home security cameras, and thermostats yield unprecedented levels of data. This data then proceeds to third parties and has the potential to filter upwards to the government. As the privacy issues with bulk collection continue to come to light, Professor Friedland argued that change will be reconstructed by consumers, from the bottom up.

James Grimmelmann, professor of law and director of the Intellectual Property Program at Maryland Carey Law, gave the closing remarks and artfully summarized both sides of the bulk data collection debate: despite its privacy implications, advances in technology confer a number of benefits, including the ability to stay connected through social media and increased access to products and services. Also, large scale collection facilitates better national security protections and law enforcement. Professor Grimmelmann concluded by highlighting the privacy risks in both government and corporate data collection and expressed his hope for continued debate for reasonable institutional safeguards.

More information about the symposium can be found on the symposium website, which can be accessed via the following link: http://digitalcommons.law.umaryland.edu/jbtl_symposia/sym20160401.

Preview: JBTL's Spring 2017 Symposium

On March 31, 2017, the *Journal of Business & Technology Law* will present an all-day symposium titled **Cities that Cope – Confronting Financial Challenges in the Urban Landscape**. The symposium will feature four panel sessions and more than a dozen expert speakers, including Anirban Basu '03, the Honorable Thomas Bennett, Bill Brandt, M.J. "Jay" Brodie, Vincent Buccola, R. Michael Gill, Robert G. Flanders, Jr., Melissa Jacoby, Heather Lennox, Vince Marriott III, Elizabeth Sachs, James E. Spiotto, and Jennifer Vey. An overview of the panel topics follows below.

Panel One: Challenges Facing Our Cities

Since the Great Recession of 2008, U.S. municipalities have faced increasing economic challenges. These economic matters often are integrated with significant social welfare issues for the municipalities' residents. Indeed, municipalities—and those governing the municipalities—serve a critical role in promoting and protecting the fiscal health of their local public sector and supporting private sector economic activity. Municipalities often must make difficult choices and attempt to balance their financial obligations with their obligation to deliver critical services, such as the provision of public safety, education, and health, as well as water, sewer and transportation services. This panel will explore the nature of these many challenges and how municipalities are working to balance them.

Panel Two: The Municipal Bond Market

Prior to 2008, municipal bonds were viewed as a safe form of investment backed by the power of municipalities and states to protect the creditor/investor. Since the Great Recession of 2008, however, there has been increasing concerns regarding municipalities defaulting on their bond obligations. The majority of municipal bond defaults have occurred in bonds issued by municipalities to finance revenue producing enterprises (*i.e.*, highways, bridges, utilities, swimming pools, harbors, etc.). These services are necessary in a modern era to ensure the growth and success of cities, but now represent a risk for investors. This panel will discuss issues facing all participants in the municipal bond market and how they are working to innovate and address these challenges.

Panel Three: Economic Development and Entrepreneurial Initiatives

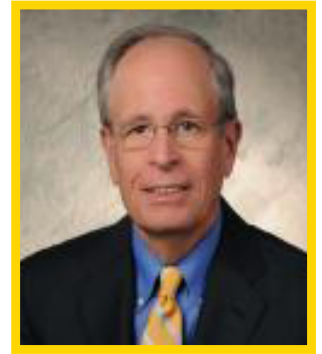
Increasing business opportunities on the state and local level have allowed struggling municipalities to recover from financial setbacks. Policy makers serve a key role in financing and encouraging economic growth and job creation. This panel will discuss the actions a municipality may take to encourage economic and job growth, focusing on what has worked and not worked so well in recent distressed situations.

Panel Four: The Chapter 9 Alternative

When a municipality becomes overwhelmed by its financial and other challenges, chapter 9 of the Bankruptcy Code may provide much-needed relief and support for the municipality and all of its stakeholders. Nevertheless, municipal bankruptcy is not without risk and, for this and other reasons, municipalities may hesitate to file a chapter 9 bankruptcy case. The post-2008 Recession period has seen several cities invoke chapter 9 bankruptcy—some would even say that they have done so quite successfully. This panel will review the tools available to municipalities in chapter 9 and how those tools can best aid a municipality and its stakeholders.



