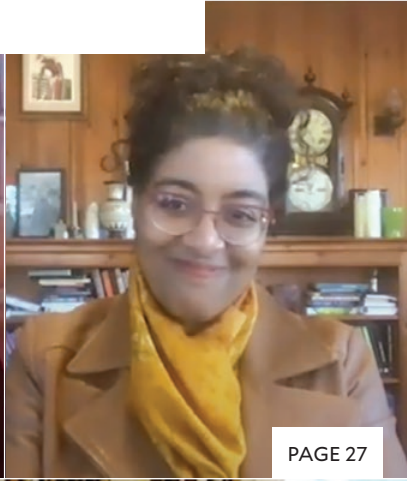


# OUR FACULTY



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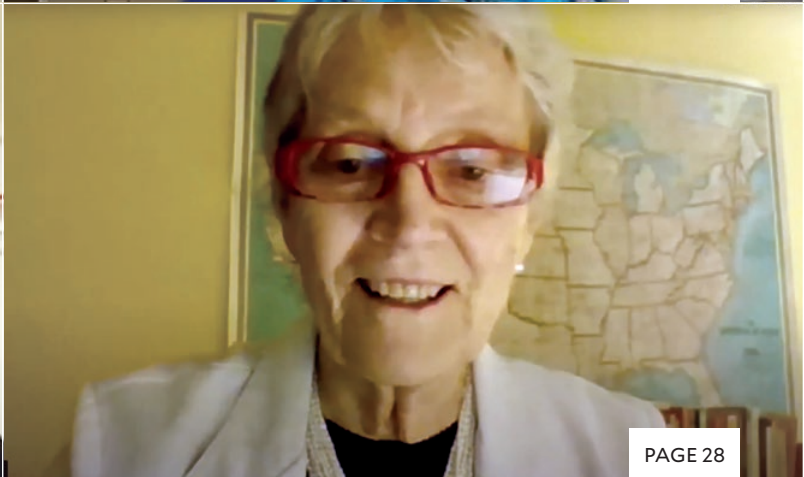
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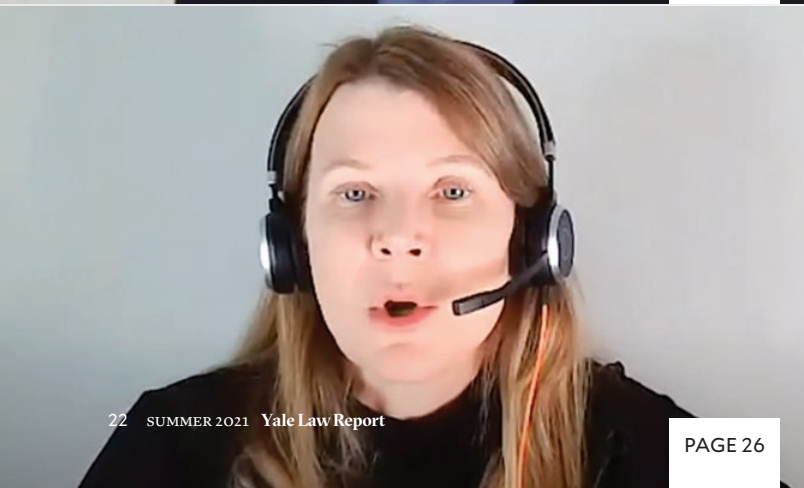
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# Supporting Children and Families Through Law

Anne L. Alstott '87 is the Jacquin D. Bierman Professor in Taxation at Yale Law School.



*Anne L. Alstott has taught at Yale Law School since 1997, with a focus on tax and social welfare policy toward children and families. Recently, Alstott has helped found a medical-legal partnership for children's behavioral health with Dr. Linda Mayes, the head of the Yale Child Study Center (YCSC), and Jay Sicklick, the Deputy Director of the Center for Children's Advocacy (CCA), which is funded in part by the Oscar M. Ruebhausen Fund at Yale Law School. Additionally, Alstott and other Law School faculty members have collaborated with Mayes and other YCSC colleagues in the Project on Child Development and the Law, which considers how the law might improve the mental health of children and parents through enhanced social welfare support and preventing family disruption.*

**Yale Law Report** How has COVID-19 exacerbated issues that were already impacting children and families? What can be done to address this?

