



2009 - 2010

**NIAGARA INTERNATIONAL  
MOOT COURT COMPETITION  
IN WASHINGTON, D.C.**



# THE CANADA-UNITED STATES LAW INSTITUTE (CUSLI)

CUSLI is a bi-national, not-for-profit, multi-disciplinary entity created jointly in 1976 by Case Western Reserve University School of Law located in Cleveland, Ohio, USA and The University of Western Ontario Faculty of Law located in London, Ontario, Canada. CUSLI serves as a forum where the respective governments, business communities, legal professionals, academics, non-governmental organizations and the media explore and address the issues confronting the Canada-United States relationship.



Canada • United States  
LAW INSTITUTE

# THE CANADA-UNITED STATES LAW INSTITUTE

## 42ND ANNUAL NIAGARA INTERNATIONAL MOOT COURT COMPETITION

From its origins as an ad hoc moot between three to six schools in the Niagara region to its emergence as the premier bi-national competition open to all law schools and faculties in Canada and the United States, the Niagara Moot has provided countless numbers of law students with the opportunity to examine the issues confronting their counterparts across the border. Along the way, the Niagara Moot has fostered respect and lasting friendships between practitioners living on each side of the 49th parallel and, consequently, has further strengthened the ties between our two nations.

The Canada-United States Law Institute has served as the administrative home of the Niagara Moot since 1979— recruiting teams and judges, promulgating rules, settling disputes, and approving the Problem and Bench Brief.

The 2009-10 Niagara International Moot Court Problem concerns cutting edge issues related to international human rights law, international criminal law, and state sovereignty. The case involves a former child soldier, accused of crimes against humanity, who was lured by the United States from Canada to be surrendered to a foreign government for trial. As in the past, this year's Niagara Moot addresses a timely issue relevant to the U.S. and Canada.

The Canada-United States Law Institute extends its deep appreciation to the 15 law schools and faculties competing in this year's moot.

# 2010 SCHEDULE OF EVENTS

## THURSDAY, FEBRUARY 25, 2010

Location: Hotel Palomar  
2121 P Street Northwest  
Washington, DC

### Team Registration and Check-in:

3:00 p.m. – 6:00 p.m.  
Phillips Foyer

### Opening Reception

5:00 p.m. – 6:00 p.m.  
*Attire: Business/Business Casual*

### Faculty and Coach Meeting

6:00 p.m.  
Phillips Foyer

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## FRIDAY, FEBRUARY 26, 2010

### Preliminary Rounds

*See Pages 10-11 for  
Pairings and Locations*

Preliminary Round I:  
9:00 a.m. – 11:00 a.m.

Preliminary Round II  
11:30 a.m. – 1:30 p.m.

Preliminary Round III  
2:00 p.m. – 4:00 p.m.

Preliminary Round IV  
4:30 p.m. – 6:30 p.m.

Preliminary Round V  
7:00 p.m. – 9:00 p.m.

### Announcement of Quarterfinal Pairings

10:00 p.m. Hotel Palomar Lobby

*Attire: Business for all Friday events*

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## SATURDAY, FEBRUARY 27, 2010

### Final Rounds

*See Pages 10-11 for  
Pairings and Locations*

Quarterfinal Round:  
9:00 a.m. – 11:00 a.m.

Semifinal Round:  
12:30 p.m. – 2:30 p.m.

Championship Round:  
3:30 p.m. – 5:30 p.m.