ALUMNI PROFILE: ALBERT J. MATRICCIANI, JR. '73



Judge Matricciani is a former Maryland trial and appellate judge who chairs the dispute resolution practice group of Whiteford, Taylor & Preston. He is an experienced mediator, with expertise in complex civil litigation and family law, and he is a member of the distinguished Judicial Panel of the American Arbitration Association. Judge Matricciani is also Chair of ADR Maryland, www.adrmaryland.com, a panel composed of Maryland's leading lawyers/mediators. He is court-designated to mediate complex commercial and medical malpractice cases by the Circuit Court for Baltimore City.

In 2014, Judge Matricciani returned to Whiteford, Taylor & Preston, following more than 19 years of service as a Maryland judge. He served on the Court of Special Appeals of Maryland (2008-2014) and on the Circuit Court for Baltimore City (1995-2008). Prior to his judicial appointments, he was a partner at Whiteford, Taylor & Preston from 1987-1995.

He received mediation training from Harvard Law School, the J.L. Kellogg Graduate School of Management at Northwestern University, and the Strauss Institute for Dispute Resolution, sponsored by Pepperdine University. He was trained as a commercial arbitrator by the American Arbitration Association, and he has experience as both a lawyer and an arbitrator in arbitration proceedings. In addition to his earlier legal practice where he briefed and argued appeals in the state and federal courts, Judge Matricciani served for nearly six

years as an appellate judge, hearing hundreds of cases and writing approximately one hundred opinions each year for his court, many of which are reported at Volumes 181 to 215 of the Maryland Appellate Reports. He is now actively involved in the firm's appellate practice, briefing and arguing cases in the State and federal courts.

Judge Matricciani practiced civil litigation for over twenty years before his appointment to the bench. As a trial judge, he supervised both the family law docket and the business and technology dockets in the Circuit Court, while chairing the statewide judicial committees with oversight responsibility in those areas of practice. Since returning to legal practice, he has concentrated on complex civil litigation on behalf of investment companies, condominium associations, trusts, and other business and commercial entities.

Judge Matricciani has been active in professional and civic affairs throughout his career. He is a past president of the Bar Association of Baltimore City, a former member of the Board of Governors of the Maryland State Bar Association and of the American Bar Association House of Delegates. Judge Matricciani is a Fellow of the Baltimore, Maryland, and American Bar Foundations. He is an elected member of the American Law Institute. He taught as an adjunct professor at Maryland Carey Law from 2004-2014, currently serves as an advisor to the *Journal of Business and Technology Law*, and is a frequent lecturer on legal, ethical, business, and legal history topics. After completing several years as President of the

Friends of the Sheridan Libraries at the Johns Hopkins University, he was elected to the university's Alumni Council. He also serves on the Board of Directors of the Homeless Persons Representation Project, Inc., and he was recently appointed as Chair of the Board of Liquor License Commissioners for Baltimore City by Mayor Stephanie Rawlings-Blake.

The judge is the recipient of many professional honors, including the Cardin Pro Bono Service Award from the Maryland Carey Law Law Alumni Association (1995); the Roslyn B. Bell Award for Contributions to Family Law from the Women's Law center (2000); the Anselm Sodaro Judicial Civility Award from the Maryland State Bar Association (2002); the Top Leader in Law Award from the Daily Record (2004); and the Human Rights and Justice Champion Award from the Legal Aid Bureau (2011). He received special recognition for his contributions to the establishment of a homeless persons' docket in District Court from the United Way of Central Maryland (2014), and he was selected for *Best Lawyers in America* in 2016 and 2017.

Judge Matricciani received his B.A. from Villanova University, his J.D. from University of Maryland Francis King Carey School of Law, and his M.L.A. from Johns Hopkins University.

ALUMNI REFLECTIONS: CATHERINE CHEN '15

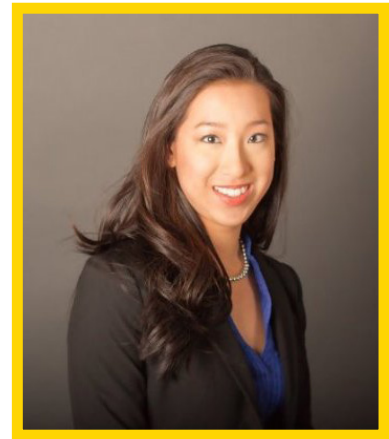
I went to law school with the intent of pursuing a career in transactional law and recognized that a foundation in business law would be essential to reaching this objective. The Business Law Program at Maryland Carey Law provided me with the skills necessary to begin achieving my professional goals.

