I served on the law faculty with Bob Harris for 10 years while he was a permanent faculty member and for another 20 years while he taught as an adjunct professor. I am going to talk briefly about Bob as a faculty colleague but most of my time I intend to devote to Bob as a teacher. Bob brought to the faculty all of the qualities of honesty, intelligence, and good humor that Mike Heyman [former chancellor of the University of California at Berkeley, a friend and Yale Law School classmate of Harris] described and that others will tell you about. Bob was an engaged and influential member of the faculty. He took the lead in our first affirmative action program late in the 1960s. He helped deepen and widen the faculty with new blood after many retirements that occurred in the late 1950s, and he was a fine scholar. Bob's articles on seller's damages published in the *Michigan Law Review and Stanford Law Review* between 1963 and 1965 are still cited.

But today I pass Bob's considerable services as a scholar and colleague and talk about Bob as a teacher. Bob was a superlative, an extraordinary teacher. He commenced teaching in the Law School in the fall of 1959 when I was a first-year student. I and 100 others had started law school in the summer of 1959, and in the fall the summer starters were divided into two groups. Half of us were assigned to Bob's Contracts class and half were assigned to a more senior teacher of Contracts. At lunch we often compared notes, and we soon heard stories from our colleagues in the other Contracts class about the pleasures of contract study. According to them, Contracts was clear, free of ambiguity and uncertainty. Contract doctrines were easy to understand, set out in black and white and separated by bright lines. They portrayed contract law as an island of clarity in a sea of law school confusion.

While we listened to this description with interest, we wondered if we were taking the same course as they were. In our course there was nothing black and white, and not much dark blue. In our class it was difficult to distinguish one issue from another; doctrines ran together in unpredictable, messy ways. The resolution of a hypothetical case was never easy and the outcome was seldom clear or free from ambiguity.

Let me tell an anecdote from Bob's class. Some time in October of 1959 we came to the doctrine of mistake. The doctrine of mistake says that when the parties are mutually mistaken about a fundamental issue in the contract, the contract can be voided and is not enforceable. Among others we studied the classic "barren cow" case. In that case the whiskey distiller, Hiram Walker, had a contract to sell a prize cow, Rose 2d of Aberlone, to a buyer for $80. The price had been set at $80 because the cow was thought to be barren. Were she capable to reproduce, she would have been worth at least $800 and possibly much more. After the contract was made but before delivery of Rose, the seller discovered that she was pregnant (and accordingly her value was far more than the $80 price). When the buyer called for the cow, the seller refused to give her up and the buyer sued. The Supreme Court of Michigan held that the contract was invalid because of mutual mistake. Hiram Walker kept his cow.

Now you will understand that the doctrine of mistake is an important but threatening doctrine in contract law, for if it is too broad it will swallow up contracts that should be enforced and will render contract law unserviceable, particularly for commercial transactions where one needs certainty. You must understand too that at least one party will often be able to argue that he was mistaken, that, for example, he did not understand the subsoil when he agreed to dig the basement, or that he did not understand that his cost of materials would rise dramatically after the contract had been made.

I still remember the Monday morning when we took up the doctrine of mistake in Contracts class. After we had the normal Socratic discourse about the cases, Bob set out his theory about how the cases should be put together. As Mike Heyman made clear, Bob was drawn to innovative and unorthodox interpretations of legal doctrines. In this case he had a particular, peculiar view about how the cases should be put together and he explained that view. Being good obsessive, compulsive law students who yearn for certainty, we eagerly wrote down his interpretation of these cases. Only slightly bothered by the fact that his interpretation did not square with the opinions in the cases or the analysis of the cases in the casebook, we went away...
from Monday’s class at least moderately satisfied.

On Tuesday Bob commenced the class by saying, “I now think that what I told you yesterday is wrong.” He then gave a different analysis of these cases and disavowed what he had said the day before. “Yesterday I told you that the cow case was correctly decided; now I think it was not. Today I believe the buyer not the seller should have won.” You could smell the hostility in the air that day. If any of us had had a gun, we would have killed him. Our learning — so carefully put down on Monday — was worthless and, worse, we feared Bob might disavow Tuesday’s analysis on Wednesday.