### Awards Reception

*Attire: Business for all Saturday events*

# PARTICIPATING SCHOOLS

American University Washington College of Law

Case Western Reserve University School of Law

Cornell Law School

George Washington University Law School

Georgetown University Law Center

Mercer University School of Law

Michigan State University College of Law

Queen's University Faculty of Law

University at Buffalo Law School

The University of Detroit Mercy School of Law

University of the Pacific McGeorge School of Law

University of Western Ontario Faculty of Law

University of Windsor Faculty of Law

Washington University School of Law

Wayne State University Law School

# FACULTY ADVISORS

**MATIAS HERNANDEZ**

American University  
Washington College of Law

**KARLA BELL**

**CASSANDRA ROBERTSON**  
Case Western Reserve University  
School of Law

**LARRY BUSH**

Cornell Law School

**TIM MEYER**

**RALPH STEINHARDT**  
The George Washington University  
Law School

**MITCH BAILIN**

Georgetown University Law Center

**DAVID RITCHIE**

Mercer University School of Law

**JANET HEDIN**

**JOHN REIFENBERG**  
Michigan State University  
College of Law

**GEORGE ALEXANDROWICZ**

Queen's University Faculty of Law

**CHRISTINE BARTHOLOMEW**

University at Buffalo Law School

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University of Western Ontario  
Faculty of Law

**CHRISTOPHER G. KNOWLES**

**PAUL OCHEJE**  
University of Windsor  
Faculty of Law

**MICHAEL PEIL**

Washington University  
School of Law

**PETER HENNING**

Wayne State University Law School

# TEAM MEMBERS

Omar Aburashed	Ari Levin
Lucas Anderson	Rhiannon Patricia Little
Mike Arthur	Kyle MacLean
David Asmar	Diana Carolina Mahecha Mojica
Ben Barry	Daniel Marchese
Matthew Beavers	Catherine Mattesich
Linda Bland	Miganoush Megardichian
Aleksandrs Karlis Bomis	Jesse Mighton
Justin Burrows	Adam Mingal
David Byrnes	Stevie O'Brien
Natasha Carew	William Otto
Katherine Carroll	Noemi Paquette
Christine Chambers	Nutan Patel
Diana Chinn	Marc Schulz
Alex Cory-Knapp	Candice Sengillo
Pola Crawford	Danielle Shamus
Andrea Lynn Domorsky	Lindsey Siegel
Lauren Donohue	David Sokol
Julia Fischer	Sevana Sossikian
Lisa Fox	Veena Srinivasa
Phillip Ghosh	Navin Srinivasa
Ken Graham	Andrew Stimson
Daniele Grechi	Mark Stoiko
Meredith Harper	Jason Urbaniak
William Jackman	Andrew Westbrook
Nameer Kajy	Brandon Wheeler
Sara Kang	Kirsten Marie Winek
Daniel Kastner	Nolan Yaldo
David Kocan	Denise Yasinow
Mayling Leong	Timothy Ziese

# IN MEMORIAM HENRY T. KING, JR.

1919-2009



Henry Thomas King Jr. was born in Meriden, Conn., on May 27, 1919, the son of Henry and Stella King. He earned his B.A. (1941) and LL.B. (1943) at Yale and then practiced law in New York City with Milbank, Tweed & Hope.

With the encouragement of his wife, the former Betty May Scranton, he left his New York law practice at age 26 to serve as a Nuremberg war crimes prosecutor. At Nuremberg, Professor King's primary work was as assistant trial counsel in the prosecution of former Field Marshall Erhard Milch, deputy head of the Luftwaffe under Hermann Goering, in the High Command trial. In addition, he worked on the

Justice and Ministries cases and interrogated many of the major Nuremberg defendants, including Albert Speer, who he later chronicled in a critically acclaimed book, *The Two Worlds of Albert Speer: Reflections of a Nuremberg Prosecutor*.

After Nuremberg, Prof. King was Chief Counsel of the Agency for International Development before moving to Cleveland to join TRW Inc. where, for more than 20 years, he had a long and distinguished career as chief corporate international counsel. After retiring from TRW, he was of counsel for Squire, Sanders & Dempsey LLP.

For the past 26 years, Professor Henry T. King, Jr. served as a Case Western Reserve University School of Law professor and as U.S. director and later chairman of the Canada-United States Law Institute (CUSLI). He taught International Arbitration and International Business.

As director and chairman of the Canada-United States Law Institute, Prof. King conducted the annual conference dealing with the relation between law and economics in the Canada-United States context. Through the conferences he organized in the late 1980s, he played an integral role in facilitating the drafting and negotiation of the North American Free Trade Agreement.