The summer of my second year of law school, I worked as an associate in the legal and compliance department of a national financial advisory firm. This position was a turning point for me because, until then, I had yet to set my focus on any particular specialty within the broad category of transactional law. During my summer, I learned the ins and outs of the investment management business and developed a passion for regulatory law and securities law. I continued to work at this firm during my third year of law school. My responsibilities consisted primarily of reviewing marketing materials for compliance with SEC standards, administering the firm-wide Codes of Ethics regulating employee personal trading, performing compliance testing, and assisting with audits, regulatory exams, and Board and committee meetings. I enjoyed this work tremendously and cultivated

a specialized set of skills in the field of compliance through frequent one-on-one interactions with my supervisor, firm mentor, and other managers within the firm.

The concepts I learned from the courses I took through the Business Law Program were essential to my understanding of the issues that arose at the financial advisory firm. For example, familiarity with concepts such as choice of business entities and corporate governance gave me an understanding of the financial advisory firm's business structure. This understanding gave me the ability to critically evaluate a situation and provide sound legal advice that was reconcilable with the firm's culture and objectives.

Even though I knew I wanted a career in compliance and securities law, I was aware that this is a very niche area of practice. With this in mind, during my third year of law school I applied for a judicial clerkship in order to bolster my legal research and writing skills. The application process for a judicial clerkship is rigorous. The majority of judges look for candidates with good legal and writing skills which can be demonstrated through



journal experience and strong writing samples. In preparing for the judicial clerkship interview, I reached out to a Maryland Carey Law alumna who had previously served as a law clerk for the judge.

Similarly, in my search for post-clerkship employment, I reached out to a fellow alumna of the Business Law Program after I was invited back for a second interview with the firm where she works. Speaking with those who are currently working or previously worked at an organization is a great way to get a feel for the culture of the work environment. Based on the conversation, I was able to honestly evaluate whether I believed I could add value to the firm. I recently began working at this firm which specializes in providing due diligence services to financial services companies. I am very grateful and excited for the opportunity to explore another facet of investment management regulation.

Want to Get Involved?

Host a "brown bag" on a topic of Business Law that interests you. Mentor a Business Law Society student. Sponsor a Business Law symposium. We're always looking for ideas and suggestions to enrich our experiences at Maryland Carey Law. Contact Hilary Hansen at hhansen@law.umaryland.edu.

GETTING IN LEGAL SHAPE WITH BUSINESS LAW BOOT CAMP

by 2L Fiona Nguyen



At Maryland Carey Law, students sign up for Business Law Boot Camp with the expectation that they will learn the basics to be business lawyers. Every year the Business Law Boot Camp is highly anticipated because students are eager to gain skills to be practice-ready once they graduate. Regardless of the specialized area, the skills taught in Business Law Boot Camp are valuable to all attorneys. Business concepts are inescapable, and with the skills taught in the boot camp, students can use the business edge to their advantage. With its return this fall, the Business Law Boot Camp exceeded students' expectations with its carefully designed sessions and distinguished speakers.

We learned how to negotiate from Ronald M. Shapiro, founder of the Shapiro Negotiations Institute, expert negotiator, sports agent, attorney, educator, *New York Times* bestselling author, and civic leader. We abandoned our misconceptions about negotiations being win-lose situations, and learned how to achieve Win-win situations for everyone involved. Equipped with the Shapiro Systematic Approach and the SNI Preparation Checklist, we are ready for our next negotiations.

We learned the nitty gritty of business from Deloitte's highly accomplished team. Deloitte provides industry-leading business services to many of the world's most admired brands, including 80 percent of the Fortune 500. Deloitte's team of experts included Tamika Tremaglio '95, Erik Rignoen, and Saya Jenkins. Their combined expertise includes: litigation, forensic investigations, accounting, tax, finance, economics, business valuations, and compliance

assessments. Deloitte's team pushed us outside our comfort zones, and we are glad they did. The Business Law Boot Camp gave us the opportunity to make mistakes and learn from them with experts by our side. We examined financial statements and learned how to read them, how they relate to each other, and how to use them to evaluate a business. The expectations of business lawyers increase as the division between business and law blurs. It is no longer acceptable to be unfamiliar with the details of finance, and Deloitte's team eased our transition into this new territory.

the distinctions between representations, warranties, covenants, and conditions in drafting contracts. We learned the importance of communicating expectations, alternatives, and consequences to clients clearly and candidly to avoid future problems. We also learned how to strengthen our writing skills to effectively communicate with clients and colleagues.