So despite the fact that we were intrigued by this interesting animal and loved Bob, we also hated him. We hated him for the frustration caused by his unwillingness to “lay it out.” A lesser man would have given in to student dissatisfaction and would have changed his style, but not Bob. Bob pressed on to the very end.

Eventually even my most frustrated colleagues came to appreciate the service that Bob performed for us by showing us the uncertainty and ambiguity inherent in contract law. Eventually all of us came to love and respect him and to value his teaching. He served us far better than the other professor who made life easy for his students by painting a more simple but less accurate picture of contract law.

For his wonderful teaching, hundreds of graduates of the Michigan Law School owe Bob Harris a debt they will never repay. Bob was truly a superlative, an extraordinary teacher. He was a teacher we will all remember and treasure.

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**More on Bob Harris**

Responding to the death of former Law School Professor Robert J. Harris, fellow professors Theodore J. St. Antoine, ’54, and Roderick Hills offered these remembrances.

Bob Harris was a far more important figure in this Law School and this city than his relatively short tenure as a full-time faculty member would indicate. I chose Michigan as a law student because I was advised there was no better place to learn how to become a top-notch private practitioner. My education here more than lived up to my expectations on that score. But I did find the institution in the 1950s somewhat wanting in what I would call a concern about broader social issues. Bob was the leader of a younger generation that changed all that in the 1960s. He was a genuinely exciting intellectual presence and he had a great deal to do with convincing me to leave the exciting political world of Washington for a career here as a law teacher.

When I joined the faculty in the fall of 1965, there was not a single African American in the entire student body. And this was the School that had graduated the second known black university law student and a long distinguished line of blacks thereafter, including Amalya Kearse [1962, of the U.S. Court of Appeals for the Second Circuit] and Harry Edwards [1965, of the U.S. Appeals Court for the District of Columbia]. Bob was the key person in putting together our first affirmative action program, leading to the admission of eight blacks in the fall of 1966.

During the Black Action Movement in the early 1970s, which disrupted classes throughout the University and threatened more serious violence, Bob was serving the first of his two terms as mayor of Ann Arbor. He arranged with University officials and more level-headed student leaders to set up a tripartite “flying squad” of troubleshooters who would be dispatched to potential boiling points throughout the campus to defuse explosive tensions. That surely contributed to Michigan’s being spared the more destructive effects, including deaths, suffered by other campuses during that period.

Finally, Bob was an outstanding classroom teacher and a highly original scholar. He and I both taught first-year Contracts and he could not have been more helpful in getting me started. His emphasis was on stimulating students’ thinking, not conveying information. He also engaged in a massive empirical study of racial segregation in housing that unfortunately got sidetracked when he went into politics. I like to think its ideas still influenced fair-housing legislation in Ann Arbor and elsewhere. Wherever he was, Bob Harris was an ardent, tireless, and persuasive champion of good causes. This Law School and legal education lost someone very special when Bob decided to pursue other paths, and never really returned to us.

Theodore J. St. Antoine, ’54
Former dean and
James E. and Sarah A. Degan
Emeritus Professor of Law

I want to echo Ted’s words about Bob Harris’ importance on this faculty. When I first came to Michigan, I sought Bob out for his advice on how the city of Ann Arbor operates in land-use matters. (He was a former mayor of this town and had played an important role in trying to get affordable housing in the city.) He was a tremendous help — gregarious, energetic, enthusiastic, knowledgeable, engaged. I kept in touch with him ever since and have benefited from his thoughts on everything from the siting of Briarwood Mall . . . to the possibility of litigation to get this town to relax its zoning restrictions on apartments. I have been as close to Bob as any of my other colleagues, despite the fact that he was emeritus when I came here 12 years ago.

Roderick M. Hills Jr.
Professor of Law