**Anne L. Alstott** The data we have suggests that COVID-19 has been especially hard on children and families. High unemployment and quarantine have left many parents scrambling to meet daily needs, including food, housing, and utility bills. The benefits system, including the unemployment insurance system, can be a lifesaver, but it also has huge gaps that should be addressed. The closure of schools and daycare centers has burdened children's development, taxed parents' ability to work, and left many childcare workers unemployed. The disruption has been especially taxing for special needs children and their families. Looking forward, we should recognize that our childcare system is an essential part of our social infrastructure and

merits the same kind of care and attention that we devote to K-12 education. The larger public has learned what feminists have long pointed out: childcare isn't just babysitting, and it isn't just a luxury. Without good, reliable childcare, parents cannot work, and many jobs in the economy do not get done. Looking ahead, we should think big about improving childcare quality, affordability, and worker pay. Ganesh Sitaraman, a professor at Vanderbilt Law School, and I sketch one approach in our (pre-pandemic!) book, *The Public Option* (2019).

**What is the focus of the Medical-Legal Partnership (MLP) at the Child Study Center?**

Yale Law School already has close connections to several MLPs, thanks to the Solomon Center for Health Law and Policy, including the Yale New Haven Children's Hospital MLP, staffed by Alice Rosenthal of the Center for Children's Advocacy. We were inspired by their work, and as we explored the possibilities, we realized that many Child Study Center patients have a range of legal needs that an MLP could help meet. Education is a particular focus for many families, who need assistance in gaining access to special education and accommodations for disabilities. Guardianship and adoption are also important, as are housing and access to benefits. A number of YLS students helped me assess legal needs and think through the issues involved in starting an MLP, including ethical considerations, as part of my Law and Child Development class. It was eye-opening to sit in on clinical rounds and to see the care and expertise that the Child Study Center clinicians bring to their work. It was exciting, too, to see that we had something to

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**“Childcare isn't just babysitting, and it isn't just a luxury. Without good, reliable childcare, parents cannot work, and many jobs in the economy do not get done.”** PROFESSOR ANNE L. ALSTOTT '87



**James Silk '89** in “World's tropical forests and people imperiled by legal rollbacks under COVID-19,” February 18, 2021:

“Indigenous Peoples are seeing their rights stripped away as the lands that have long been their homes are being stripped away as well.”



**Bruce Ackerman '67** in “With a Single Climate Initiative, Biden Could Generate \$4 Trillion for Green Investment,” December 18, 2020:

“A Biden ‘climate auction’ initiative would decisively fix this failure. To stay in business, all major firms would be competing with one another for the limited number of allowances on sale at the initial auction. Under such a scheme, high-cost polluters will be willing to pay a lot more for their right to continue discharging carbon into the atmosphere, since otherwise they would have to close down their operations. Moreover, purchasing long-term rights at the initial auction will insure against the risk that prices on the resale market will skyrocket in the future.”



ALSTOTT (CONTINUED)

→ Supporting Children and Families (from page 23)

contribute: the patients' legal needs just jumped out at us from the case histories. The Child Study Center clinicians are highly effective in advocating for their patients with schools and other institutions, but when a bureaucracy asserts that it has "no legal duty" to accommodate a child, it can be difficult for the clinicians to move forward. That is the entry point for lawyers to be really helpful. Kathryn Meyer, an experienced CCA lawyer, is now working side by side with clinicians at the Child Study Center to assess and treat patients' legal needs as part of an integrated, team approach.

**Can you tell us about the Project on Child Development and the Law?**

The Project came about thanks to Dr. Mayes, who reached out to build intellectual bridges to the Law School and other departments in the University. It can be difficult for law professors to engage University colleagues in the sciences because our vocabulary, professional training, and frames of reference are different. Our group, which includes YLS professor Doug NeJaime and UConn School of Law professor Anne Dailey, along with a number of Child Study Center faculty and clinicians, has held two conferences and has produced several written pieces. Most recently, Doug, Anne, and I have written a law review piece titled "The Legal Imperative of Parental Care," which shows how (and why) family law and social welfare policy should incorporate key insights from developmental science.

**The Washington Post**

Amy Kapczynski '03, Gregg Gonsalves, and David Herman '23 in "We'll never reach herd immunity if we don't vaccinate more non-White people," February 26, 2021:

"The truth is that reaching herd immunity and protecting the vulnerable are inseparable goals. Achieving both requires tailored outreach to combat vaccine hesitancy among those affected by a history of medical experimentation, who lack access to primary care, who do not speak English, or who are at risk because of their undocumented status."