We learned the intricacies of tax law from the dean of Maryland Carey Law, Donald Tobin. Dean Tobin is an expert in tax law, and has served as appellate attorney in the Tax Division of the U.S. Justice Department.

With his expertise and experience, he guided us through the basics of income taxation. We ventured through the concepts of marginal tax rates, gross income, deductions, and credits. We explored both common and surprising examples of income taxation. We can now answer the age-old question of "is that taxable?"



Last but not least, we learned business and communication basics from our esteemed professors for the boot camp course, Michelle Harner and Hilary Hansen. Professor Harner guided us through finance basics while Professor Hansen ensured we had the writing and communication skills necessary to make lasting impressions. We learned

As the division between business and law within corporations continue to merge, the importance of the Business Law Boot Camp increases. The seminar taught us the necessary skills for business lawyers and how to be practice ready. While topics such as negotiation, finance, and tax are new territory, our distinguished speakers eased our transition. When you know you are learning from the best, you have the confidence to be the best. Students entered the Business Law Boot Camp with an idea of what they want from the seminar, and left with a concrete set of skills for their career.

Get Ready for Transactional Practice: Students Compete in Regional Transactional LawMeet

by 3L Ziyi He

For any law student aspiring to be in the business of deal-making, do you remember feeling unimpressed when someone told you about a moot court or trial competition? If you have set your mind on becoming a transactional lawyer, a transactional competition that offers simulation experience in contract drafting and negotiation could be a much better fit.

Since 2011, Maryland Carey Law has sent teams every year to the Transactional LawMeet, an annual competition that offers “moot court” experience in transactional practice. Last spring, Kimberleigh Dyess '16, Ziyi He 3L, Robbie Walker '16, Renee Lani 3L, and Matthew Sarna 3L represented Maryland Carey Law in two regional rounds of the 2016 Transactional LawMeet. Kimberleigh and Ziyi competed in the New England Regional round, which took place at Western New England University School of Law in Springfield, Massachusetts. Robbie, Renee, and Matthew competed in the Mid-Atlantic Regional round, which was held at Drexel University Thomas R. Kline School of Law in Philadelphia.

The 2016 Transactional LawMeet involved a merger/acquisition transaction between a company aiming at desalinating Middle East lands and another company possessing key desalination technology. The LawMeet provided the teams with hands-on experience in business transactions from the beginning—client interviews—to the end—final negotiations. During the competition, the Maryland Carey Law teams interviewed their clients to understand their interests and needs, drafted term sheets based on those needs, marked up opposing teams’ term sheets, and negotiated with those teams on the terms and conditions of the final agreements.

In structuring the transaction, the Maryland Carey Law teams not only demonstrated their contract drafting skills, but also their strategic decision making. Most importantly, the teams had to make a careful choice whether the transaction should be (1) a merger, where one company is merged into the other; (2) a contribution, where one company contributes its shares in exchange for the other company’s equity units; or (3) a new joint venture, where each of the two companies obtains a certain number of shares. The teams weighed advantages and disadvantages of each choice and discussed which one was practically the most convenient for both companies. Eventually, both teams chose to structure the deal as a contribution, given that it was tax efficient and could be achieved without moving assets.

The final negotiations took place in the two regional rounds on February 26, 2016. Both teams conducted the negotiations in a thoughtful manner with consideration to potential long-term business relationships with the other parties. Moreover, the teams focused on exploring common interests with a clear understanding of each side’s leverage and employed multiple negotiation tactics. For example, Kimberleigh and Ziyi played “good cop, bad cop” during their negotiations, which helped them take control of the negotiations.

The Maryland Carey Law teams expressed their genuine appreciation to their coaches Joseph P. Ward '03, Esq., Miles & Stockbridge, and Hilary Hansen, associate director of Maryland Carey Law’s Business Law Program, for their invaluable guidance.



Pictured above left to right: Matthew Sarna 3L, Renee Lani 3L, and Robbie Walker '16. Pictured below left to right: Ziyi He 3L and Kimberleigh Dyess '16.