Under Prof. King's direction, the Institute published the *Canada-United States Law Journal* and ran the Niagara Moot Court Competition, in which some 25 law schools in Canada and the United States debate a Canada-United States legal problem. Conference, journal, and moot court competition all continue.

Over the course of his career, Prof. King headed the American Bar Association International Law and Practice Section; founded the Greater Cleveland International Lawyers Group; and was appointed Honorary Consul of the Government of Canada for Northeastern Ohio. He also served on the ABA's special task force on war crimes in the former Yugoslavia and was the U.S. chairman of a joint working group, organized by the American, Canadian, and Mexican bar associations, on the settlement of international disputes.

In 1998, Prof. King traveled to Rome to help shape the statute that created the International Criminal Court. The original draft placed war crimes, crimes against humanity and genocide under the court's jurisdiction, but omitted the crime of aggression (as opposed to wars fought in self-defense or authorized by the United Nations). Prof. King and fellow Nuremberg prosecutors Benjamin Ferencz and Whitney Harris succeeded in convincing delegates from 131 nations to add it.

The University of Pittsburgh, School of Law named Prof. King a Fellow honoris causa of the Center for International Legal Education on March 9, 2002. On June 4, 2002, he was awarded an honorary degree of Doctor of Civil Laws by the University of Western Ontario.

Prof. King was a guest of the government of The Netherlands on March 11, 2003, for the inauguration of the International Criminal Court at The Hague. In addition, he was Senior Advisor to the Robert H. Jackson Center at Jamestown, New York. (Pres. Truman appointed Jackson chief prosecutor for the Nuremberg trials).

Throughout his career, Prof. King mentored students, scholars and practitioners of international criminal law. In the past year, he gave a number of noontime talks to students, offering lessons from his own career to guide and inspire them. At one session he told students, "the most important thing is to find some way to leave your mark for the betterment of society and the world." Henry King certainly did just that.

# 2010 COMPETITION PAIRINGS

## Courtroom Locations

### Courtrooms A1-A2-A3:

Step toe & Johnson LLP, 1330 Connecticut Avenue NW, Washington, DC

### Courtroom B1:

Thompson Hine LLP, 1920 N Street NW, Suite 800, Washington, DC

### Courtrooms C1-C2:

Baker Hostetler LLP, 1050 Connecticut Avenue NW, Suite 1100, Washington, DC

## PRELIMINARY ROUNDS – FRIDAY, FEBRUARY 26, 2010

<b>9:00 am – 11:00 am</b>	<b>Preliminary Round I</b>	<b>Courtroom</b>
	2010-03 v. 2010-09	A1
	2010-10 v. 2010-12	A2
	2010-05 v. 2010-07	A3
	2010-08 v. 2010-14	B1
	2010-01 v. 2010-02	C1
	2010-06 v. 2010-11	C2
<b>11:30 am – 1:30 pm</b>	<b>Preliminary Round II</b>	<b>Courtroom</b>
	2010-09 v. 2010-10	A1
	2010-12 v. 2010-13	A2
	2010-07 v. 2010-08	A3
	2010-14 v. 2010-16	B1
	2010-02 v. 2010-06	C1
	2010-11 v. 2010-15	C2
<b>2:00 pm – 4:00 pm</b>	<b>Preliminary Round III</b>	<b>Courtroom</b>
	2010-13 v. 2010-09	A1
	2010-10 v. 2010-03	A2
	2010-08 v. 2010-05	A3
	2010-16 v. 2010-07	B1
	2010-15 v. 2010-02	C1
	2010-06 v. 2010-01	C2

<b>4:30 pm – 6:30 pm</b>	<b>Preliminary Round IV</b>	<b>Courtroom</b>
	2010-03 v. 2010-13	A1
	2010-09 v. 2010-12	A2
	2010-05 v. 2010-16	A3
	2010-07 v. 2010-14	B1
	2010-01 v. 2010-15	C1
	2010-02 v. 2010-11	C2