Miriam Gohara  
Clinical Associate Professor of Law

Clinical Associate Professor of Law **Miriam Gohara** was featured in a video about her **Challenging Mass Incarceration Clinic** and the unprecedented sentence modification it won for client Clyde Meikle.

To watch the video visit [vimeo.com/515479072](https://vimeo.com/515479072).

ESKRIDGE

**Professor Eskridge Receives ABA Silver Gavel Award for Book**

**William N. Eskridge Jr.** '78, John A. Garver Professor of Jurisprudence, has been awarded the American Bar Association's Silver Gavel Award for Books for his book *Marriage Equality: From Outlaws to In-Laws*. The ABA announced the award on May 20, 2021.



**William N. Eskridge Jr.**

The Silver Gavel Awards have been given annually since 1958 in recognition of exemplary works in the arts and media that facilitate the public's comprehension of the legal system and law. The awards are the highest honor given by the ABA for this purpose.

"It is a great honor to receive the Silver Gavel Award, but an even greater honor was to tell the stories of the dozens of LGBTQ+ families who sought marriage rights," Eskridge said.

*Marriage Equality: From Outlaws to In-Laws*, co-authored by Eskridge and Christopher R. Riano, provides a comprehensive examination of the equal marriage movement — spanning from 1967 until 2017, after the Supreme Court's landmark decision from 2015 in *Obergefell v. Hodges* made marriage equality the law of the land.

LISTOKIN

**Listokin's Research Used in Washington Center for Equitable Growth Factsheet**

**The Washington Center** for Equitable Growth has adapted the research of Shibley Family Fund Professor of Law Yair Listokin '05 into a factsheet titled, "Executive action to coordinate federal countercyclical regulatory policy." The factsheet, which addresses the ongoing coronavirus recession, argues that "executive agencies should consider how their regulatory power can be aggressively leveraged to provide a much-needed, countercyclical boost to the ailing U.S. economy."



**Yair Listokin**

Prior to the recession caused by the pandemic, Listokin authored a book — *Law and Macroeconomics: Legal Remedies to Recessions* — in which he argued that the law has the potential to substantially ease the effects of the next economic crisis. The recent factsheet expands upon Listokin's ideas as applied to the current recession.

## HATHAWAY



## Professor Hathaway Testifies Before House Committee on Foreign Affairs

**Professor Oona A. Hathaway '97** testified during a virtual hearing before the U.S. House of Representatives Committee on Foreign Affairs on March 23, 2021. The hearing, titled “Reclaiming Congressional War Powers,” addressed issues concerning the balance of war powers between the executive and legislative branches, with a particular focus on authorizations for the use of military force (AUMFs) and the 1973 War Powers Resolution.

“The hearings signal a growing interest in Congress in revising the authorities for use of military force and reclaiming a role for Congress in decisions about when and whether to use military force,” Hathaway said.

In her written testimony, Hathaway addressed the 1991 and 2002 AUMFs: “These authorizations were enacted by past Congresses for purposes that have long since been achieved...Leaving the 1991 and 2002 AUMFs on the books simply leaves the door open to their misuse without giving [p]residents any additional legitimate basis for military action.”

Hathaway also testified regarding alleged misuse of the 2002 AUMF, citing members of the Trump administration referencing the 2002 AUMF as authority for the deadly strike on Qasem Soleimani. She explained that the agreement among most experts

is that the 2002 AUMF did not authorize said operation, as the authority granted in the 2002 AUMF was limited.

The 2001 AUMF, enacted only days after September 11, 2001, “was necessarily vague because the government was not yet entirely confident as to the group or groups responsible for the attack,” Hathaway said. She suggested that if the 2001 AUMF is replaced, it should contain a reauthorization requirement, define who the enemy is, and have clear and specific reporting requirements to Congress.

Lastly, Hathaway discussed war powers reform, specifically pertaining to the War Powers Resolution. She suggested that “hostilities” be defined, that the Resolution be enforced through Congress’ ability to terminate funding for operations, and that there be a manner for Congress to challenge executive branch interpretations of the Resolution in court. Addressing the ability to bring a challenge in court, Hathaway stated that “previous efforts to seek judicial review by members of Congress have been dismissed on both standing and political question grounds.” However, Hathaway said that she believes, based on recent judicial precedent, a provision appointing representatives to bring any claims on behalf of one or both Houses of Congress “could help overcome the justiciability barriers that have impeded judicial review in the past.”

