



joseph.kearney@marquette.edu
(414) 288-1955

August 20, 2018

Dear Future Marquette Lawyer:

It is a great privilege for all of us at Marquette Law School to welcome you to a new year in Eckstein Hall—for some of you, the first. Whichever cohort is yours, we have a great interest in your success and welfare. Here I wish to bring you up to date about the Law School and to offer some counsel as we begin.

1. Arrivals and Departures. Let me begin with our faculty and staff. Atiba Ellis joins us as professor of law, after almost a decade at West Virginia University College of Law. A number of you know Professor Ellis, for he was with us last fall as Boden Visiting Professor of Law, and I am delighted that now he has joined us more permanently. Professor Ellis, who holds multiple degrees from Duke University, teaches and writes in areas that include election law, property, and race and the law. He also has been an involved public citizen, and I know that he looks forward to embracing not just the school but his new hometown. On the other end, Professor Alison Barnes has retired this past summer, assuming status as professor emerita. She does so after twenty-five years of faculty service, which has included national leadership in scholarship on elder and disability law. I am very grateful for Professor Barnes's contributions.

Anna Fodor has neither arrived nor departed, but she does bear a new title reflecting broader responsibilities: assistant dean of students. Dean Fodor, who graduated with honors from Northwestern University's law school before practicing and clerking, joined us two years ago. She will continue in a lead role in academic counseling and support, has an expanded portfolio with respect to our academic success program, and anticipates being able to increase academic programming and one-on-one counseling at the Law School.

Working with Dean Fodor, particularly in supporting student organizations, will be a new employee, Sarah DiStefano. Ms. DiStefano holds a B.S. from the University of Michigan, achieved a master's degree in public administration (Oakland University), and previously worked in student affairs (Florida Gulf Coast University). Her duties also will include engagement with social media with an eye toward student interests generally and our sports law program specifically.

On a down note, Bev Franklin has decided that this will be her last semester at the Law School. You and all others know Bev—as she would want me to call

her—as the person who greets you each morning when you pass by the welcome desk to enter Eckstein Hall. This has been her—and our—joy since we moved into Eckstein Hall eight years ago, but Bev has been supporting the work of the Law School in any number of ways for some *forty* years. You may not be surprised to know that she has agreed to stay on until the day after the last exam in December. The building—indeed, Marquette Law School—will not be the same without Bev.

2. From Adjunct Faculty to Some Events This Semester. The Law School’s focus is on you, as current students and as future Marquette lawyers. The ways that we serve you include constructing each semester a vibrant community even beyond your fellow students and the full-time faculty and staff. Let me note two ways in particular.

First, I want to note the importance of our adjunct faculty and our gratitude to them. Most of these colleagues are practicing lawyers, and their expertise and specific insights contribute mightily to the Law School. While that observation is not strictly an “update,” as it has long been true, the constant important contributions of the adjunct faculty to our community well merit mention.

Second, we help build our community—and, incidentally but importantly, enhance our reputation—through special events. The word *special* might seem a bit of a misdirection, as Eckstein Hall is an especially dynamic place during the academic year, with scores of individuals filling the Lubar Center on the first floor several times a week (with the consequent need for all of us to park elsewhere). Often these events are an “On the Issues with Mike Gousha” program. Several such sessions are already planned for this semester—including one on Wednesday, September 5, with former Gov. Tommy Thompson discussing *Tommy: My Journey of a Lifetime*, an event that will be the book’s public launch, and another on Wednesday, September 26, with Milwaukee Public Schools Interim Superintendent Keith Posley—and you will receive regular emails (part of *Law News*) promoting these events. This being fall of an even-numbered year, we will also feature releases of the Marquette Law School Poll, certainly, and debates between political candidates, hopefully.

We host an annual series of four distinguished lectures. Our first entry is the Robert F. Boden Lecture, this year marking the sesquicentennial of the most important change in our basic law since the establishment of the Republic: the adoption of the Fourteenth Amendment in 1868. Ernest Young, the Alston & Bird Professor of Law at Duke University, will speak on “Dying Constitutionalism and the Fourteenth Amendment” on Thursday, September 20, at 4:30 p.m. He will not go unchallenged: David Strauss, the Gerald Ratner Distinguished Service Professor of Law at the University of Chicago and the author of *The Living Constitution* (Oxford 2010), will offer a response. Deborah Denno, who is the Arthur A. McGivney Professor of Law at Fordham University and founding director of the school’s Neuroscience and Law Center, will deliver our George and Margaret

Barrock Lecture on Criminal Law on Thursday, November 15, at 4:30 p.m. Professor Denno will take up “How Courts in Criminal Cases Respond to Childhood Trauma,” a regrettably most important topic.