<b>7:00 pm – 9:00 pm</b>	<b>Preliminary Round V</b>	<b>Courtroom</b>
	2010-12 v. 2010-03	A1
	2010-13 v. 2010-10	A2
	2010-16 v. 2010-08	A3
	2010-14 v. 2010-05	B1
	2010-11 v. 2010-01	C1
	2010-15 v. 2010-06	C2

### FINAL ROUNDS – SATURDAY, FEBRUARY 27, 2010

<b>9:00 am – 11:00 am</b>	<b>Quarterfinal Round</b>	<b>Courtroom</b>
	Seed 1 v. Seed 8	TBA
	Seed 4 v. Seed 5	TBA
	Seed 2 v. Seed 7	TBA
	Seed 3 v. Seed 6	TBA

<b>12:30 pm – 2:30pm</b>	<b>Semifinal Round</b>	<b>Courtroom</b>
	Seed 1 v. Seed 4	A1
	Seed 2 v. Seed 3	A2

<b>3:30 pm – 5:30pm</b>	<b>Championship Round</b>	<b>Courtroom</b>
	Seed 1 v. Seed 2	A1



NIAGARA INTERNATIONAL  
MOOT COURT COMPETITION

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PROBLEM AND BENCH  
MEMORANDUM AUTHOR  
PROFESSOR MICHAEL P. SCHARF



Michael Scharf is the John Deaver Drinko – Baker & Hostetler Professor of Law and Director of the Frederick K. Cox International Law Center at Case Western Reserve University School of Law. In 2004-05, Scharf served as a member of the international team of experts that provided training to the judges of the Iraqi High Tribunal, in 2006 he led the first training session for the investigative judges and prosecutors of the newly established U.N. Cambodia Genocide Tribunal, and in November 2008 he served as Special Assistant to the Prosecutor of the Cambodia Tribunal. He is currently co-leader

of a USAID-funded project to assist the government of Uganda in establishing a special war crimes chamber and truth commission. In February 2005, Scharf and the Public International Law and Policy Group, a Non-Governmental Organization he co-founded, were nominated for the Nobel Peace Prize by six governments and the Prosecutor of an International Criminal Tribunal for the work they have done to help in the prosecution of major war criminals, such as Slobodan Milosevic, Charles Taylor, and Saddam Hussein. During the elder Bush and Clinton Administrations, Scharf served in the Office of the Legal Adviser of the U.S. Department of State, where he held the positions of Attorney-Adviser for Law Enforcement and Intelligence, Attorney-Adviser for United Nations Affairs, and delegate to the United Nations Human Rights Commission. A graduate of Duke University School of Law (Order of the Coif and High Honors), and judicial clerk to Judge Gerald Bard Tjoflat on the Eleventh Circuit Federal Court of Appeals, Scharf is the author of over seventy scholarly articles and thirteen books, including three that have won National Book of the Year Awards. His latest book is *Shaping Foreign Policy in Times of Crisis* (Cambridge University Press, 2010). Scharf has also testified before the U.S. Senate Foreign Relations Committee and the House Armed Services Committee, and appears frequently in the national and international media.

## FINAL ROUND PANEL

**DAVID M. CRANE** was appointed a professor of practice at Syracuse University College of Law in 2006. Prior to that, he was a distinguished visiting professor for the 2005 academic year. From 2002-2005 he was the founding Chief Prosecutor of the Special Court for Sierra Leone, an international war crimes tribunal, appointed by the Secretary General of the United Nations, Kofi Annan, on April 19, 2002. Among those he indicted for war crimes and crimes against humanity was the President of Liberia, Charles Taylor, the first sitting African head of state in history to be indicted for such international crimes. Prof. Crane has held numerous key managerial positions during his three decades of public service in the federal government and was appointed to the Senior Executive Service of the United States in 1997. Prof. Crane holds a J.D. from Syracuse University, an M.A. in African Studies and a Bachelor of General Studies in History, *summa cum laude*, from Ohio University. For his service to humanity, Case Western Reserve University in Ohio awarded him an honorary Doctor of Laws degree in May 2008. Prior to his departure from West Africa in 2005, Prof. Crane was made an honorary Paramount Chief by the Civil Society Organizations of Sierra Leone.