THE CLS BLUE SKY BLOG  
COLUMBIA LAW SCHOOL'S BLOG ON CORPORATIONS AND THE CAPITAL MARKETS

**Jonathan Macey '82** in  
“Securities Regulation and  
Class Warfare,” March 2, 2021:

“In order to make markets fairer, we have to make them more efficient. Rivalrous competition for trading profits among traders, particularly market professionals, are what make markets more efficient. Securities regulation, however, inevitably restricts competition among market participants by restricting and otherwise imposing costs on the process of identifying and trading in mispriced financial assets.”



**Yair Listokin '05** in “Give strained student loan borrowers their fresh start,”  
March 4, 2021:

“Rather than forgive \$10,000 or \$50,000, executive action to allow borrowers to have student loan debt forgiven through bankruptcy means the borrowers who truly need it could find relief.”

## APPEARANCES



**Justin Driver** gave a lecture on constitutional rights in the schoolhouse setting for the National Archives and iCivics on December 15, 2020.



**Douglas NeJaime** testified at a public hearing before the Joint Judiciary Committee of Connecticut on March 8, 2021, about the Connecticut Parentage Act, which led to the passing of a critical new law. (See page 3.)



**Professor Lemar and Alumni Selected as James W. Cooper Fellows**

**Clinical Professor of Law** Anika Singh Lemar was selected as a Fellow for the Connecticut Bar Foundation James W. Cooper Fellows Program.

Three Law School alumni were also chosen as 2021 Fellows: Nina Pirrotti '91 of Garrison, Levin-Epstein, Fitzgerald & Pirrotti, P.C.; Giovanna E. Shay '97, Litigation and Advocacy Director of Greater Hartford Legal Aid; and Liam Brennan '07, Executive Director of the Connecticut Veterans Legal Center.

The Fellows Program, now in its 26th year, is intended to both promote a better understanding of the legal profession and the judicial system in Connecticut and to explore ways to improve the profession and the administration of justice.



Clinical Professor Anika Singh Lemar (far left) with her clinic students, Clinical Professor Jay Pottenger '75 (second from right), and Clinical Lecturer in Law Emilee Song Gaebler (far right) in the fall of 2020.

**Q&A Professor Lemar on Affordable Housing, Small Business, and Community**

*Clinical Professor of Law Anika Singh Lemar received tenure on January 1, 2021. She leads the Community and Economic Development Clinic (CED) and the Small Business and Community in a Time of Crisis Clinic at Yale Law School. Lemar described why her students are advocating for affordable housing in Connecticut's suburbs, how they have supported local small businesses throughout the pandemic, and what she hopes her students will learn from the New Haven community.*

**Yale Law Report The Community and Economic Development Clinic has been working in Connecticut to change zoning laws. Can you tell us about some of the successes the clinic has achieved in the past year?**

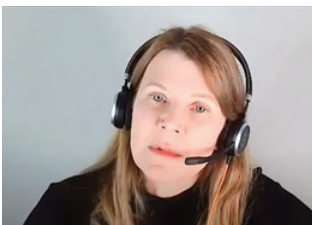
**Anika Singh Lemar** Scholars — at the forefront Yale's Bob Ellickson '66 — have long understood the relationship between zoning and housing affordability. Restrictive zoning inflates housing prices primarily by requiring the consumption of large parcels of land to build single units of housing. Given our nation's history of racial segregation and discrimination, there is a massive racial wealth and income gap. Therefore, price inflation in the housing market affects Black and Latinx

households significantly more than it affects white households.

Importantly, where you live also determines access to other public goods, such as public schools with small class sizes, clean parks and air, and commuter rail. As a result, towns that erect barriers to entry to the housing market are also — often by design — erecting barriers to precisely those public goods that poor and low-income people need to climb the ladder of economic opportunity.

As a result, I have made it a priority for CED to represent developers constructing affordable housing in a variety of types of towns and cities as well as fair housing advocates seeking to decrease barriers to development in tony suburbs. We have worked alongside civil rights organizations and housing policy advocates to advocate for changes to the Low-Income Housing Tax Credit, a federal housing production subsidy. We have worked with clients in New Jersey and Missouri on racial justice. And, here in Connecticut, we have advocated for protecting Connecticut's Anti Snob Zoning law and represented developers seeking to build housing in towns like Branford and Woodbridge. At the same time we continue to represent community development corporations looking to improve access to opportunity — through housing, day care, and other amenities — here in New Haven.

**APPEARANCES**



**Anne Alstott '87** gave a lecture on the public option on Rocky Watch at Rockefeller Center of Dartmouth College on February 24, 2021.