FACULTY NOTES



■ **Andrew Blair-Stanek** will publish *Just Compensation as Transfer Prices*, 58 ARIZONA L. REV. ___ (forthcoming 2017). He presented this article by invitation at the Duke University School of Law Tax Policy Workshop (Feb. 25, 2016). He also presented it at the University of Oxford (U.K.), Oxford Internet Institute (Apr. 18, 2016), along with his article, *Intellectual Property Law Solutions to Tax Avoidance*, 62 UCLA L. REV. 2 (2015).



■ **Daniel Goldberg** published “The Target Method for Partnership Special Allocations and Why It Should Be Safe-Harbored,” 69 *Tax Lawyer* 663-730 (Spring, 2016).

The *Tax Lawyer* is a peer-reviewed journal published at Georgetown Law School under ABA Tax Section sponsorship, with articles selected and edited by tax faculty at various law schools around the country and leading tax practitioners. The article deals with both the theory and current regulatory regime of partnership special allocations of profits and losses and the practice of drafting partnership allocation provisions that comply with the Treasury Regulations governing them. The article will have appeal to both theorists, who teach and write about these issues, and practitioners, who have to understand and draft complicated special allocation provisions of partnership agreements and LLC operating agreements in the context of real business arrangements. The article should have a substantial impact on the way special allocations are viewed and on future drafting of provisions to accomplish them. It may also convince the Treasury Department to amend its long-standing special allocation regulations to accommodate the drafting method advocated in the article.

Professor Goldberg was also the major speaker (2 days of a 5-day training session in May, 2016) for senior managers and partners of the international accounting firm EisnerAmper at its worldwide annual tax department meeting. The primary focus of his presentation was the topic: “Working with Partnership Special Allocations,” a presentation of his recent article, “The Target Method for Partnership Special Allocations and Why It Should Be Safe-Harbored.”



■ **Michelle Harner** published the article *La Reforma Del Capitulo 11 Del U.S. Bankruptcy Code [The Reform of Chapter 11 of the U.S. Bankruptcy Code]*, 24 REVISTA DE DERECHO CONCURSAL Y PARACONCURSAL 537 (Wolters Kluwer ed. 2016) (translated by editors for publication), and she will be publishing *Disciplining Corporate Boards and Debtholders Through Targeted Proxy Access*, 92 IND. L.J. ___ (forthcoming 2016-2017). She recently participated in the *Claims-Priority Roundtable* at New York University School of Law and the *Chapter 9 Municipal Bankruptcy Roundtable* at the Federal Judicial Center. She continues to serve as the Associate Reporter for the Advisory Committee on the Federal Rules of Bankruptcy Procedure and to host the monthly educational program, Eye on Bankruptcy.



■ **Kevin Tu** published *Socially Conscious Corporations and Shareholder Profit*, 84 GEORGE WASHINGTON LAW REVIEW 121 (2016).

POINTS OF PRIDE

3L George Cunningham received a Fall 2016 Business Law Fellowship to work at T. Rowe Price.

3L Kim Foerster received a Summer 2016 Business Law Fellowship to work at FutureCare.

3L Ziyi He received a Summer 2016 Business Law Fellowship to work at Vasoptic, Inc.

3L Catherine Lee received an Entrepreneurial Fellowship Award from the University of Maryland, Baltimore (UMD) to get hands-on training and experience in commercializing health discoveries made by UMB faculty during the fall of 2015 into the spring of 2016.

3L James McKittrick received a Summer 2016 Business Law Fellowship to work at LifeBridge Health.

3L Renee Lani and **3L Matt Sarna** were selected to author QuickCounsel online reference articles for the Association of Corporate Counsel during the 2016-2017 academic year.

Graduate Catherine Chen '15 has accepted a position with Snyder Kearney, a law firm in Columbia, Md.

Graduate Brittani Gordon '15 is working as a law clerk for the Honorable Judge Designate Simpson in U.S. Bankruptcy Court for the District of Maryland.

Graduate Alvaro Llosa '13 has recently been brought in as a part-owner and director of Olde Potowmack Title & Escrow Co. in Bethesda, Md.

We would be delighted to hear any news that you want to share in a future 'Points of Pride' announcement. Please feel free to email Associate Director Hilary Hansen at hhansen@law.umaryland.edu to let us know about your job placements, awards, publications, or other achievements.

The Business Law Program 2016-2017 Faculty and Staff

Director

Michelle Harner, JD

Associate Director

Hilary Hansen, MA



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