You are encouraged to register for and join us at any of these events. Let me underscore this. These events will “sell out,” I am quite sure. The “On the Issues” programs especially attract and engage members of our local communities. The Boden Lecture is a flagship event, and it (for a statement also true of the Barrock Lecture) draws broadly from the legal community in this region. Each will welcome more than 200 people. Your own attendance at these or other public programs at the Law School is most welcome and will enrich your legal education—perhaps even help light a spark for a particular career in the law.

3. Reaching Out. If there is a theme in this letter, it is about how much you can learn from others. It is a natural enough message. I do not doubt that you will learn much from your class reading—which, given the need for rereading, will require a very substantial amount of your time—and you surely must develop and employ the *habit* of substantive, engaged reading. The other side of the learning coin reveals itself to us when we engage with one another. In this regard, the individuals to whom I have referred in this letter—the full-time faculty and staff, the adjunct faculty, the guests appearing “On the Issues” or delivering lectures, the lawyers attending them, to say nothing of everyone from the professionals in the career planning center to volunteer lawyers at the Marquette Volunteer Legal Clinics—are people who can teach you so much.

There is another group from whom you can learn an extraordinary amount: one another. For years I have mentioned this in addressing first-year students, and the point bears emphasis here. You may take this as a specific encouragement of a form of studying once popular in law schools but of whose current incidence I am unsure: namely, a study group. Such a group is no substitute for individual reading and engagement with text, but it is a bit of a structural safeguard: A professor in any individual class may not realize that a particular student is unprepared, but it is hard to hide in a study group. More affirmatively, the need to explain to one another the concepts in a course affords practice and engenders knowledge.

The point seems obvious, but even after many years in teaching, I was struck by a comment that one of our visitors last year made in his wrap-up comments after presiding over the Jenkins Honors Moot Court Finals. Justice Goodwin H. Liu of the California Supreme Court said the following, more or less:

A good oral argument sounds like a conversation. And invariably here is what happens in moot court: Students, because you are students and we are judges, adopt what I consider an overly formal or rigid demeanor. Of course, it’s easy for us to tell you, “Just relax.” You’re not going to relax—you feel a lot of pressure, and you’re trying to show us appropriate deference.

But if you actually go into a courtroom and watch how experienced lawyers argue cases, they treat judges as peers in the legal profession—the idea being that we’re all sitting here together, trying to work together to solve a problem.

And so a better exercise in practicing your style is to be with *your* peers and argue in front of them. Think about how you would explain this problem and your point of view to your classmates. You might have to modulate that a bit for what you present in court, but that should be kind of your baseline—how you, in a conversational way, just explain it to someone who doesn’t know that much about it and whom you’re just trying to tell, “Here are the issues, and here’s how they should be resolved.”

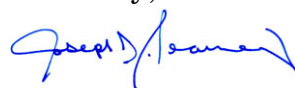
Justice Liu’s simple but wise statement speaks more broadly than to moot courts.

This leads me naturally to encourage you to participate in the Marquette Law Mentorship program. This initiative, from the Law School but most importantly dependent upon law students, is an opportunity both to learn and to teach. For new students, MLM offers an opportunity to meet more members of our close-knit, supportive student community and to have a friendly and knowledgeable guide here. For returning students, MLM enables you to give back and welcome new students into our community. Who would not embrace that? More information can be found on the Law School’s website or in *Law News*, which you will regularly receive by email—and in whose contents you should be interested, not least (but also not only) because you will be deemed to be on notice of them.

* * * *

We should always seek teachers or models. We learn first from our parents, and some of us have the benefit of learning from them for a long time, even later trying to suppose what their teaching or counsel might have been on an important question. Our classroom teachers, for a difference, we largely choose, at least once we are in college or in upper-level law school. I recall unapologetically that my own approach in selecting courses had as much to do with the professor as the subject. And who *else* will instruct us in life is almost entirely within our control: judges on the bench, lawyers in the practice, even peers in jobs or school are all at hand, variously in the pages of books and in person in Eckstein Hall. Let me suggest to you the worthwhileness of self-consciously reflecting on whom you wish to emulate and how you may do so. Law school gives you an extraordinary opportunity to *decide* what sort of lawyer and person—nothing less, that is, than *who*—you will be.

Sincerely,



Joseph D. Kearney
Dean and Professor of Law