**Jack Balkin** gave the keynote lecture for the 2020 Missouri Law Review Symposium, which was on the topic "A New Hope? An Interdisciplinary Reflection on the Constitution, Politics, and Polarization in Jack Balkin's *The Cycles of Constitutional Time*" on November 12 and 13, 2020.

## LEMAR (CONTINUED)

**You and your students have also been working with local small businesses during the pandemic. How did this work develop?**

Students were at the forefront of our efforts to assist small businesses and nonprofits suffering the economic consequences of the pandemic. As early as March 2020, our students were delivering webinars and disseminating information to the New Haven community on relief programs. While we were grappling with the logistics of teaching from home, representing clients without being in the same room with them, and homeschooling our children, we realized that we needed to do more to serve our neighbors. The CARES Act passed in late March, and there was a great need for lawyers to provide information and advice to local businesses, workers, and nonprofits on what exactly the legislation provided. Dozens of students signed on to provide one-on-one informational phone calls to local businesses and nonprofits. We provided legal representation to dozens of those organizations for whom a phone call was not enough. The work was challenging — the federal government was issuing new guidance on the Paycheck Protection Program, for example, every few days in May of 2020 and our students were keeping up with those changes while studying for exams during a pandemic.

**A lot of your clinical work focuses on the local community. Why are these ties important to you and important to pass onto YLS students?**

I love New Haven. This is the town where — years before I joined this faculty — I chose to settle down and

*“Price inflation in the housing market affects Black and Latinx households significantly more than it affects white households.”*

PROFESSOR ANIKA SINGH LEMAR

raise my family. My kids play Little League in New Haven parks and attend New Haven public schools. We bike and walk New Haven streets. We attend programs and festivals hosted by community groups and the local parks and recreation department. One thing we love about this place is that New Haven has long been a destination for migrants and immigrants who have strived for their share of opportunity and success. New Haven — like all places — is at its best when it welcomes newcomers, whether Italian immigrants in Wooster Square at the turn of the 20th century or African American migrants from the American South to Dixwell and Newhallville during the Great Migration or Syrian and Iraqi refugees today. I want this town to be the best version of itself it can be because when New Haven succeeds, the families here — from all walks of life, all economic situations, and all corners of the world — have a chance to succeed. I hope that somewhere along with the corporate law and tax law and contract drafting skills, I pass on to my students a love for places that are not just diverse but truly inclusive and the notion that change is inevitable but we can work to direct it in a way that makes life better for more people.

*The Atlantic*

Reva Siegel and Joseph Blocher '06 in “Guns Are a Threat to the Body Politic,” March 8, 2021:

“Without question, gun regulation is needed to address the mass shootings, intimate-partner violence, suicides, and daily homicides that account for roughly 40,000 deaths and 100,000 injuries every year. Americans also need their democratic government to work, and that means protecting citizens from intimidation when they exercise their civic rights, and protecting government officials from weapons threats when they are trying to conduct normal business.”



Dean **Heather Gerken** and Professor **Tracey Meares**, along with Phillip Atiba Goff and Amanda Alexander '13, discussed criminal justice in America at a Yale Alumni Association event on March 15, 2021.



POST

### Professor Post Named to the Oversight Board Trust

**Sterling Professor of Law** Robert C. Post '77 has been named a trustee of the Oversight Board Trust, the group announced on December 1, 2020.



**Robert C. Post**

The Oversight Board was created “to help Facebook answer some of the most difficult questions around freedom of expression online: what to take down, what to leave up, and why,” according to the group’s website.

The Oversight Board is composed of three elements: Board Members, the Trust, and the Administration. The trustees are responsible for safeguarding the independence of the Board and for ensuring that the Board operates effectively in fulfilling its stated purpose, among other duties.



**Zachary Liscow '15** and **Abigail Pershing '20** in “A new way to increase economic opportunity for more Americans,” January 21, 2021:

“Many Americans need help getting back on their feet as we dig out of the coronavirus downturn. Necessities accounts can provide that help in a way that actually has a chance of success in a divided nation that needs to unite to survive.”

**Professor Doug Kysar** was one of the winners of the 2021 Yale School of Management’s MBA for Executives Teaching Awards.