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A 1957 Honors graduate of the Columbia University Schools of Law and International Affairs, **PETER D. EHRENHAFT** served as a law clerk at the U.S. Court of Appeals for the District of Columbia and then as Senior Law Clerk to Chief Justice Earl Warren at the U.S. Supreme Court. During the Carter Administration he was Deputy Assistant

Secretary of the Treasury (Tariff Affairs) and principal U.S. negotiator of the GATT Antidumping Code of 1979. For 30 years he was a Judge Advocate in the U.S. Air Force Reserve, including tours as the reserve Staff Judge Advocate for U.S. Air Forces in Europe and as a Judge of the Court of Military Review. In more than 40 years of private practice with a number of law firms, he has specialized in cross-border transactions, such as mergers, joint ventures, patent licenses and distribution agreements for foreign and U.S. clients. He was a senior officer of the International Law Section of the American Bar Association for 20 years and received its Lifetime Achievement Award in 2009. He is currently listed in *Who's Who in American Law and Best Lawyers in America*. He has served as a judge of the Final Round of the Niagara Moot Court since its inception.

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**ROBERT PETIT** was called to the Bar in 1988 and started his legal career as a Crown Prosecutor in Montreal for eight years, eventually focusing on organized criminality and complex cases. From 1996 to 1999, he embarked on an international career starting as a Legal Officer in the Office of the Prosecutor of the International Criminal Tribunal for Rwanda. Subsequently, between 1999 and 2004, he was a Legal Advisor for the United Nations Interim Administration Mission in Kosovo, a Prosecutor for the Serious Crimes Unit of the United Nations Missions of Support to East Timor, and a Senior Trial Attorney for the Special Court for Sierra Leone. In 2006, he was appointed as International Co-Prosecutor of the Extraordinary Chambers in the Courts of Cambodia, a position he held until September 2009 when he returned to Canada and his current position as Counsel with the War Crimes Section of Canada's Federal Department of Justice.

Founded in 1892, **Case Western Reserve University School of Law** is one of the nation's preeminent centers of legal education. Located in Cleveland, Ohio, the law school draws students from more than 40 states and 10 foreign countries. Approximately 70 percent of its students are from outside Ohio. What they share in common is their outstanding talent, creativity, and commitment to the welfare of humanity. Since its beginnings as one of the country's first university-affiliated law schools, Case Western Reserve University School of Law has been known for innovations in curriculum and teaching methods. The school continues that tradition with its acclaimed *CaseARC* program, which merges the teaching of legal theory and policy and lawyering skills in a unique and exciting way, combining traditional classroom methods with experiential learning throughout a student's three years at the school. Since 1997, the law school has introduced more than 130 new courses and developed seven areas of concentration. In addition, the school is home to nine Centers of Excellence, including the renowned Frederick K. Cox International Law Center, the Milton A. Kramer Law Clinic Center, and the Law-Medicine Center.

**Western Law** is a national law school with an international outlook and has been the leader in program development among Canadian law schools for many years. The Small Group Program, Areas of Concentration and the January Term are all Western Law innovations. Western continues to maintain the broadest core curriculum of any law school in North America and has the largest exchange program, with one in five students participating in an exchange. Western Law is one of the two Canadian law schools with the highest proportion of faculty with earned doctorates and its publication rate is among the highest in the country. Over the past five years, Western Law has had an average articling placement rate of ninety-nine percent, which is one of, and often, the highest in Canada. Statistics consistently place Western as one of the top two law schools for placement in Toronto. Western Law offers excellent practical experience through clinical courses, advocacy training and competitions, the Community Legal Services Clinic, the Western Business Law Clinic, the STINT Program, the Sport Solution, the Dispute Resolution Centre and Pro Bono Student Canada.