### Professor Amar Launches Podcast on Constitutional Issues

**A new podcast** created by Professor Akhil Reed Amar '84 offers weekly discussions delving into pressing and relevant constitutional issues of the current moment. *Amarica’s Constitution*, co-hosted with Andy Lipka M.D., '78 YC, dissects constitutional disputes and predicaments to educate and inform listeners on the political and social ramifications of government action during certain “windows of vulnerability.” Using historic and pop culture references from his experience as a young boy witnessing the broadcast of JFK’s assassination to his time consulting for the writers’ room on the popular show *The West Wing*, Amar discusses the gaps in the Constitution relating to electoral pitfalls while offering his expertise in how to contextualize and address those gaps.

The podcast is available on Spotify, Apple, and other podcast platforms.



GLUCK

### Professor Gluck Joins White House COVID-19 Response Team

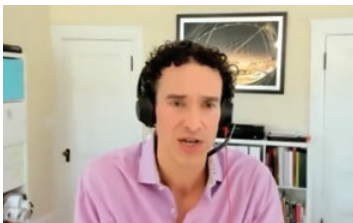
**Professor Abbe R. Gluck '00** joined the Office of White House Counsel to work on COVID-19 and other health care issues, the Biden-Harris Transition Team announced in January 2021.

Gluck is taking a temporary public service leave from the Law School while she serves in this role.



**Abbe R. Gluck**

APPEARANCES



**Douglas Kysar** gave a talk on February 11, 2021, at The Kenan Institute for Ethics at Duke University as part of its “Facing the Anthropocene” series.



**Carol Rose** spoke at the Earl Dickerson Centennial Conference at the University of Chicago Law School on October 30, 2020, on the topic “De-racing Property: Earl Dickerson and the Struggle Against Racially Restrictive Covenants.”

# Jurist and Scholar

**Ralph K. Winter Jr.**

1935–2020

**Judge Ralph Karl Winter Jr. '60** LLB, a former Chief Judge of the United States Court of Appeals for the Second Circuit and former William K. Townsend Professor of Law at Yale Law School, died on December 8, 2020, at the age of 85.

“Judge Winter was an extraordinarily distinguished scholar who taught a generation of Yale students before and after joining the bench,” said Dean Heather K. Gerken. “Throughout his service to the Second Circuit, he remained an important participant in the life of the school. He leaves behind an intellectual legacy that few can match, and he will be sorely missed by his students and former colleagues.”

Winter was born on July 30, 1935, in Waterbury, Connecticut. He received his A.B. degree from Yale College in 1957 and remained in New Haven to attend Yale Law School, where he received his LL.B. degree in 1960.

After law school, he served as a law clerk to Chief Judge Caleb M. Wright '33 of the U.S. District Court for the District of Delaware, and then as the first law clerk to then-Judge Thurgood Marshall in 1961–1962.

After his clerkships, Winter returned to Yale Law School, where he remained a scholar and teacher of securities regulation as well as constitutional law, antitrust law, labor law, and evidence.

His 1977 article, “State Law, Shareholder Protection, and the Theory of the Corporation,” changed the terms of debate about the federal system of corporate law. Judge Frank Easterbrook called the article “the single most important contribution to the economic analysis of corporate law since Ronald Coase published ‘The Nature of the Firm’ in 1937.”

Winter entered judicial service on January 5, 1982, and was administered the oath of office by his mentor, Justice Marshall, in a ceremony at Yale Law School. From 1997 to 2000, Winter served as chief judge of the Second Circuit, taking senior status on October 1, 2000.

“The adjective ‘great’ is often used, too often, when referring to judges,” said Lafayette S. Foster Professor of Law Kate Stith, a former deputy dean of Yale Law School. “But here it is absolutely on-target. Ralph’s colleagues and the attorneys who appeared before him used that word even when he wasn’t around to hear them.”

At Yale Law School, the Judge Ralph Winter Lectureship on corporate law and corporate governance was established in 2002 to commemorate his foundational corporate law scholarship and distinguished career as a jurist. A prize for the best student paper in law and economics was named for him in 2010, and a scholarship fund in 2013.

“One of the less well-known facts about Ralph is the great affection for, and admiration of, him by his students and law clerks,” said Roberta Romano '80, Sterling Professor of Law and Director of the Yale Law School Center for the Study of Corporate Law. “The endowed gifts that have been established in Ralph’s honor at YLS are testimony to the profound influence he had on their lives. They are acts of public recognition of a cherished memory of a teacher and mentor.”



**“The adjective ‘great’ is often used, too often, when referring to judges. But here it is absolutely on-target. Ralph’s colleagues and the attorneys who appeared before him used that word even when he wasn’t around to hear them.”** PROFESSOR KATE STITH